

CHAPTER 55

NOTARIAL PROFESSION AND NOTARIAL ARCHIVES ACT

To repeal and re-enact with amendments the law relating to Notaries and Notarial Archives.

12th May, 1927

ACT XI of 1927, as amended by Government Notices: No. 204 of 1927 and No. 90 of 1928; Acts: XVII of 1929, XIII and XXXVII of 1933; Ordinances: XXIV of 1935 and XXIV of 1936; Government Notice No.352 of 1936; Ordinances: XI of 1937, XXVIII of 1938 and V of 1939; Government Notices: Nos. 140 and 434 of 1940; Ordinances: XI of 1940, X of 1941 and XXXI of 1946; Government Notice No. 313 of 1949; Act XXVI of 1949; Government Notice No. 205 of 1954; Act XII of 1955; Emergency Ordinance VIII of 1958; Ordinances: XVII of 1960, XII and XXV of 1962; Legal Notice 4 of 1963; Act XXIX of 1963; Legal Notice 46 of 1965; Acts: XL of 1965 and XXXI of 1966; Legal Notice 56 of 1970; Acts: XXX and XLVI of 1973, and LVIII of 1974; Legal Notice 148 of 1975; Acts: XI of 1977, II of 1978 and XXXIV of 1979; Legal Notice 77 of 1980; Acts: II and XIII of 1983 and XIV of 1985; Legal Notice 70 of 1987; Act XIX of 1988; Legal Notice 74 of 1988; Act VIII of 1990; Legal Notice 227 of 1997; Act IX of 2000; Legal Notice 186 of 2000; Act VI of 2001; Legal Notices 173 of 2001 and 429 of 2003; Acts IX, XIII and XVIII of 2004, and V and XIII of 2005; Legal Notices 181, 186 of 2006 and 408 of 2007; Acts XIII of 2007, III of 2008, XXIV of 2011, and XV and XIX of 2012†; Legal Notices 356 and 426 of 2012, and 83 of 2014; and Acts XXIV and XXXIII of 2014, XVI of 2015, XV of 2017, XXXIV of 2018, XXXVI of 2018, XXVII, LXI of 2020, LI of 2021 and LXIII of 2021. Incorporating also Ordinance VIII of 1859.*

*but see Legal Notices 498 of 2011, 361 and 433 of 2012, and 17 and 18 of 2013.
†see Legal Notice 18 of 2013.

 ARRANGEMENT OF ACT

	Articles
Title	1
PART I.	General Provisions
PART II.	Of Notaries
Title I.	Of the Appointment of Notaries
Title II.	Of the Exercise of Notarial Functions
Title III.	Of the Cessation, Incapacitation and Suspension from the Exercise of Notarial Functions
Title IV.	Of Keepers of Notarial Acts, Notaries delegate and Notaries to Government
Title V.	Of Notarial Deposit Accounts
PART III.	Of Notarial Acts
Title I.	Of the Formalities of Notarial Acts
Title II.	Of the Custody of Acts and of the Notarial Registers
Title III.	Of Copies, Extracts and Declarations
Title IV.	Of Acts which are delivered in original to the Parties, of the Authentication and Legalization of Signatures or Cross- marks
Title V.	Of Fees, Charges and other Expenses due to Notaries
PART IIIA.	Of Notarial Trust Deeds and Private Foundations
PART IIIB.	Of the Examination of Title
PART IV.	Of the Notarial College and of the Notarial Council
PART IVA.	Of the Review of Notarial Acts
PART V.	Of Notarial Archives
PART VI.	Of the Supervision over Notaries, the Archives and the Public Registry, of the Court of Revision of Notarial Acts, and of Disciplinary Punishments
Title I.	Of the Supervision over Notaries, the Archives and the Public Registry, and of the Court of Revision of Notarial Acts
Title II.	Of Disciplinary Punishments
PART VII.	Supplementary and Transitory Provisions

SCHEDULE

Tariff relating to the Notarial Profession and Notarial Archives

1. The short title of this Act is Notarial Profession and Notarial Archives Act. Short title.

PART I

GENERAL PROVISIONS

2. (1) Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall be responsible for their custody and shall give out copies and extracts of or from such acts or wills.

Definition of office of notary.
Amended by:
IX. 2004.16;
XXIV. 2011.3;
XVI. 2015.8;
LI. 2021.2.

- (2) Notaries shall also have power -
- (a) to sign applications or other acts relating to matters cognizable by a court of voluntary jurisdiction;
 - (b) to receive on oath "acts of notoriety" in civil and commercial matters, and dying declarations;
 - (c) to administer oaths to experts or referees or translators or other persons in connection with any extra-judicial report or reference or translation of any act or document or with any declaration relating to capitals, stocks and shares and relative coupons, when the parties desire to have such report, reference, translation or declaration verified on oath;
 - (d) to authenticate signatures in private writings, or the mark of any person who is unable or does not know how to sign, affixed to any such writing by way of approval of the contents thereof in the presence of two qualified witnesses, after such contents have been explained to the parties by the notary;
 - (e) to give out on the demand of any person certificates in proof of the life or existence of such person;
 - (f) to draw up protests for non-acceptance or non-payment of bills of exchange or promissory notes, for money or goods;
 - (g) to give out certificates attesting the accuracy of copies of or extracts from books or documents produced by the parties, as compared with the originals of such books or documents;
 - (h) to give out certificates attesting the faithful translation of acts or documents from one language into another provided both languages are known by the notary;
 - (i) to act as mediators;
 - (j) *ex officio* to act as Commissioners for Oaths for the purposes of the [Commissioners for Oaths Ordinance](#);

Powers and functions of notary.

Cap. 16.

- (k) to issue a European Certificate of Succession in terms of Regulation (EU) No. 650/2012 of the European Parliament and of the Council of 4 July 2012 in accordance with the provisions of Sub-title IV of Title III of Part II of Book Second of the Civil Code;
- (l) generally, to exercise such other powers as are assigned to them by law.

(3) Notaries are empowered to draft private writings containing agreements that purport to create legal rights and obligations between third parties.

(4) Notaries are empowered to examine title to immovable property in terms of article 84C.

(5) Notaries are empowered to give advice on any of the functions and powers vested in them in terms of the provision of this article, and on any matter or competence attributed to them, whether exclusively or otherwise, under any law or regulation, and in general, on anything relating to the proper discharge of their obligations or engagement, and this notwithstanding anything that may be stipulated under any other law.

Profession of
notary inconsistent
with profession of
advocate, etc.
Amended by:
XXXVII. 1933.1;
XI. 1937.2;
X. 1941.2;
XII. 1962.2;
L.N. 46 of 1965;
XXX. 1973.2;
LVIII. 1974.68;
IX. 2000.3;
III. 2008.9;
XXIV. 2011.4;
XXXIV. 2018.2;
LI. 2021.3.

3. (1) No person may practise as a notary if:

- (a) he holds the warrant of advocate or legal procurator;
- (b) he is a bank manager;
- (c) he is an estate agent or similar broker;
- (d) he is a partner in a commercial partnership or a director or shareholder in a limited liability company whose principal service is estate agency:

Provided that the President of Malta may authorize such person to practise as a notary on his surrendering the said warrant or on his ceasing to be such manager, estate agent, broker, partner, director or shareholder.

(2) Saving the provisions of articles 14 and 22 in so far as they relate to the offices of the Chief Notary to Government, Notary to Government, Notary Public with the Lands Authority or Notary Public with the Housing Authority, under the provisions of article 22(5), or Notary Public with any other Government Authority or Agency, no person holding an office of profit with the Government, except the Office of Director or Assistant Director of the Public Registry or the Land Registrar or Assistant Land Registrar, may practice as a notary:

Provided that the Director or the Assistant Director of Public Registry and the Land Registrar or Assistant Land Registrar may not exercise the notarial profession except in the capacity of Chief Notary to Government or Notary to Government.

4. (1) The Chief Notary to Government shall in January of each year post on one of the Government websites the lists mentioned hereunder which he shall update from time to time as the need arises:

- (a) the names of the notaries practising their profession in Malta and Gozo;
- (b) the names of notaries who are the keepers of the acts of deceased notaries or of notaries who have ceased to practise their profession, together with the names of the notaries whose acts are so kept.

Publication on Government websites of an annual list of practising notaries, keepers of acts and depositaries.

*Amended by:
XXXI. 1946.2;*

*XXXIV. 1979.2.
Substituted by:
XXIV. 2011.5.*

(2) Whenever the Chief Notary posts or updates the lists in terms of this article, he shall make a print-out thereof stating thereon the date and time of the print-out which he shall sign and preserve in a register for the purpose. The print-out and any copy thereof duly authenticated by the Chief Notary or a Notary to Government shall be evidence of its contents for any purpose of law.

(3) The Minister responsible for notarial affairs may make regulations prescribing the manner in which such lists and their updates are to be drawn up.

PART II OF NOTARIES

TITLE I

OF THE APPOINTMENT OF NOTARIES

5. (1) Notaries are appointed for life by the President of Malta by a notice published in the Gazette, and may exercise their functions in any part of Malta.

Appointment of notaries.

*Amended by:
XXV. 1962.3;
L.N. 4 of 1963;
L.N. 46 of 1965;
XXXI. 1966.2;
LVIII. 1974.68;
L.N. 148 of 1975;
IX. 2000.3;
XXIV. 2011.6.
Cap. 249.*

(2) For the purposes of sub-article (1), "Malta" shall have the meaning assigned to it in the Interpretation Act and shall also mean the premises housing Maltese high commissions, embassies and consulates, and Maltese registered ships and aircraft.

Number.
See s.4 of Ord. XIX of 1936 as amended by s.12 of Ord. XL. of 1940 omitted under the S.L.R. Ord. & Act of 1936 & 1980 respectively.

(3) The Minister responsible for notarial affairs may, from time to time, by a notice in the Gazette, regulate the number of notaries. Such notice shall not be published unless it has been approved by resolution of the House of Representatives, and it shall not affect such persons as at the time of such notice shall have already commenced in the University of Malta the course of studies prescribed for the notarial profession.

(4) Any person who, not being one whose name has appeared in the Gazette in terms of sub-article (1), assumes the designation of Notary or in any manner purports to be entitled to practise the

profession of a Notary Public in Malta, shall be guilty of an offence under this Act and shall, on conviction, be liable to a fine (*multa*) of not less than one thousand euro (€1,000) but not more than five thousand euro (€5,000), and in respect of a second or subsequent conviction to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(5) The provisions of sub-article (4) shall also apply to a person who has ceased to practise his profession in terms of article 14(1).

Qualifications for appointment.

Amended by:
XXX. 1973.3;
L.N. 148 of 1975;

II. 1978.2;

XIV. 1985.2.

Substituted by:
XXIV. 2011.7.

Amended by:
XXIV. 2014.80;

XXXIV. 2018.3;

XXVII. 2020.42.

6.* (1) No person shall be appointed as a notary, unless -

- (a) he is a citizen of Malta or of a Member State of the European Union or of a State of the European Economic Area: provided that a State of the European Economic Area means Iceland, the Principality of Liechtenstein and the Kingdom of Norway;
- (b) he is of good conduct and good character;
- (c) he has obtained the academic degree of Doctor of Law (LL.D.) in accordance with the provisions of the Statute, Regulations and Bye-Laws of the University of Malta, or such other qualification at masters level as the Minister, after consultation with the Senate of the University of Malta, may from time to time prescribe, or a comparable degree from such other competent authority in accordance with the principles of mutual recognition of qualifications, after having read law in Malta or in a Member State;
- (d) he has been a trainee at the office of a notary for a continuous period of not less than two years prior to the date when the qualifying examination is held in terms of article 7 and provided that the start of such traineeship shall commence after the attainment of the academic degree mentioned in paragraph (c), provided that if he has been a trainee with one notary and has continued his traineeship with another notary or notaries, the aggregate period shall be taken into account:

Provided further that the notary or notaries with whom the period of traineeship is conducted shall have practised their profession in Malta for at least ten years:

Provided further that such period of traineeship did not commence earlier than four years prior to the date when such qualifying examination is held and the start of such traineeship shall be communicated to and logged by the Notarial Council, which shall also have the faculty

*paragraph (a) of the substitution made by Act XXIV. 2011.6. came into force on 1st January, 2012. Paragraphs (b) to (e) and sub-article (2) came into force on 1st January, 2012 - subject, with regard to the applicability of sub-article (1)(c) and (d), to the provisions of article 103(4)(a) of Act XXIV of 2011, as amended by article 17(a) of Act XIX of 2012.

to refuse the giving of such traineeship by the notary concerned, where the Notarial Council is of the opinion that the said notary may not provide adequate traineeship:

Provided further that the provisions of paragraph (d) shall start to apply from the year two thousand and twenty-two (2022) in so far as they relate to the attainment of the academic degree mentioned in paragraph (c);

- (e) he is fully conversant with written and spoken Maltese and English; and
- (f) he has passed the qualifying examination held in terms of article 7:

Provided that no person shall be allowed to sit for the qualifying examination more than three times.

(2) The Minister responsible for notarial affairs shall, after consulting the Notarial Council and the Board mentioned in article 7, make regulations determining the manner in which the requisites laid down in sub-article (1)(a) to (e) are proved.

7.* (1) The Minister responsible for notarial affairs shall in November of each year appoint for a period of twelve months a Board of Examiners composed of the retired Judge or retired Magistrate or retired advocate ordinarily presiding the Court of Revision of Notarial Acts, the Chief Notary to Government, a practising notary proposed by the Notarial Council and two other practising notaries:

Provided that no notary shall sit on the Board unless he has practised his profession for at least ten years.

Board of
examiners.
Amended by:
L.N. 4 of 1963;
XXXI. 1966.2;
XXX. 1973.4;
L.N. 148 of 1975;
XXXIV. 1979.3;
IX. 2000.3.
Substituted by:
XXIV. 2011.8.

(2) The Board shall hold the qualifying examination mentioned in article 6(1)(f) after ascertaining that the requisites of paragraphs (a) to (e) thereof have been satisfied, and it shall also carry out any other function assigned to it by this Act and any other law.

(3) Subject to the provisions of this Act and any applicable regulations, the Board shall regulate its own procedure.

(4) The notary at whose office a candidate satisfied the requirements of article 6(1)(d), any associate of such notary and any notary who provides services from the same office shall not sit on the Board. If the candidate undertook his traineeship with more than one notary, the provisions of this sub-article shall apply to the notaries with whom the traineeship took place, their associates and other notaries who provide services from the same office.

(5) No person may sit on the Board if he is the spouse of or is related to any of the candidates by consanguinity or affinity in the direct line up to any degree or in the collateral line up to the third degree inclusively, or if there is a manifest conflict of interest.

(6) Where the retired Judge or retired Magistrate or retired

*for the applicability of article 6(1)(c) and (d), referred to in this article, see article 103(4)(b) and (c) of Act XXIV of 2011, as amended by article 17(a) of Act XIX of 2012.

advocate ordinarily presiding the Court of Revision of Notarial Acts or the Chief Notary to Government is disqualified to sit on the Board, or if he is unable or unwilling to do so, the Minister responsible for notarial affairs shall appoint, as the case may be, another retired Judge or retired Magistrate or retired advocate or one of the notaries in Government employment.

(7) Where the Notarial Council fails to propose a notary for appointment on the Board within fifteen days of receiving a request to do so, the Minister responsible for notarial affairs shall proceed to appoint a practising notary of his choice.

(8) Where a member of the Board resigns or becomes disqualified to continue sitting on the Board, the Minister responsible for notarial affairs shall substitute such member in the shortest possible time, so however that his term of appointment shall be for the period as yet unexpired for which the member who resigned or became disqualified had been appointed, and where applicable the provisions of sub-articles (6) and (7) shall apply *mutatis mutandis*.

(9) Members of the Board shall be paid an honorarium to be fixed by regulations made by the Minister responsible for notarial affairs under this article.

The qualifying examination.

Amended by:
XXXI. 1946.2A.

Substituted by:
XXIV. 2011.9.
Amended by:

LI. 2021.4.

8.* (1) The qualifying examination shall be held in March of each year or at such other date during that year as the Board referred to in article 7 may, after due deliberation, deem necessary to establish.

(2) A person who satisfies or, by the time the qualifying examination is held, will have satisfied the requisites of article 6(1)(a) to (e) may apply to sit for the examination on paying the prescribed fee.

(3) The qualifying examination shall consist of one or more written papers, and it may be held on one or more dates. The Board shall also hold an oral examination within two months from the date of the last written examination.

(4) Candidates shall be examined on the formalities of notarial acts, fiscal laws associated with the transfer of immovable property, the laws of registration, the law and practice regarding examination of title to immovable property, applications to a Court of Voluntary Jurisdiction, professional ethics, and any other aspect of substantive and procedural law relative to the notarial profession.

(5) A majority of votes of the examiners is necessary for a candidate to pass the examination.

(6) A pass in the qualifying examination shall be valid for a period of five years from the date of the report submitted in terms of article 9(1).

*for the applicability of article 6(1)(c) and (d), referred to in this article, see article 103(4)(b) and (c) of Act XXIV of 2011, as amended by article 17(a) of Act XIX of 2012; and for the applicability of sub-article (7) of this article, see article 103(6) of Act XXIV of 2011, as amended by article 17(b) of Act XIX of 2012.

(7) Subject to the provisions of this article, in case of failure a candidate shall have the right to be admitted once to the qualifying examination held on the following or any subsequent year.

9. (1) Where a candidate passes the qualifying examination, the Board of Examiners shall report this to the Minister responsible for notarial affairs who shall, subject to such candidate complying with the provisions of article 10, submit his name to the President of Malta for appointment as notary public.

(2) Where a successful candidate does not comply with the provisions of article 10 he may, when he so complies and provided the time referred to in article 8(6) has not elapsed, apply to the Minister responsible for notarial affairs requesting him to submit his name to the President for appointment as notary public.

Names of
successful
candidates
submitted for
appointment.
Amended by:
L.N. 46 of 1965;
LVIII. 1974.68;
Substituted by:
XXIV. 2011.10.

TITLE II

OF THE EXERCISE OF NOTARIAL FUNCTIONS

10.* (1) The notary, before entering upon the exercise of his functions, shall -

(a) take before the Court of Appeal the oath of allegiance in terms of article 10 of the Code of Organization and Civil Procedure and the oath of office in the terms following:

"I,....., promise and swear that I will faithfully and with all honesty and exactness exercise the office of notary according to the best of my skill and ability. So help me God."

(b) write in a book kept for the purpose in the office of the Attorney General his specimen signature as he is thereafter to use it in signing deeds;

(c) cause to be registered in the office of the Attorney General the act of his appointment, as well as the date on which he took the oaths referred to in paragraph (a);

(d) submit to the Notarial Council proof that he has adequate insurance cover for professional liability;

(e) submit to the Notarial Council the personal details and other information required by regulations made by the Minister responsible for notarial affairs after consulting the Notarial Council.

(2) A notary shall not enter upon the exercise of his functions before notice of his appointment has been published in the Gazette in terms of article 5(1).

Oaths of allegiance
and office.
Amended by:
XI. 1937.3,4,12;
L.N. 46 of 1965;
LVIII. 1974.68;
XXXIV. 1979.4;
XXIV. 2011.11.
Cap. 12.

*the amendments made by article 11 of Act XXIV of 2011 are subject to the provisions of article 103(7) of the same Act.

Insurance.
Added by:
XXIV. 2011.12.

10A. (1) It shall be the responsibility of every notary, except those referred to in article 22, to be adequately insured against all risks of professional liability during the time he is exercising his profession. The insurance company providing such insurance shall each year issue a certificate to the notary attesting that he is covered in terms of this sub-article.

(2) A notary may apply to the Court of Revision of Notarial Acts to exempt him from the provisions of sub-article (1) for any particular calendar year.

(3) The Minister responsible for notarial affairs may, after consulting the Notarial Council, make regulations -

- (a) to specify the criteria which insurance companies shall take into account when providing the cover referred to in sub-article (1), and
- (b) to indicate the cases where and the conditions under which the Court of Revision may exempt notaries from the provisions of sub-article (1).

Change in name/
surname.
Added by:
XXIV. 2011.12.

10B. (1) A notary whose name/surname has changed either by court order, which has become final, or through marriage shall, not later than two months from the date of such court order or the celebration of the marriage, file a note in the Court of Revision of Notarial Acts informing the court of such change and shall also write his specimen signature in the book at the Attorney General's office referred to in article 10(1)(b). The note shall be served on the Chief Notary to Government and on the President of the Notarial Council.

(2) The Chief Notary to Government shall forthwith cause the note to be published in the Gazette and he shall update the electronic list mentioned in article 4(1)(a).

(3) A notary who publishes a notarial act before the note appears on the Gazette in terms of this article shall be liable to a fine (*ammenda*) of five hundred euro (€500) for each act so published.

(4) The Notarial Council shall ensure compliance with the provisions of this article and may apply to the Court of Revision to order the notary to comply and/or to award the appropriate disciplinary punishment.

Notary bound to
give his services.
Amended by:
II. 1978.3;
XXXIV. 2018.4;
LI. 2021.5.

11. (1) The notary may refuse his services or terminate any engagement for his services at his discretion without justification, and will not be required to consider the effect or consequence of such refusal.

(2) Without prejudice to the generality of the foregoing sub-article, the notary shall not be bound to give his services or to finalise any engagement, if subsequent to the acceptance of the engagement:

- (a) the parties fail to deposit with him the amount of duties, taxes, fees and expenses in respect of any service or deed, either at the moment of publication of

- the deed or on the execution of the service requested;
or
- (b) his services are required on a public holiday or between 9.00 p.m. of one day and 8.00 a.m. of the following day.
- (3) The provisions of sub-article (1) and (2), shall not apply in the case of a will and the provision of paragraph (b) of sub-article (2) shall not apply in the case of a sea protest.

12. It shall not be lawful for any notary to receive any act -

- (a) which is expressly prohibited by law or manifestly contrary to good morals or to public policy;
- (b) if any of the parties thereto is the notary's spouse or is related to the notary by consanguinity or affinity in the direct line in any degree or in the collateral line up to the third degree inclusively;
- (c) (i) which, being a will, contains any disposition in favour of the receiving notary, or any of the persons mentioned in paragraph (b), unless such disposition is allowed by law or is contained in a secret will not written by the notary or by any of the persons mentioned in that paragraph, and delivered to him sealed by the testator:
Provided that the appointment of the notary, receiving a will wherein a testamentary trust is created, as trustee or protector shall not be interpreted to be a disposition in favour of the receiving notary;
- (ii) which, being an *inter vivos* act, contains any provision concerning the receiving notary or any of the persons referred to in paragraph (b), unless such provision is required or allowed by law;
- (d) if any of the parties thereto is by the competent authority restrained from entering into contracts or disposing of his property, provided such act is affected by the terms of the inhibition, notified to the notary in accordance with article 527 of the Code of Organization and Civil Procedure;
- (e) if any of the parties thereto is represented by an agent or other representative who is any of the persons referred to in paragraph (b):
Provided that the provisions of this paragraph shall not apply to a physical person's mandatary who declares that he is any of the persons referred to in paragraph (b) and none of the other appearers on the act objects to the mandatary appearing thereon in such a capacity, and provided that the notary records therein the relevant facts;
- (f) if any of the parties thereto is a commercial

Acts which notary may not receive.

Amended by:

XXIX. 1963.2.

Substituted by:

XXIV. 2011.13.

Amended by:

LXIII. 2021.3.

Cap. 12.

partnership, other than a public company -

- (i) having at the time a director, partner or shareholder who is the notary or any of the persons referred to in paragraph (b), or
- (ii) whose legal or judicial representation is vested in the notary or any of the said persons;
- (g) if any of the parties thereto is a civil partnership, foundation or association or a legal entity, other than a commercial partnership, and it has at the time a partner, founder, associate or a member of its governing or administrative body who is the notary or any of the persons referred to in paragraph (b);
- (h) being a notarial trust deed by virtue of which a trustee is appointed, saving the provisions of the Trusts and Trustees Act, where:

- (i) any of the persons mentioned in paragraph (b) is the trustee or protector of the trust; or
- (ii) the notary or any of the persons mentioned in paragraph (b) is a determined or determinable beneficiary of the trust:

Provided that nothing in this paragraph shall prohibit the receiving notary from being nominated as a trustee or protector on a notarial trust deed;

- (i) if the notary or any of the persons referred to in paragraph (b) appears on the act as a trustee or protector acting in terms of a trust;
- (j) if any of the parties appears in his capacity as trustee or protector of a trust and the notary or any of the persons referred to in paragraph (b) is a determined or determinable beneficiary of such trust, unless the notary is not aware and not made aware, due to trust confidentiality, that he or the persons referred to in paragraph (b) is a determined or determinable beneficiary of such trust:

Provided further that the receiving notary may still, subject to regulations issued by the Authority mentioned in the Trusts and Trustees Act, act as qualified person in terms of article 43 and 43A thereof;

- (k) which, being a contract of purchase or sale of immovable property, is paid in cash in whole or in part by or on behalf of the parties to the contract, where the sum of such payment amounts to ten thousand euro (€10,000) or more, or its equivalent in any other currency:

Provided that, for the purposes of paragraph (k), the terms "cash" and "immovable property" mean the same as the meaning assigned to them in the Use of Cash (Restriction) Regulations.

Cap. 331.

Cap. 331.

S.L. 373.04.

13. (1) Any notary who in the exercise of his functions is insulted or obstructed, shall draw up a *procès-verbal* of the occurrence calling on at least two of the persons present to sign it, and shall transmit the same without delay to the Attorney General:

Provided that in urgent cases the notary may apply directly and on his own responsibility for Police protection.

(2) The notary may likewise request the assistance of the Police whenever he is called upon to give his services at night time or whenever, having regard to the places in which or the persons to whom he is required to give his services, he deems it prudent to have such assistance.

Notary insulted or obstructed in the performance of his duties may request the assistance of the Police.

*Amended by:
XI. 1937.12;
L.N. 46 of 1965;
LVIII. 1974.68.*

TITLE III

OF THE CESSATION, INCAPACITATION AND SUSPENSION FROM THE EXERCISE OF NOTARIAL FUNCTIONS

14. (1) A notary shall cease from exercising his functions:

- (a) if he accepts a government employment, or is in full-time employment, or else if he exercises a profession or assumes any office incompatible with the office of notary:

Provided that a notary who accepts an appointment to act as Chief Notary to Government or Notary to Government or Notary employed with any Government Ministry or Department or Notary Public with the Lands Authority or Notary Public with the Housing Authority, under the provisions of article 22(5), or Notary Public with any other Government Authority or Agency, for a continuous period not exceeding three months, may continue to exercise his functions as a Notary Public:

Provided also that a notary who is in full-time employment before the 27th July, 2021 shall have until 1st June, 2024 in order to regularise his position in accordance with this sub-article. Notarial acts received and drawn up by a notary who is in full-time employment before 1st June, 2024 shall be considered valid;

- (b) if he is permanently absent from Malta for a continuous period exceeding five years or fails to publish any act for a period of seven consecutive years preceding the current basis year of review, to be ascertained annually, from the basis year of review 2021. The assigned Review Officer shall ascertain this fact during the period of review, and shall upon request, be given any relevant information by the notary himself or the Office of the Notary to Government or the Notarial Council. The review officer, shall, by application, report the matter to the Court of Revision of Notarial Acts and the Court shall, if satisfied that the facts subsist, decree that the said notary has ceased to exercise his functions and shall order the notary to bind and consign any original acts still in his possession to the Review Officer within a time so

When a notary ceases to exercise his functions.

*Amended by:
XXXVII. 1933.2;
X. 1941.3;
XII. 1962.3;
L.N. 46 of 1965;
XXX. 1973.5;
LVIII. 1974.68;
II. 1978.4;
XIX. 1988.2;
IX. 2000.3;
III. 2008.10;
XXIV. 2011.14;
XXXIV. 2018.5;
LI. 2021.6;
LXIII. 2021.4.*

established in its decree, failing which the penalties under article 94A(18)(a) shall apply *mutatis mutandis*, and the said Court shall appoint a Notary Keeper, where it deems expedient to do so. The Court shall cause the said decree to be served on the notary, at the address registered with the Notarial Council, or if residing abroad, by electronic mail to the last electronic address registered with the Notarial Council, on the Attorney General, the Chief Notary to Government and the President of the Notarial Council, and the mentioned decree shall be published in the Gazette. Subsequent to this publication, the Chief Notary to Government shall cause the name of the said notary to be listed with the names of notaries not exercising their functions, which list shall be kept by the Chief Notary to Government and published in the same manner as the list under article 4.

Cap. 9.

- (c) if he is interdicted under the provisions of the Criminal Code;
- (d) if he resigns his office and presents his resignation in writing to the President of Malta provided that the Notary may indicate that his resignation is temporary, in which case the provisions of paragraph (b) and article 2 will still apply;
- (e) if he is removed from his office in terms of articles 138 and 139;
- (f) if he is removed from his office by the President of Malta following a sentence by any competent tribunal for theft, fraud or any crime against public faith;
- (g) shall if he is incapacitated by the President of Malta with the advice of the Board appointed as provided in article 7, on account of illness, blindness, deafness or other cause which renders the notary unfit for the performance of his duties:
Provided that where the cause is not such as to render the notary also incapable of keeping acts or of giving out copies thereof, it shall be lawful to restrain the notary only for receiving acts;
- (h) if he assumes an appointment as a Government Minister or Parliamentary Secretary, provided that in such cases said cessation shall be deemed to be temporary and in such cases the provisions of paragraph (b) shall not apply, and the said Notary shall immediately be rehabilitated upon cessation of his duties as Minister or Parliamentary Secretary, upon a notice to this effect appearing in the Gazette.

Rehabilitation.

- (2) Where the cause for which any notary has ceased from the exercise of his functions is merely temporary, such notary may, on the cessation of such cause, be rehabilitated by the President of Malta upon the advice of the Board referred to in article 7 which shall ascertain that the notary is adequately proficient, up-to-date and qualified to resume the exercise of all the powers and functions of a

Notary Public.

(3) The notary who accepts the office of Chief Notary to Government, Notary to Government, Notary in full-time employment with a Government Ministry or Department or Authority, Notary Public with the Lands Authority, Notary Public with the Housing Authority, the office of Director or Assistant Director of the Public Registry or Land Registrar or Assistant Land Registrar, or a notary who is in full-time employment with a commercial lending bank or similar financial institution or entity, or with any Government agency or limited liability company or any other entity, where the Government of Malta is either the beneficial owner or has a controlling interest therein, or in any other case where any notary continues to carry out, in the regular exercise of his office or employment, any one of the powers and functions listed in article 2, shall not during the tenure of such office or employment, cease from the exercise of the functions of notary:

Provided that, any notary falling within the scope of this sub-article may not practise as a notary except in the capacity as stated in this sub-article, and shall not therefore, during the tenure of such office, cease from the exercise of the functions of notary, but only in so far as such functions relate to the execution and custody of deeds to which the Government or any corporate body established by law is a party, and the issue of copies or extracts from such deeds.

(4) In any case where a notary ceases to exercise his functions in terms of this sub-article, the Court shall decree that the said notary has ceased to exercise his functions and shall order the notary to bind and consign any original acts still in his possession to the Review Officer assigned to him for the current year of review, within a time so established in its decree, failing which, the penalties under article 94A(18)(a) shall apply *mutatis mutandis*. The Court shall also appoint a Notary Keeper. The Court shall cause the said decree to be served on the notary, on the Attorney General, the Chief Notary to Government and the President of the Notarial Council and the said decree shall be published in the Government Gazette in the manner established in paragraph (b).

(5) Subsequently to this publication, the Chief Notary to Government shall cause the name of the said notary to be listed with the names of notaries not exercising their function, which list shall be kept by the Chief Notary to Government and published in the same manner as the list under article 4.

15. (1) Any notary may be temporarily suspended or incapacitated from the exercise of his functions, in any of the cases mentioned in articles 132, 133 and 135.

Suspension or
incapacitation.
*Amended by:
XXIV. 2011.15.*

(2) He may be partially incapacitated from doing so in any of the cases mentioned in articles 94A and 94B.

Cessation or disqualification or suspension to be published in Gazette.
Amended by:
XI. 1937.5.

16. The cessation, incapacitation or suspension from the exercise of notarial duties in any of the cases prescribed by law, and the rehabilitation for the exercise of such duties shall be published without delay in the Gazette by means of a notice to that effect.

TITLE IV

OF KEEPERS OF NOTARIAL ACTS, NOTARIES DELEGATE AND NOTARIES TO GOVERNMENT

Keepers of notarial acts.
Substituted by:
XXIV. 2011.16.

17. (1) Any notary to whom the Court of Revision of Notarial Acts entrusts the custody of the deeds and registers of any deceased notary or of any notary who has ceased to exercise his functions in any of the cases laid down in this Act, for the purpose of taking due care thereof, of allowing them to be inspected and read, and of giving out copies and extracts of or from the same as provided in this Act or issue the declaration in terms of the proviso to article 68(2), is said to be a keeper of notarial acts.

(2) Notwithstanding any provision of this or any other law, and saving any agreement to the contrary by notarial act between the interested parties, the appointment of a notary keeper shall not imply that the keeper is responsible for the payment:

(a) of any registry fees, duty, tax, impost or penalty due by or which could have been imposed on the receiving notary in terms of past or current fiscal legislation, or any other law, unless and until such time as the keeper is put in funds to be able to pay same; or

(b) of any disciplinary punishment awarded or that could have been awarded to the receiving notary for any breach by him of this or any other law.

(3) Where the notary keeper incurs expenses in terms of the provisions of this Act or any other law:

(a) to bind the original notarial acts and their indexes; or
 (b) to prepare and bind their registers and indexes; or
 (c) to file the relative notes of enrolment, hypothec and reference in the Public Registry or lodge the relative applications in the Land Registry or similar notes or applications in a registry substituting such registries,

he shall have the right, saving any agreement to the contrary by notarial act between the interested parties, to recoup such expenses from the receiving notary and, or such other persons as may be prescribed, within such time and in such manner as may be prescribed.

(4) The provisions of sub-article (3) shall *mutatis mutandis* apply to a notary keeper who, notwithstanding the provisions of sub-article (2), pays any registry fees, duty, tax, impost or penalty due by the receiving notary.

(5) The Minister responsible for notarial affairs may from time to time make regulations generally for carrying out the provisions of this article, for adding to the instances mentioned in sub-articles (2) and (3), and for such matters as are authorised by this article to be prescribed.

18. The keeper of the Malta Archives and the keeper of the Gozo Archives are respectively *ex officio* the keepers of the deeds of former notaries to Government in Malta and Gozo and of the notarial acts belonging to the Government under any title whatsoever, as well as of all other acts in respect of which there is no keeper and which are deposited in the said Archives of Malta and Gozo:

Provided that -

Notarial acts of
which the
Archivist is the
keeper *ex officio*.
Amended by:
XII. 1962.4;
L.N. 4 of 1963;
XXXI. 1966.2;
II. 1983.2;
XIX. 1988.3;
IX. 2000.3;
III. 2008.11;
XXXIV. 2018.6;
LXIII. 2021.5.

- (a) the National Archivist appointed in accordance with the National Archives Act shall be the *ex officio* curator of the notarial registers of those notaries who were Government notaries in Malta and Gozo, and of the notarial registers belonging to the Government, or which are privately owned but, for one reason or another, do not have a conservator or delegated notary or when such registers are seized for a good reason contemplated in this Act;
- (b) the *ex officio* keeper of the deeds and registers of former notaries in the Land Department or notaries with the Lands Authority, shall be the Notary with the Lands Authority designated by the Minister responsible for notarial affairs, and where the office of Notary with the Lands Authority is vacant, the keeper of the Malta Archives shall *ex officio* be the keeper of the deeds and registers of former notaries in the Land Department or notaries with the Lands Authority; and
- (c) the *ex officio* keeper of the deeds and registers of former notaries with the Housing Authority shall be the Notary Public with the Housing Authority, and where the office of Notary Public with the Housing Authority is vacant, the keeper of the Malta Archives shall *ex officio* be the keeper of the deeds and registers of former notaries with the Housing Authority; and
- (d) the *ex officio* keeper of the deeds and registers of former Notaries with the Joint Office shall be the Notary in the Government Property Division or one of the Notaries Public in the Government Property Division designated by the Minister responsible for notarial affairs and where the office of Notary in the Government Property Division is vacant, the Keeper of the Malta Archives shall *ex officio* be the keeper of the deeds and registers of former Notaries with the Joint Office.

Cap. 477.

Keepers of acts,
appointed by Court
of Revision.
Amended by:
XXXIV.1979.5.

Notaries delegate.
Amended by:
XXIV. 2011.17;
XXXIV. 2018.7.

19. As regards all other notarial acts and registers which are owned by private parties, the Court of Revision shall on the application of lawful owners or of the Attorney General *ex officio* appoint as keepers thereof such notary as is named by such owners or by the Attorney General and who has declared his willingness to accept such appointment.

20. (1) Notaries delegate are those whom the said court appoints for the temporary custody of the deeds and registers of a notary during his absence from Malta, or of a notary who is unable to exercise his functions on account of illness, temporary suspension, incapacitation or interdiction or of any other temporary impediment, and for giving out copies and extracts of or from such deeds, or issue the declaration in terms of the proviso to article 68(2), or merely for giving out copies or extracts of or from the deeds and registers or issue the said declaration in cases where the notary has, without just cause, refused to give out such copies or extracts or issue such declarations.

(2) The court may, if it deems it expedient in case of suspension, incapacitation or temporary interdiction of a notary, leave to him the custody of the deeds and registers, and appoint a delegate for giving out copies thereof or extracts therefrom:

Provided that a Court may appoint a notary delegate for the purposes of this article for any number of absences of the said notary from Malta during his lifetime, or for one continuous period of absence not exceeding seven (7) years:

Provided further that the Chief Notary to Government or the President of the Notarial Council may by application to the Court, request the appointment of such notary delegate in the circumstances mentioned in the immediately preceding proviso or in the case of incapacity, inability or death of a notary.

Keeper or delegate
to sign as such.
Amended by:
XXIV. 2011.18.

21. Any keeper of notarial acts or notary delegate shall, on giving out any copy or extract or issuing a declaration in terms of the proviso to article 68(2), state his capacity as such by adding to his signature the qualification of keeper or delegate, as the case may be.

22. (1) There shall be a Chief Notary to Government and one or more Notaries to Government for the Island of Malta and a Notary to Government for the Islands of Gozo and Comino and there shall also be one or more Notaries Public with the Lands Authority and one or more notaries with the Housing Authority.

(2) The Chief Notary to Government, Notaries to Government, Notaries Public with the Lands Authority and the Notaries Public with the Housing Authority shall be appointed from among notaries appointed by the President of Malta in accordance with the provisions of Title I of Part II of this Act.

(3) The functions of Chief Notary to Government, Notary to Government for the Islands of Gozo and Comino, Notary Public with the Lands Authority and the Notaries Public with the Housing Authority shall consist in receiving those deeds only to which the Government, any corporate body established by law, or the Notarial College, or, as may be authorized by the Minister in each case, any partnership or any other body in which the Government of Malta or any such body as aforesaid have a controlling interest or over which they have effective control, is a party, in having the custody of the deeds respectively received by them and in serving out copies and extracts of or from such deeds during their tenure of office.

(4) A Notary to Government for the Island of Malta shall exercise such duties, powers and functions as may be delegated or assigned to him by the Chief Notary to Government.

(5) In the case of absence or other lawful impediment of the Chief Notary to Government or of the Notary to Government for the Islands of Gozo and Comino, the Prime Minister may delegate the Notary to Government for the Islands of Gozo and Comino or the Chief Notary to Government, as the case may be, or one of the Notaries to Government for the Island of Malta, or appoint another notary, to discharge the duties of the Chief Notary to Government or of the Notary to Government for the Islands of Gozo and Comino, as the case may require; and in the case of absence or other lawful impediment of a Notary Public with the Lands Authority or a Notary Public with the Housing Authority, the Prime Minister may delegate one of the Notaries to Government, or appoint another notary, to discharge the duties of the Notary Public with the Lands Authority or of a Notary Public with the Housing Authority, as the case may require.

(6) The office of Chief Notary to Government or of Notary to Government is not incompatible with the office of Archivist and Director or Assistant Director of the Public Registry or Director or Assistant Director of the Land Registry.

Appointment and
duties of Notaries
to Government,
Assistant Notaries
to Government and
Notaries Public
with the Lands
Authority .
Amended by:

XXXVII. 1933.3;
XI. 1937.12;
X. 1941.4;
XXXI. 1946.3;
XXVI. 1949.2.

Substituted by:

XII. 1962.5.
Amended by:
L.N. 4 of 1963;
XXXI. 1966.2;
XXX. 1973.6;
LVIII. 1974.68;
II. 1978.5;
XIX. 1988.4;
IX. 2000.3;
V. 2005.36;
XIII. 2005.17;
III. 2008.12;
XXXIV. 2018.8.

Salary of Chief Notary to Government, etc.
Amended by:
XXVI. 1949.3;
XII. 1962.6;
XXX. 1973.7;
II. 1978.6;
XIX. 1988.5;
IX. 2000.3;
III. 2008.13;
XXXIV. 2018.9.

Fees payable to Government.

23. (1) The Chief Notary to Government, the Notaries to Government and the Notaries in the Government Property Division, shall receive from the Government a fixed salary.

(2) The Chief Notary to Government, the Notary to Government for the Islands of Gozo and Comino, shall collect on behalf of the Government the fees due in terms of article 81.

(3) A Notary Public with the Housing Authority shall receive from that Authority a fixed salary and shall collect on behalf of that Authority the fees due in terms of article 81.

(4) A Notary Public with the Lands Authority shall receive from that Authority a fixed salary and shall collect on behalf of that Authority the fees due in terms of article 81.

24. The provisions of article 12(b), shall not apply to the Chief Notary to Government or a Notary to Government or a Notary Public with the Lands Authority or a Notary Public with the Housing Authority.

Paragraph (b) of article 12 not to apply to Chief Notary to Government, etc.
Amended by:
X. 1941.5;
XXVI. 1949.4;
XII. 1962.7;
XXX. 1973.8;
XIX. 1988.6;
IX. 2000.3;
III. 2008.14;
XXXIV. 2018.10.

Added by:
XXIX. 2011.19.

Notarial Deposit Account.
Added by:
XXIX. 2011.19.

TITLE V*

OF NOTARIAL DEPOSIT ACCOUNTS

24A. (1) Every notary, except those referred to in article 22, shall open an account with a local commercial bank, to be designated a "Notarial Deposit Account", in which he shall deposit all monies deposited with him in his professional capacity:

Provided that where the notary closes such account he shall, unless he has already done so, open another one with the same or a different local bank in such a way that he shall always have one such account open:

Provided further that the notary may open more than one such account.

(2) The notary shall inform the Notarial Council in the manner and within the time prescribed of the opening and closing of the accounts referred to in sub-article (1).

(3) The notary shall keep a register in the manner prescribed

*the addition of this Title, by article 19 of Act XXIV of 2011, is subject to the provisions of article 103(1) of the same Act.

wherein he shall list all the monies deposited in and withdrawn from the accounts mentioned in sub-article (1), and he shall note therein all other information as may be prescribed:

Provided that the notary shall not divulge any information referred to in this sub-article except upon an order of a court.

(4) The notary shall hold monies deposited in such accounts in the name of the persons entitled thereto, and he shall be obliged to pay the equivalent of such monies to such persons as and when the monies become due. Any interest which may accrue in such accounts shall appertain solely to the notary as his remuneration for the service he gives in holding such deposits and operating such accounts.

(5) (a) Notwithstanding any law to the contrary, the existence of such accounts, duly registered with the Notarial Council, shall have the following legal effects, namely:

- (i) the personal creditors of the notary shall have no recourse against the monies held in the accounts;
- (ii) monies held in such accounts shall not form part of the notary's personal estate upon his insolvency; and
- (iii) monies held in such accounts shall not form part of the matrimonial property of the notary or his spouse, unless the notary or his spouse proves that he is entitled to any of such monies.

(b) Without prejudice to the legal effects set out in paragraph (a):

- (i) upon the notary's demise, his universal heirs shall succeed to the same rights and obligations which the deceased notary had with regard to such accounts; and
- (ii) where the notary ceases to perform his functions for reasons other than the one referred to in subparagraph (i), he shall retain his rights and obligations with regard to such accounts, even if a notary keeper of his acts has been appointed.

(6) Where a notary fails to register the opening of such accounts with the Notarial Council, the monies deposited therein shall not have the legal effects set out in sub-article (5)(a).

(7) The provisions of sub-article (6) shall not apply:

- (i) to monies deposited in such accounts, or
- (ii) to monies which are no longer in such accounts, or
- (iii) to monies which were never deposited in such accounts,

if the notary or any person proves by documentary evidence or witnesses or any other means allowed under the provisions of the Code of Organization and Civil Procedure that he is entitled thereto.

(8) The Notarial Council shall keep a record of Notarial Deposit Accounts in the manner prescribed and shall, in the circumstances and manner prescribed, confirm the existence of such accounts to any court, any local bank, any of the universal heirs of a deceased notary or to any other person as may be prescribed.

(9) Notaries shall each year confirm to the Notarial Council the details of such accounts currently held by them.

(10) The Minister responsible for notarial affairs may from time to time, after consulting the Notarial Council, make regulations generally for carrying out the provisions of this article and for such matters as are authorised by this article to be prescribed.

PART III OF NOTARIAL ACTS

TITLE I

OF THE FORMALITIES OF NOTARIAL ACTS

Receiving and drawing up of acts.
Amended by:

XXVIII. 1938.2;

XXXIV. 1979.6.

Substituted by:

XXIV. 2011.20.

Amended by:

XIX. 2012.7;

LI. 2021.7.

25. (1) In this Act, "party" refers to the person who is a party to the *negotium* which is incorporated in the act and, in the case of a will, to the testator; and "appearer" means the person who appears before the notary either as a party or as the representative or agent of a party.

(2) The notary shall not receive a notarial act except in the presence of the appearers.

(3) The presence of two (2) witnesses shall be required only in the following cases:

- (a) whenever any of the appearers so requests; and
- (b) whenever any of the appearers does not know how or is unable to sign his name:

Provided that in the case of public wills and in the case of acts of delivery of secret wills, the notary shall in all cases inform and explain to the testator about the testator's right to have two (2) witnesses present:

Provided further that in the case of public wills if the testator chooses not to have two (2) witnesses present, the notary shall in the will declare that he has informed and explained to the testator about his right to have two (2) witnesses present and that the testator chose not to have two (2) witnesses present:

Provided further that in case of acts of delivery of secret

wills if the testator chooses not to have two (2) witnesses present, the notary shall in the act of delivery declare that he has informed and explained to the testator about the testator's right to have two (2) witnesses present and that the testator chose not to have two (2) witnesses present.

(4) It is the duty of the notary to direct the drawing up of the act from beginning to end, even when he causes it to be prepared by a person whom he deems trustworthy.

(5) The notary alone is competent to ascertain the will of the appearers and to inquire, after reading over and explaining the act to them, whether it is in accordance with their will.

(6) Notwithstanding the provisions of this and any other law, provided no witnesses are required in terms of sub-article (3), nor does the proviso to article 34(1) or any of articles 36, 37, 38 apply, where all the appearers on the act declare that they are fully cognizant of the contents of the act and its annexes, they may by an express declaration exempt the notary from reading over the act to them in which case the following formalities are required:

- (a) at the foot of the act and before the final signatures, the notary records both declarations in his own handwriting and signs what he has recorded,
- (b) immediately following the notary's signature, each appearer separately writes in his own handwriting "I confirm this exemption" to which he affixes his signature, and
- (c) all the appearers sign every sheet of the act in the outer margin and every annexe, unless the annexes have already been signed in terms of article 28(1)(k).

26. The notary must personally be certain of the identity of the appearers, attestors, witnesses and interpreters. Such identity shall be ascertained by the production of the official identity card, passport or other similar official document and, where such document cannot be produced by any of the appearers, on the testimony of two attestors who may also be the witnesses appearing on the act.

Notary must be certain of identity of appearers, attestors, witnesses and interpreters.

*Substituted by:
XXIV. 1979.7.*

*Amended by:
L.N. 426 of 2012.
Substituted by:
XXIV. 2011.21.*

27. (1) No person shall be competent as witness unless such person has attained the age of eighteen years, was born or is residing in Malta and has no interest in the act.

Qualifications of witnesses and attestors.

*Amended by:
XXIX. 1963.3;
XXIV. 2011.22.
Cap. 16.*

(2) Saving the provisions of article 670 of the Civil Code relating to public wills, the following shall not be competent as witnesses:

- (a) any person who is blind or deaf or dumb;
- (b) any person who is related to the notary or to any of the parties or appearers, by consanguinity or affinity in any of the degrees mentioned in article 12(b);
- (c) the spouse of the notary or of any of the parties or

appearers;

- (d) any person who does not know how to or cannot sign.

(3) The attestors must have the same qualifications as are required for witnesses, but the relationship by consanguinity or affinity referred to in sub-article (2), or their inability or incapacity to sign, shall not disable them from acting as such.

Forms of acts.

Amended by:
XI. 1937.6;
XI. 1940.2;
XII. 1955.2;
XXXIV. 1979.8;
XIII. 2004.46;
XXIV. 2011.23;
XIX. 2012.3;
XXXIV. 2018.11;
LXI. 2020.7.
Cap. 16.

28. (1) Every notarial act must contain -

- (a) the indication written out in words and in full by the notary himself, of the day, the month and the year, and in the case of a will, also the hour in which the act is signed;
- (b) the name and surname of the notary;
- (c)
 - (i) the personal details of the parties, as listed in article 2042 (a) and (b) of the Civil Code:
Provided that the date of birth may be written in figures only, and if the full address is included in the deed, such address may also contain figures only;
 - (ii) where the place or date of birth of any of the parties is unknown to the notary or where any of the parties is born of an unknown parent, or where the surname at birth of the parents is unknown to the notary or cannot with the exercise of reasonable diligence be ascertained by him, a statement of such fact in the act shall be sufficient;
 - (iii) where a person appears as the agent or representative of any of the parties or where witnesses, attestors or interpreters appear thereon, the name and surname, the place and date of birth (which may be written in figures only), and place of residence of such agent, representative, witness, attester or interpreter;
 - (iv) where an appearer declares to be acting as a trustee in respect of the subject-matter of the act, the indication that the party appears as trustee in respect of that subject-matter;
- (d) the number (which may be written in figures only) of the official document produced for ascertaining the identity of the appearers or a declaration that the notary has ascertained such identity by means of attestors. Where witnesses or interpreters appear on an act, or where the identity of any of the appearers has been ascertained on the testimony of attestors, the number (which may be written in figures only) of the official document produced by such witness, attester or interpreter for their identification;
- (e) the indication, written out, at least in the first instance, in words and in full, of any date, sum of money, amount or quantity of things forming the subject matter of the act;

Provided further that in any discrepancy between words and figures, words shall prevail;

- (f) (i) the precise description of the things forming the subject-matter of the act in a manner that they cannot be mistaken for others,
- (ii) in the case of an act *inter vivos* relating to immovable property, such property shall be designated, if urban, by the mention of the city or village and the street wherein it is situate and the street number thereof, or, if it has no number by the mention of at least three of its boundaries; if rural, by the mention of the place within the limits of which it is situate, its denomination, if any, (and possibly the denomination, of the district), its area, and at least three of its boundaries as well as a site plan of the property showing the juxtaposition of the property:

Provided that where the same site plan required to be so annexed is already annexed to another public deed, a reference thereto shall suffice:

Provided further that for the purpose of this paragraph, all land shall be considered rural unless it is the whole roof and airspace overlying urban property;

- (g) a mention of the titles and papers annexed to the act.

Any annexe not mentioned in the act or not duly signed, shall not be considered as forming part of the act except in so far as the truth of its contents results from the act itself:

Provided that, in any case where, in terms of the Duty on Documents and Transfers Act and the Income Tax Acts or any other enactments substituting the same, the duty and the tax due in terms of the respective laws regarding the *negotium* of the notarial act are to be paid at the office of the Commissioner of Inland Revenue, the notary shall annex to the act after the publication thereof the copy given to him by the said Commissioner of the notice which the notary filed at such office, and the copy thus annexed shall be deemed to form part of the act notwithstanding that it is not mentioned in the act and is not signed by the appearers, the witnesses, the attestors, the interpreters, if any, and the notary;

Cap. 364.

- (h) a statement that the notary has duly explained to the appearers the contents of the act before the publication thereof;
- (i) a statement that the act has been published in the presence of the witnesses, where the presence of witnesses is required by law. Where the notary does not know whether the witnesses are related by consanguinity or affinity to any of the parties or the appearers in any of the prohibited degrees, it shall be lawful for him to assure himself of such fact from the

witnesses themselves, and, in any such case, he shall state that the witnesses are not related as aforesaid according to their own statement;

- (j) an indication of the island, the city or village and the house or other place wherein the act is published and, where it is a country or place other than Malta, the name of such country or such place;
 - (k)
 - (i) the signature, at the foot of the act, in the annexes and in the list, of the notary, the appearers, and, if attestor or an interpreter or witnesses shall have been employed, of such attestors, interpreter or witnesses, saving the provisions contained in paragraph (g) of this sub-article and, unless article 25(6) applies, the notary shall initial every sheet of the act and of every annexe thereto,
 - (ii) the notary shall, immediately after his signature at the foot of the act declare his capacity of Notary Public of Malta in English or in Maltese, either in writing or by means of a stamp or a sealed stamp, and Notaries Public in Government employment shall also declare such capacity,
 - (iii) when the documents annexed to the act exceed five in number, disregarding for this purpose the copy of the notice filed at the office of the Commissioner of Inland Revenue subsequently to the completion of the act in terms of the Duty on Documents and Transfers Act and the Income Tax Acts or any enactments substituting the same, the notary may make a list thereof, separate from the act, and annex it to the act, making an express reference to such list in the act; in any such case the list shall be signed in the same manner as the act, and the signatures on the annexed documents shall be dispensed with,
 - (iv) the signature on documents filed as vouchers of annexed accounts to which such accounts make reference, is likewise dispensed with,
 - (v) if any of the appearers or any of the attestors does not know how to or cannot sign, he shall declare the cause of such inability or incapacity, and the notary shall make a mention of such declaration before the act is signed;
 - (l) in the case of a public will contained in several sheets, the signature of the testator, interpreter, witnesses and notary in the margin of each intermediate sheet.
- "Intermediate sheet" means every sheet which forms part of the act except that containing the final signatures.
- (2) The signature of the witnesses in the intermediate sheets

Cap. 364.

and annexes referred to in this article shall not be necessary if all the appearers are able to sign.

(3) The above requirements, apart from those stated in subarticle (1)(a), (b), (c), (h), (i), (j) and (k), shall not apply to a notarial deed whereby a trust is created in terms of article 43A of the Trusts and Trustees Act except in the case where it involves any act of settlement under trust or unilateral declaration of a trust of immovable property or real rights over such property or any vesting or divesting of a trustee in respect of such property or rights.

Cap. 331.

28A. Without prejudice to the right of the notary to annex to a notarial act the documents he deems necessary or useful, and without prejudice to his obligation to do so in terms of this Act or any other law, the Minister responsible for notarial affairs may make regulations prescribing the documents which a notary shall be obliged to annex to a notarial act.

Regulations prescribing the documents to be annexed.

*Added by:
XXIV. 2011.24.*

29. (1) Notaries may not make use of abbreviated clauses commonly called *et caetera* clauses, in any contract of sale, exchange, emphyteusis or letting and hiring, or in any other contract for constituting a pledge, or a privilege or a general or special hypothec.

Use of *et caetera* clauses prohibited.
*Ord. VII of 1859
with the exception
of the second part
of article 2,
consolidated.*

*Amended by:
XXIV. 2013.25.*

(2) Nor may any notary, in any contract whatsoever, make use of any *et caetera* clause implying a derogation of any of the provisions of Title IV of Part II of Book Second of the Civil Code.

Cap. 16.

(3) Where the appearers, for the purpose of modifying the effects of the laws relating to contracts in general or to the contracts of sale, exchange, emphyteusis or letting and hiring, desire to make stipulations which heretofore were deemed to have been made by the use of an *et caetera* clause, the notary may express such stipulations either by writing out such clause in full and without abbreviations or by using other expressions signifying the will of the appearers.

(4) Any clause inserted in any contract in contravention of sub-articles (1) and (2), shall be void and of no effect.

Cap. 16.

(5) The provisions of article 1007 of the Civil Code shall not apply to the clauses the use whereof is prohibited by this article.

30. (1) The original of every notarial act shall be written, typewritten or printed in dark, clear, easily legible and indelible characters, without blanks or spaces unless such blanks or spaces are lined, without abbreviations, corrections, alterations or additions in the body of the act and without erasures.

How acts are to be written.
*Amended by:
XXXV. 1979.9;
XXIV. 2013.26.*

Every original act shall have two margins, one on the right-hand side and the other on the left-hand side. All annotations and signatures as are required by law to be made in the margin shall be made in whichever of the said sides is the outer side.

(2) Where it is necessary to remove, vary or add any words before the act is signed by the appearers, the attestors, interpreter and witnesses, the notary shall make such removal, variation or addition by means of a numbered mark in the place where such removal, variation or addition is to be made and a note at the end of

How alterations in the act are to be made.

the act, but before the final signatures, numbered so as to correspond to the relative mark; and in any such case, the notary shall cancel the words which it is desired to remove or vary, in such manner as to leave the words cancelled still legible, and the note at the end of the act shall state the number of words so cancelled or, as the case may be, that other words are substituted for those cancelled, and containing immediately after, the words so substituted.

(3) In the case of a mere addition of words, the notary shall make a numbered mark in the place where the addition is to be made and a note at the end of the act, but before the final signatures, numbered so as to correspond to the relative mark, and containing "the expression "words added", "adde" or other similar expression and, immediately after, the words to be added.

(4) Any cancellation, addition or variation made otherwise than in the manner aforesaid shall be considered as if it had not been made.

Acts of delivery of secret wills.
Amended by:
XXIV. 2011.27.

Opening and publication of secret wills.
Amended by:
XI. 1940.3;
XXIV. 2011.28;
L.N. 426 of 2012;
LXI. 2020.8.
Cap. 12.

Cap.16.

Protest of a bill of exchange.
Amended by:
XXIV. 2011.29.

31. The acts of delivery of secret wills shall be written on the back of the paper on which the will itself is written or on that which serves as its envelope.

32. (1) Secret wills shall be opened and published in accordance with the procedure laid down in article 534 of the Code of Organization and Civil Procedure. The notary who publishes a secret will shall keep a record of such publication and shall preserve and register such record as in the case of an *inter vivos* act.

(2) Such *procès-verbal* shall contain -

- (a) the name and surname of the judge or magistrate and the registrar in whose presence the will is opened and published;
- (b) the name and surname of the notary;
- (c) an indication of the decree ordering the publication;
- (d) a statement that the will has been opened, read and published by the notary in the presence of the said judge or magistrate and the registrar;
- (e) the personal details of the testator, as listed in article 2042 (a) and (b) of the Civil Code;
- (f) a statement of the fact that both the original of the will and the note of the presentation thereof in court as well as the notarial act of delivery, if any, have been annexed to the *procès-verbal*.

33. The protest of a bill of exchange shall be kept and registered as an *inter vivos* act and shall be drawn up in a single instrument even if the persons against whom it is entered, whether simultaneously or successively, are two or more.

34. (1) All notarial acts shall be drawn up in the Maltese or in the English language as the appearers desire:

Provided that where all the appearers declare that they are not Maltese-speaking persons nor English-speaking persons, they may require the use of any language other than Maltese or English which is known by the notary and the witnesses; in any such case the notary shall draw up by the side of the original text or at the end thereof a translation of the act into Maltese or English, and such translation shall be signed in the manner prescribed in article 28.

Language in which notarial acts are to be drawn up.
Amended by:
 XVII.1929.1;
 XIII.1933.1;
 XXIV. 1935.2;
 XXIV. 1936.2;
 XI. 1937.7;
 XL. 1965.2;
 XIII. 1983.4;
 L.N. 408 of 2007;
 XXIV. 2011.30.

(2) The notary shall warn the appearers of the importance of the truthfulness of the said declaration and shall record in the act that he has complied with this requirement and that to the best of his knowledge and belief such declaration is true.

(3) Any appearer to the act who makes a false declaration, and any notary who receives any act in any language other than Maltese or English when he knows or has reason to believe that any of the appearers is a Maltese-speaking or an English-speaking person, shall be liable to a fine (*multa*) not exceeding one hundred and sixteen euro and forty-seven cents (116.47) to be imposed by the Court of Revision of Notarial Acts.

(4) Any notary who receives any act without recording therein the said declaration of the appearers, or without recording the fact that he has warned the appearers of the importance of the truthfulness of such declaration, shall be guilty of an offence and shall be liable to a fine (*multa*) not exceeding eleven euro and sixty-five cents (11.65) to be imposed by the Court of Revision of Notarial Acts.

(5) Where any act is ordered by a judgment or decree of any court, the court shall in such judgment or decree specify the language, in accordance with the provisions, in which the act shall be drawn up by the notary.

(6) In this article the expressions "Maltese-speaking person" and "English-speaking person" shall have the same meaning as is assigned to them in article 7 of the Judicial Proceedings (Use of English Language) Act.

Cap. 189.

(7) The acts a notary is empowered to receive, perform or issue in terms of article 2(2)(b), (c), (d), (e), (g), (h) and (j) shall likewise be in the Maltese or the English language as the persons signing, approving, declaring or requiring such documents desire, and in the case of the act made in terms of paragraph (f) in the Maltese or English language as the notary desires, and all the other provisions of this article shall *mutatis mutandis* apply.

35. All declarations, attestations, certifications, references or notes made by any notary in pursuance of this Act shall be in the Maltese language, except where the act to which they refer has been drawn up in the English language, in which case they shall be drawn up in the English language.

Language in which certificates, etc., are to be written.
Added by:
 XI. 1937.8.

Interpretation of
notarial act into
another language.
Amended by:
XVII. 1929.2;
XIII. 1933.2;
XXIV. 1935.2;
XXIV. 2011.31.

Procedure when
one of the parties is
deaf.
Amended by:
XXIV. 2011.32.

Cap. 16.

Procedure when
any of the
appearers is dumb,
or deaf and dumb.
Amended by:
XXIV. 2011.33.
Cap. 16.

36. (1) The interpretation of an act into any language, when required for the intelligence of all the appearers shall be made by the notary, or, if the notary does not know the language understood by the appearers, by an interpreter chosen by the appearers.

(2) The interpreter must have all the qualifications required for a witness and shall not be one of the attestors.

(3) The interpreter must take the oath before the notary to perform his duties faithfully, and a mention of the taking of such oath shall be recorded in the act.

(4) The interpreter shall sign the act as provided in article 28(1)(k) and (l).

37. (1) Where any of the appearers is totally deaf, such appearer shall read the act, and a mention of the fact shall be recorded therein.

(2) If such appearer is illiterate use shall be made of the services of an interpreter to be appointed by the Civil Court (Voluntary Jurisdiction Section), possibly from among the persons accustomed to communicate with him, and who can make himself understood by signs and gestures. The interpreter shall be present at the execution of the deed, saving as regards wills, the provisions of article 669 of the [Civil Code](#).

(3) Such interpreter must possess the qualifications required for a witness and shall take the oath as provided in article 36(3), and a mention of the taking of such oath shall be recorded in the act.

(4) Such interpreter may be chosen from among the parents or relatives of the deaf person, but shall not, at the same time, act as a witness or as one of the attestors.

(5) The interpreter shall sign the act as provided in article 28(1)(k) and (l).

38. Saving in regard to wills, the provisions of articles 597 and 668 of the [Civil Code](#), where any of the appearers is dumb, or deaf and dumb, besides the rule laid down in the last preceding article as to the presence of the interpreter the following rules shall be observed:

(a) the appearer who is dumb, or deaf and dumb and can read and write shall himself read the act and write at the end thereof, before the signatures, that he has read it and found it to be in accordance with his will;

(b) if such appearer does not know how to or cannot read and write, it shall be necessary that his sign-language be understood also by one of the witnesses, or, otherwise, that a second interpreter be present at the execution of the act in accordance with the rules laid down in article 37(2), (3), (4) and (5).

39. (1) Where, in the publication or the drawing up of an act an interpreter has been employed, the notary shall, before the act is signed, state that such interpreter was chosen with the consent of the appearers, or as the case may be, by the Civil Court (Voluntary Jurisdiction Section), and that he took the oath to perform his duties faithfully.

If interpreter is not named the act is voidable.
Amended by:
XXIV. 2011.34.

(2) In default of compliance with the provisions of sub-article (1), the act is voidable on the demand of the person in respect of whom the employment of an interpreter was required.

(3) The said demand shall no longer be competent after the lapse of one month from the date of the publication of the act, or if the said person shall have given execution to the act.

40. (1) A notarial act is null:

- (a) if it has been received by a notary before his name has appeared in the Gazette in terms of article 5(1);
- (b) if it has been received by a notary who has ceased to exercise his functions for any of the causes laid down in article 14, or who has been suspended or incapacitated in any of the cases referred to in article 15(1) and after such cessation, suspension or incapacitation has been published in the Gazette;
- (c) if it is undated;
- (d) if it has been received in contravention of any of the provisions of article 12(a), (c)(i), (c)(ii), and (d):

Provided that if the contravention refers only to one or more parts of the act, only such part or parts shall be null:

Provided further that the contravention of article 12(c)(i) or (ii) shall only imply the nullity of the disposition or provision referred to in those subparagraphs;

- (e) if the requirements of articles 25(2), (3), (4) and (5), 27, 28(1)(k) and 34 have not been complied with:

Provided that where no witnesses are required in terms of article 25(3), nor does the proviso to article 34(1) or any of articles 36, 37, 38 apply, the temporary absence of an appearer during the publication of the act shall not invalidate the act unless, immediately upon his return, he requests the notary to read again what such appearer had not been present for, and the notary refused:

Provided further that the omission of signatures in the annex or list, as required by article 28(1)(k), shall not render the act null but such unsigned annex or list shall not be deemed to form part of the act except in so far as the truthfulness of its contents results from the act itself or from the list mentioned in the said paragraph (k):

Null and
annullable notarial
acts.
Amended by:
XXXIV. 1979.10;
XIII. 2005.18;
III. 2008.15.
Substituted by:
XXIV. 2011.35.
Amended by:
XIX. 2012.4.

Provided further that the omission of the declaration referred to in article 28(1)(k)(ii) shall not render the act null.

(2) A notarial act is annulable:

- (a) if it has been received in contravention of any of the provisions of article 12(b), (e), (f), (g), (h), (i) and (j);
- (b) if the requirements of articles 36, 37, and 38 have not been complied with;
- (c) if the requirements of article 25(6) have not been complied with;
- (d) if the notary has not read the act to the appearers, saving the provisions of article 25(6);
- (e) if the notary has not explained the act to the appearers;
- (f) if the notary has not read and explained the act to the appearers in the presence of the witnesses, when the presence of witnesses is required by article 25(3).

(3) No action shall lie for the declaration of nullity of an act having any of the defects referred to in sub-article (1)(c), (d) and (e) except on the demand of one of the parties thereto:

Provided that where the defect is that mentioned in sub-article (1)(c), the date of the act shall be deemed to be the one referred to in the proviso to sub-article (12).

(4) No action shall lie for the annulment of an act having any of the defects referred to in sub-article (2) except on the demand of a party to the act who proves to have suffered material damage as a consequence of such defect or defects.

(5) Subject to the applicable provisions of this article, no action mentioned in sub-articles (3) and (4) shall lie except within the peremptory terms of ten and five years respectively, such terms to start running from the date of publication of the act or, where the act is enrolled in the Public Registry or an application has been filed in the Land Registry for the first registration of, or the dealing with the immovable which is the subject-matter of the act, from the date of its enrolment in the Public Registry or the application in the Land Registry whichever occurs first.

(6) Without prejudice to the rights already acquired by third parties, an act which is null in terms of sub-article (1) may be rendered valid by a subsequent act and with effect thereof, hereinafter referred to as an "act of validation".

(7) An act which is annulable on account of any of the defects listed in sub-article (2) may, by a subsequent act, hereinafter referred to as an "act of convalidation", have its validity *ab initio* confirmed.

(8) Where an act of validation is published in terms of sub-article (6), the notary shall annex to such act -

- (a) the original defective act with the available documents annexed thereto, if the original defective act is not

- preserved in the records of the notary who published it, or
- (b) an authenticated copy of the defective act including a copy of the available annexed documents if it is so preserved;

and, notwithstanding any other law, any duty already paid for the purposes of the Duty on Documents and Transfers Act and any tax already paid for the purposes of the Income Tax Acts regarding the defective act, shall be deemed to have been paid on account or in full settlement of any such duty or tax that may be due on the act of validation.

Cap. 364.

(9) Where any party to a defective act or his successors in title is unable or unwilling to appear on an act to validate or convalidate as the case may be a defective act, and such party has not yet brought or is not entitled to bring an action in terms of sub-articles (3) or (4), any other party to the defective act or his successors in title shall have the right to apply to the Court of Revision of Notarial Acts requesting it to order that an act be published validating or convalidating, as the case may be, the defective act under such terms and conditions as the Court may consider appropriate, and that curators be appointed to appear in the name of those parties or their successors in title who fail to appear on such act of validation or convalidation.

(10) The application shall be served on the other parties to the act or their successors in title or their agents.

(11) Where an application has been filed in terms of sub-article (9) for the validation or convalidation of an act, the right any other party to the act may have hitherto had to bring an action in terms of sub-articles (3) or (4) shall immediately lapse.

(12) Upon being satisfied that the signatures on the defective act are authentic and that the appearers on the act had given their consent thereto, the Court shall order the publication of an act of validation or convalidation, as the case may be, of the defective act:

Provided that where the act is defective in terms of sub-article (1)(c), but it has been enrolled in the Public Registry or an application has been filed in the Land Registry for the first registration of, or the dealing with the immovable which is the subject-matter of, the act, the date of the act shall be deemed to be that contained in such note of enrolment or that referred to in such an application.

(13) The notary publishing the act of validation or convalidation ordered in terms of sub-article (12) shall annex to the act the registrar's declaration that the decision of the Court of Revision has become *res judicata*.

(14) Saving any other provision of this article and without prejudice to the rights already acquired by third parties, the Minister responsible for notarial affairs may by regulations provide that a notarial act having one or more of the defects mentioned in any of the paragraphs of sub-article (1) and which has been enrolled in the Public Registry or in relation to which an

application has been filed in the Land Registry for the first registration of, or the dealing with, the immovable the subject-matter of, the act, and which had been received either by a notary who is no longer alive or by one who has ceased to exercise his functions in terms of article 14, shall be deemed to be valid notwithstanding such defect or defects, and in making such regulations the Minister responsible for notarial affairs may also subject the said validity to such terms and conditions as he may consider appropriate.

(15) Saving any other provision of this article, the Minister responsible for notarial affairs may by regulations provide that no action shall be brought in terms of sub-article (4) to annul a notarial act having one or more of the defects mentioned in sub-article (2) and which had been received either by a notary who is no longer alive or by one who has ceased to exercise his functions in terms of article 14, and in making such regulations the Minister responsible for notarial affairs may also subject the said validity to such terms and conditions as he may consider appropriate.

- (16) (a) The applicability of this article to public wills shall be limited to sub-articles (1) and (2) and to the provisions of this sub-article.
- (b) A will which is affected by any of the defects mentioned in sub-article (1)(d) and (e) or in any paragraph of sub-article (2) shall not be declared null or be annulled, as the case may be, for the sole reason that any of the formalities required therein has not been complied with if, after the death of the testator, the person having an interest in his succession and who brings an action for the declaration of nullity of the will or its annulment, though aware of the cause of nullity or annulability of the will, either confirmed the will or voluntarily gave execution thereto.
- (c) No action shall lie in terms of paragraph (b) unless it is brought within the peremptory term of ten years in case of any of the defects mentioned in sub-article (1)(d) and (e) and five years in the case of any of those mentioned in sub-article (2), and the said terms shall start running from the date of the opening of succession of the testator, unless the will is an *unica charta* one published before the 1st March 2005, in which case the aforesaid terms shall start running from the date of the opening of succession of the surviving testator.

Penalty to notary in
case of other
contraventions.
Amended by:
XXIV. 2011.36.

41. In all other cases not provided for in the last preceding article, the notarial act shall not be null or annulable, as the case may be, but the notary who contravenes the provisions of the law shall be liable to the penalties laid down therein.

42. In the event of an act being declared null or is annulled by a judgment of the competent judicial authority, which has become *res judicata*, the notary by whom the act was received shall, after the order contained in such judgment has been communicated to him by the Registrar of the Court, immediately enter a reference thereto in the margin of the original of the act and of the relative register:

Provided that where the original of the act is deposited in the Archives, the communication shall also be made to the Archivist who, with regard to such act, shall have the same duty imposed on the notary by this article.

Note in margin of original and register where an act is declared to be null or is annulled.

Amended by:
XXIV. 2011.37.

43. Without prejudice to anything that may be provided by regulations made in accordance with article 40(14) and (15), the execution of an act is not deemed to be complete until the act has been published and then signed, at the same time, by the appearers, the attestors, interpreter, witnesses and notary, as the case may be, as provided in article 28(1)(k) and (l).

When execution of an act is deemed to be complete.

Amended by:
XIII. 2005.19;
XXIV. 2011.38.

44. (1) It shall not be lawful to make any alteration in the act after it has been published and signed, as provided in the last preceding article.

No alteration in the act after it has been published and signed.

Amended by:
XXXIV.2018.12.

(2) Any act having a defect of formality contemplated in paragraphs (a), (b), (c), (d), (f), (g), (j) and sub-paragraph (ii) of paragraph (k) of article 28, may be corrected by the Notary by means of a numbered mark as established in article 30, in the presence of his revision officer, and the said correction shall also be counter initialled on the margins of the act by the revision officer such as to make it clear that the said correction was made after the act was signed by the parties and such corrections shall be referred to hereafter as "post-deed corrections". Any such post deed correction may also be inserted under the signature of the notary in the act:

Provided that any post-deed correction done as contemplated in this article shall not affect the intention of the parties, their consent given in the original act or any of their personal or real rights emanating therefrom.

(3) Where any post-deed correction is done in terms of this article, the revision officer shall make a declaration on the last page of the volume as follows "I, (insert name of revision officer) have authorised the post-deed corrections in this volume", and shall sign the said declaration thereof.

45. The rescission, variation or cancellation of an act must be made by a separate act.

Rescission, variation or cancellation to be made by separate act.

Notarial corrective act.
Added by:
XXIV. 2011.39.

45A. (1) Without prejudice to the rights already acquired by third parties and subject to the provisions of this article, a notary shall have, with regard to an *inter vivos* act in his records, in this article referred to as "the original act", the right to make at any time, a declaratory act rectifying any of the errors or omissions contained therein. The declaratory act, in this article referred to as a

"notarial corrective act", shall be preserved and registered in the records of the notary.

(2) A notarial corrective act shall not affect the intention of the parties, their consent given in the original act or any of their personal or real rights emanating therefrom.

(3) A party who agrees with the contents of the notarial corrective act may appear thereon to signify his agreement whether in whole or in part, and in such a case the provisions of sub-article (9) shall not apply to such party.

(4) A party who has not appeared on the notarial corrective act may appear on a subsequent act published by the same notary and signify his agreement with the contents of the notarial corrective act.

(5) The errors or omissions that may be the subject-matter of a notarial corrective act are the following:

- (a) typing or spelling errors;
- (b) mistaken numbers in documents of identification;
- (c) discrepancies between words and figures;
- (d) mistaken currency conversions;
- (e) mistakes in tax calculations;
- (f) mistakes in the root of title; and
- (g) any other matter which the Minister responsible for notarial affairs may by regulations determine.

(6) A note for the registration of the notarial corrective act or a subsequent notarial corrective act shall be filed in the Public Registry in terms of article 50 containing the errors or omissions rectified and whether any of the parties appeared on the corrective act and, in the case of a subsequent corrective act, who appeared thereon.

(7) The Director of Public Registry shall accept a note so filed notwithstanding any provision of this Act or any other law.

(8) The notarial corrective act shall not be effective against third parties until the relative note has been filed in the Public Registry.

(9) The notary shall cause a copy of the notarial corrective act to be sent by registered mail within fifteen days thereof to the present or last known address of the parties to the original act or their agents or representatives or successors in title, but this provision shall not apply to any of the parties who appeared on the notarial corrective act in terms of sub-article (3) or on a subsequent notarial corrective act in terms of sub-article (4).

(10) Except for a party who had signified his agreement in terms of sub-articles (3) or (4), and to the extent that he has done so, the declarations made in a notarial corrective act may be rebutted by any of the parties to the original act or their agents or representatives or their successors in title within the peremptory term of two years from the date of receipt of the copy mentioned in

sub-article (9), after which time the declarations on the notarial corrective act shall form an integral part of the contents of the original act.

(11) Such rebuttal shall be made by another declaratory act in the acts of any notary, duly enrolled in the Public Registry in terms of article 50, indicating such rebuttal, in whole or in part, of the notary's rectification of errors or omissions, and such note of enrolment shall have the effect of annulling the declarations made by the notary in the notarial corrective act, with regard to all the parties to the original act including any party who may have appeared on a notarial corrective act or a subsequent notarial corrective act in terms of sub-articles (3) or (4):

Provided that where the act of rebuttal is in the records of a notary who is different from the one who published the notarial corrective act, a copy of such act of rebuttal shall be sent by registered mail within fifteen days thereof to the notary who published the notarial corrective act or the keeper of his acts.

(12) Where a notary has died or ceased to perform his functions in terms of articles 14 or 15(1), the notarial corrective act may be made by any notary.

(13) Any notarial corrective act purporting to add, reduce, modify or cancel any real or personal rights or to affect the privileged or hypothecary standing or ranking of any creditor shall be null, and may be rebutted in terms of sub-article (11).

(14) A notary who negligently publishes a notarial corrective act or a subsequent corrective act as stated in sub-article (13) shall be liable in damages towards any of the parties or his successors in title adversely affected by such act.

45B. Notwithstanding the provisions of this Act or any other law, where a person appearing on a notarial act declares thereon that he represents a party to the act on the basis of what is commonly known as the "*promessa de rato*" of such party, the act shall, upon the lapse of the period of forfeiture of twenty years from the date of its publication, be automatically ratified and shall be deemed always to have been valid.

Ratification in certain cases.
Added by:
XXIV. 2011.40.

46. (1) It shall not be lawful for the notary at any time to make any annotation on any act except in the cases specified by law.

Annotations that may be made.
Amended by:
XXXIV. 1979.11;
XXIV. 2011.41.

(2) The notary shall make annotations relating to registrations made in any registry, to the rescission, variation, cancellation, validation or convalidation made by notarial act, to notarial corrective acts and subsequent corrective acts, to the declaration of nullity of an act or its annulment made by a judgement of the competent judicial authority, and to any other declaration relating to the act itself and which the notary is bound to make according to law.

47. (1) If the notary receiving an act of rescission, cancellation, variation, validation, convalidation, or a notarial corrective act or a subsequent corrective act is the same who had received the original act, he shall within fifteen days enter in the margin or at the foot of the original act and of its registration in the

References to other acts, and how made.
Substituted by:
XXIV. 2011.42.

register a reference to such act.

(2) Where the original act referred to in sub-article (1) is deposited in the Archives, the notary shall, besides entering the reference in the register as provided in sub-article (1), submit to the Archivist within one month of receiving the act a copy of the note filed in terms of article 50 or, if the act is not so registerable, a copy of the act of rescission, cancellation, variation, validation, convalidation, or of the notarial corrective act or subsequent corrective act.

(3) If the notary receiving the act of rescission, cancellation, variation, validation, convalidation, or the notarial corrective act or subsequent corrective act is not the same as the one who had received the act so rescinded, cancelled, varied, validated, convalidated or corrected, he shall within one month of receiving the act submit to such notary, or to the keeper of such act, and to the Archivist a copy of the note or of the act as provided in sub-article (2).

(4) The notary who had received the act so rescinded, cancelled, varied, validated, convalidated or corrected or, as the case may be, the keeper of such act, shall within fifteen days from receipt of the note or copy enter a reference to the act of rescission, cancellation, variation, validation, convalidation or to the notarial corrective act or subsequent corrective act in the margin or at the foot of the original act and of its registration in the register and, where the original is deposited in the Archives, the provisions of this sub-article shall *mutatis mutandis* apply to the Archivist.

(5) The notary who had received the act so rescinded, cancelled, varied, validated, convalidated or corrected, or the keeper of such act, and the Archivist shall issue a receipt to the notary submitting the note or the copy, as the case may be, and the Archivist shall annex the note or the copy to the original act.

(6) Where the Archivist receives the note or the copy in terms of sub-article (3) but the original act is not deposited in the Archives, the Archivist shall return the document to the notary or the keeper of his acts advising him that the original is not yet so deposited.

Receipt to be
furnished to the
Public Registry
Office.

References to acts
to be given or
noted at request of
parties.

48. (*Repealed by XXIV. 2011.43*).

49. (*Repealed by XXIV. 2011.43*).

50. (1) Every notary must, within fifteen working days from the date of the act deliver to the Director of the Public Registry a note of -

- (a) any act *inter vivos* transferring the ownership of immovable property or other real rights over such property;
- (b) any act *inter vivos* creating or varying any praedial easement or any right of usufruct, use or habitation relating to immovable property, or containing any renunciation of such easement or right;
- (c) any act of emphyteusis or sub-emphyteusis or of reduction or redemption of ground-rent, or of renunciation or rescission relating thereto;
- (d) any public will or any publication of a secret will;
- (e) any public deed of cohabitation;
- (f) any marriage contract, settlement of dowry, variation of or counter-declaration respecting any marriage contract, separation of property between spouses, or cessation of the community of acquests;
- (g) any act creating an annuity, in perpetuity or for a time as a real burden on immovable property and any act notifying the termination thereof;
- (h) any act imposing any burden, in perpetuity or for a time, on immovable property;
- (i) any act of compromise affecting immovable property or real rights over such property;
- (j) any act of partition of immovables or any declaration affecting the ownership of immovables or any rights over immovables;
- (k) any act of assignment of hereditary rights;
- (l) any act of renunciation made by any person on taking religious vows;
- (m) subject to the provisions of sub-article (9), any act whereby a foundation is established or terminated and any act whereby a new endowment, other than an endowment under a scheme which is registered under the Second Schedule of the Civil Code, is granted to a foundation;
- (n) any notarial corrective act, any subsequent corrective act and any act of rebuttal in terms of article 45A;
- (o) any act to renounce to an inheritance;
- (p) any application for a European Certificate of Succession and every issued European Certificate of Succession.

(2) The said note must contain the date and nature of the act, the designation of the parties in accordance with article 28(1)(c), a precise designation of the things forming the subject-matter of the act in accordance with article 28(1)(f), and, in the case of an act in which the value can be determined, an indication of such value.

Acts whereof a note is to be delivered to the Director of the Public Registry.

Amended by:
XXXIV. 1979.12;
XIII. 2004.47;
XIII. 2007.14;
XXIV. 2011.44;
XV. 2012.28;
XXXIII. 2014.4;
XVI. 2015.9;
XV. 2017.54;
XXXVI. 2018.112;
XXVII. 2020.43;
LI. 2021.8.

Cap. 16.

Contents of note.

(3) In the case of a public will or of the publication of a secret will, the note shall only contain the date and nature of the act and the designation of the testator in accordance with article 28(1)(c).

(4) The said note shall be signed by the notary who received the act or who is the keeper thereof.

(5) It shall not be lawful to draw up two or more notes on one sheet.

Copy to be countersigned by Director of Public Registry.

Cap. 56.

(6) The notary shall, together with the said note, present to the Director of the Public Registry a copy thereof and such copy shall be countersigned by the said Director who shall affix thereto the date and his signature as evidence of the presentation.

(7) The provisions of the [Public Registry Act](#) shall apply to the drawing up of the said notes, as well as to the drawing up of notes of hypothecation and of all other notes filed in the Public Registry.

Cap. 331.

(8) In the case of a deed of settlement under trust of property which is not immovable property, the note shall only contain the date and nature of the act and the designation of the settlor in accordance with article 28(1)(c); provided that the notary shall have no obligation and shall not register such note if the settlor has exempted him from so doing in the trust deed and the trustee is a person who is authorised or not required to be authorised to act as a trustee in terms of article 43 of the [Trusts and Trustees Act](#).

(9) In the case of a deed creating a foundation, the note shall contain the date and nature of the act, the name of the foundation and the designation of the founder in accordance with article 28(1)(c) and in the case of a new endowment, the date and nature of the act, the name of the recipient foundation and the designation of the grantor in accordance with article 28(1)(c):

Cap. 331.

Provided that, in the case of a private foundation, the Notary shall have no obligation and shall not register such notes if the founder or grantor has exempted him from so doing in the relevant deed and the administrator is a person who is authorised or not required to be authorised to act as an administrator for a private foundation in terms of article 43 of the [Trusts and Trustees Act](#).

(10) When a foundation which is registered with the Registrar is terminated, the administrators shall enrol in the records of a Notary the relative form presented to the Registrar for Legal Persons, and the note delivered to the Director of Public Registry by the Notary shall only contain the date and nature of the act and a reference to the original note delivered to the Director of Public Registry on the establishment of such foundation:

Provided that when the Notary who published the deed establishing the foundation was exempted by the founder from delivering the note regarding such establishment to the Director of Public Registry, the administrators and the Notary shall not be bound as aforesaid.

Cap. 16.

(11) In this article "private foundation" shall mean a foundation as defined in article 31B of the Second Schedule of the [Civil Code](#).

51. (*Repealed by XXIV. 2011.45.*)

Notary to give notice of any transfer of immovable property in favour of any pious institution.
Amended by:
XI.1937.12;
L.N. 46 of 1965;
LVIII.1974.68.

51A. (1) When there is a transaction relating to a cell of an organisation under article 20A or under article 20B of the Second Schedule to the Civil Code which results in a change in legal ownership of any immovable property or real rights over such property, such event shall be recorded in a public deed before a Notary Public executed by the administrators or their delegates of -

- (a) the transferring organisation and, if different, those of recipient organisation under the said article 20A; or
- (b) the organisation of which the cell formed part and those of the new organisation under the said article 20B, as the case may be,

and the Notary shall, within fifteen (15) days from the date of the act, deliver to the Director of the Public Registry a note in accordance with article 50.

(2) (a) Where a beneficial owner of immovable property which is held by a private foundation, transfers or otherwise disposes of the beneficial ownership of such property inter vivos to a third party, such a transaction shall be deemed to constitute a transfer of shares for the purposes of the Duty on Documents and Transfer Act, and for the purposes of article 5(1) of the Income Tax Act.

Cap. 364.
Cap. 123.

- (b) Where a change in the ownership of immovable property does not involve a change in the beneficial ownership thereof, such change shall not be deemed to constitute a transfer of shares for the purposes of the Duty on Documents and Transfers Act, and for the purposes of article 5(1) of the Income Tax Act but shall nevertheless be recorded as required in this article.

Cap. 364.
Cap. 123.

- (c) For the purposes of article 49 of the Duty on Documents and Transfers Act, "transferor" and "transferee" in a transfer of immovable property inter vivos shall be deemed to include a private foundation acting for the benefit of either the transferor or the transferee of the beneficial ownership of such immovable property, or of both such transferor and transferee.

Cap. 364.

(3) In this article:

"beneficial owner" means the person beneficially entitled to the shares under a private foundation;

"private foundation" shall mean a foundation as defined in article 31B of the Second Schedule of the Civil Code.

Cap. 16.

Legal hypothecs to be registered by notary.

Amended by:
XVII. 1960.2;
XLVI. 1973.108;
XXIV. 2011.46;
XXXIV. 2018.13.

52. (1) Notwithstanding any covenant to the contrary, every notary must register in the Public Registry, within one month from the date of the relative act, unless registration shall have been made on the demand of other persons any hypothec, assignment, subrogation, reduction or cancellation of a hypothec or privilege, provided that in the case of a privileged debt not yet registered the term specified in this sub-article shall run from date of registration of such debt.

(2) A similar duty is imposed on the notary who is the keeper of any such act.

(3) The notary shall, together with the note by means of which a hypothec, assignment, subrogation, reduction or cancellation of any hypothec or privilege is registered, present to the Director of the Public Registry a copy thereof which shall be countersigned by the said Director who shall affix thereto the date and his signature as evidence of the presentation.

Duties of notaries residing in Malta receiving certain deeds relative to immovables situated in Gozo or Comino.

Added by:
II. 1983.3.
Amended by:
XIX. 1988.7.

Duties of notaries residing in Gozo or Comino receiving deeds relative to immovables situated in Malta.

Added by:
II. 1983.3.
Amended by:
XIX. 1988.8.

53. (*Repealed by XXIV. 2011.47.*)

54. (*Repealed by XXIV. 2011.47.*)

TITLE II

OF THE CUSTODY OF ACTS AND OF THE NOTARIAL REGISTERS

Custody and safe keeping of acts.

Amended by:
XII. 1955.3;
XXXIV. 1979.13;
XXIV. 2011.48.

55. (1) Every notary must with all due care and diligence keep in a safe place the acts received by him with the relative annexes until he shall have deposited the same in the Archives as provided in this Act.

(2) For the purposes of sub-article (1) the notary shall bind in volumes, in chronological order, all the acts received by him in the course of a year, affixing on the margin of each act a progressive number; each annexe shall have a distinguishing alphabetical letter.

(3) All the written pages of the said acts received in the course of a year and of the annexes thereto shall bear a progressive number:

Provided that where any of the written pages or annexes bears a similar progressive number, the notary shall either rectify the error and initial the correction or add to the page number a distinguishing alphabetical letter which he shall initial. In the latter case, he shall at the end of the volume make a signed declaration referring to the pages where such letters have been added and shall state that he has done so

to avoid duplication in the volume's pagination.

(4) Public wills, however, shall be bound in separate volumes, and those received in the course of a year shall likewise bear in the margin of each a progressive number, and all their written pages and annexes shall also bear a progressive number:

(5) The volumes of public wills shall be kept separate from the other volumes, and under lock and key.

(6) Both in the minute-book and in the register, a blank leaf cancelled on either side by two transversal lines must be left between the end of one public will and the beginning of another.

(7) (a) Both wills and acts *inter vivos* shall be numbered within twenty-four hours of the execution thereof.

(b) The numbering of the written pages and annexes, if any, shall be made within twenty-four hours of the execution of a will, and within thirty days in the case of any other act.

(8) Notwithstanding any other provision of this Act and any other law, the notary may, for the purposes of sub-article (2), hand over to a binder the original acts and wills, their annexes, indexes and registers to be bound as required by this Act:

Provided that the notary shall at no moment release contemporaneously from his possession the originals and their respective registers.

(9) The Minister responsible for notarial affairs shall by regulations made after consultation with the Notarial Council prescribe the conditions under which a notary may hand over the documents mentioned in sub-article (8).

56. The notary must, within twenty-four hours of the execution of each act, write the title thereof in the margin.

Title of act.

57. (1) It shall not be lawful to tear out any unwritten pages or part of any unwritten page of any act or of any annexe thereto.

Blank pages to be crossed.

(2) On every such unwritten page or part thereof between one act and another the notary must, within twenty-four hours of the execution of the act, draw two transversal lines across the whole length of the unwritten space.

58. The notary must register each act within three months from the date of the publication thereof: he must also register the annexes thereto even when in the act it is stated that the same are annexed for preservation only.

Registration of acts.
Amended by:
XI. 1937.9;
XXXI. 1946.4.

59. (1) The registration is made by transcribing the act and annexes on other pages, with the number and title of the act, and with the references mentioned in the law, placing in their proper places all the words of the act without distinguishing any variation made therein or reproducing the words cancelled.

Mode of registration.
Amended by:
XXX. 1973.9;
II. 1978.7;
XXXIV. 1979.14;
II. 1983.4;
XXIV. 2011.49.

(2) The notary shall make a signed declaration at the end of each volume, that he has collated the register with the relative original acts.

(3) No erasure shall be made and there shall be no cancellation or addition of more than fifty words in or to any one act in the register:

Provided that where any words are cancelled and substituted by any one or more words, account shall only be taken of the number of words cancelled or words added in substitution thereof, whichever is the greater.

(4) The provisions of article 30 as to the mode in which the original acts are to be written, and any variation, addition or cancellation is to be made, shall also apply to the registration of the acts, and any variation, addition made in the original act as provided in that article shall in the registration of the act be copied in its proper place in the body of the act:

Provided that no single volume shall be partly handwritten and partly typewritten or printed, except that where any part of the original, or any annexe attached thereto, is printed, a facsimile of the same may be used in the registration thereof:

Provided further that cancellations and additions referred to in sub-article (3) may be hand-written notwithstanding that the register is typewritten or printed.

Wills to be separately registered.
Amended by:
XXIV. 2011.50.

Numbering of registers.
Amended by:
XXIV. 2011.51.

Volumes not to contain more than 350 pages.
Substituted by:
II. 1983.5;
XXIV. 2011.52.

Registers of two or more years may be bound in one volume.

Indexes.
Amended by:
XXIV. 2011.53.

60. The registers of public wills received by the notary during a year shall be kept separate from the registers of the acts *inter vivos* received during the same year, and shall be bound in separate volumes.

61. (1) The said registers shall be numbered within one month from the last day of the time prescribed for the registration.

(2) Such numbering shall begin, both for the registers of wills and for the registers of acts *inter vivos*, from the first page of the respective first act and shall continue to the last page of the last act received during the year.

(3) The proviso to sub-article (3) of article 55 shall *mutatis mutandis* apply.

62. No volume of the original acts or of the registers shall contain more than three hundred and fifty pages:

Provided that where any single act is contained in more than three hundred and fifty pages, the original or register of such act may be contained in a separate volume containing that sole act, and in such case such volume may consist of more than three hundred and fifty pages.

63. Subject to the provisions of the last preceding article, it shall be lawful to bind in one volume the registers of two or more years.

64. (1) Every notary must keep two alphabetical indexes, one of the deeds *inter vivos*, and the other of wills.

(2) The provisions of sub-article (1) apply both as regards the original acts received during the year and as regards the registers of such acts.

(3) The said indexes shall be formed in the alphabetical order of the surnames of the parties, and every act shall be entered under the surname of each of the parties thereto. Such indexes shall contain the name and surname of each of the parties, the nature of the act, the progressive number thereof.

(4) The time for the formation of such indexes is the same as that fixed for the registration of the acts under article 58.

65. The notary must preserve and take care of the said registers and indexes, during his lifetime, with the same diligence as the original acts.

Preservation of registers and indexes.

66. (1) The notary shall be responsible for any loss, cancellation, erasure or other injury which, through his fault, may occur in the original acts, annexes, registers or indexes while in his possession.

Notary's responsibility for loss, etc., of acts, etc.

*Amended by:
XXIV. 2011.54.*

(2) For the purposes of sub-article (1), the binder who in terms of article 55(8) has in his possession the originals, their annexes, indexes and registers shall, during such time, be subject to the same civil and criminal responsibility as the notary.

(3) For the purposes of this Act and any other law, the notary's civil and criminal responsibility in case of disclosure to third parties of confidential information resulting from the originals, their annexes, indexes and registers shall extend to the binder.

67. The originals and the registers of acts *inter vivos* shall be open to the inspection of any person.

Inspection of acts *inter vivos*.

68. (1) Saving the provisions of article 81(5), public wills and the registers thereof shall not be accessible, during the life of the testator, except to the testator himself, or to a person holding a special authority from him, which authority shall be duly authenticated and shall be kept by the notary in a register for the purpose, where the authority shall be numbered. A reference to the number of the authority shall be made on the will or the register.

Wills, etc., not open to inspection.
*Amended by:
V. 1939.2.3;
L.N. 148 of 1975;
XXXIV. 1979.15;
II. 1983.6;
XVIII. 2004.114;
XXIV. 2011.55.*

(2) The Notary who had drawn up a will *unica charta* or his keeper or delegate Notary shall, after the death of one of the testators and without the need of any further authorisation, have the authority to issue to any person an extract from such will which shall contain all the testamentary dispositions of the deceased testator:

Rules as to inspection of wills *unica charta*.

Provided that with regard to such will published before 1st March 2005, the notary shall, instead of an extract, issue a declaration containing the substance of the testamentary dispositions of the deceased testator in such a way that the dispositions of the surviving testator shall not be divulged. Where the notary encounters difficulties in drawing up the declaration, he shall have the right to apply to the Court of Voluntary Jurisdiction requesting it to give him directions as to the manner in which the declaration is to be made; and the court shall give him such directions as it deems fit.

Accessibility of
deeds of trust.
Added by:
XIII. 2004.48.
Cap. 331.

Cap. 331.
Cap. 331.

Accessibility of
notarial deeds
creating purpose
foundations.
Added by:
XIII. 2007.14.
Substituted by:
XXXVI.2018.114.

Cap. 16.

Exception.
Amended by:
XIX. 1988.9;
XXIV. 2011.56.

68A. (1) All deeds of trusts done by notarial deed in terms of article 43A of the Trusts and Trustees Act, except any act of settlement under trust or unilateral declaration of a trust of immovable property or real rights over such property, and any vesting or divesting of a trustee in respect of such property or rights, shall not be accessible to any person other than the settlor, the trustee or such other person as may be permitted access by the terms of the trusts, the applicable law or under authority of any court.

(2) The same rules shall apply to all other documents relative to a trust held by the depositary notary in terms of the said Act.

(3) In the case of a testamentary trust, the provisions of this Act which apply to wills shall apply *mutatis mutandis*; however, the provisions of this article shall not apply to all documents subsequently filed with the depositary notary in accordance with article 43A of the Trusts and Trustees Act.

(4) For the better carrying out of its functions under the Trusts and Trustees Act, the Authority, as defined in the said Act, shall have the right and power to demand information from any depositary notary relating to any trust documents in his possession and in such a case the depositary shall provide such information and documents as may be requested notwithstanding any duty of professional secrecy.

68B. (1) Notarial deeds creating purpose foundations shall be accessible to any person requesting to have access thereto even if the purpose is not exclusively social or public benefit.

(2) The accessibility of notarial deeds creating private foundations shall be governed by the provisions of article 31B of the Second Schedule to the Civil Code. Originals not to be delivered to any person.

69. (1) Saving the provisions of article 55(8), the notary shall not deliver to any person the original of any act, nor can he be compelled to present or deposit the same, except in the cases and in the manner prescribed in this Act or in pursuance of a decree of a court.

(2) It shall not be lawful to return to any of the parties to an act, or other person interested therein any of the annexes thereto except in pursuance of an order to that effect of the competent court; in any such case, the notary must keep among the acts a receipt together with an authentic copy of the annex so returned and a copy of the order directing such return.

70. (1) On the death of a notary, or where a notary has ceased from the exercise of his office or has been suspended therefrom in terms of articles 14 and 15(1), or is about to leave Malta, the acts received by him with the respective registers and indexes shall be deposited in the Archives, unless the Court of Revision of Notarial Acts shall have appointed a notary to be the keeper or custodian of such acts or registers, on the demand of the heirs of the deceased notary, or of the lawful owners of his registers or, as the case may be, of the notary himself who has ceased from exercising his office or has been suspended or incapacitated therefrom or is about to leave Malta.

Procedure to be followed in case of death, cessation from exercise of office, suspension or absence of a notary.
Amended by:
XI. 1937.10;
II. 1978.8;
XXIV. 2011.57.

(2) In the case of rehabilitation of the notary in accordance with the provisions of article 14(2), or of cessation of the suspension inflicted upon him in terms of article 15(1), or of his return to Malta, the notary may apply to the said court for the restitution of the aforesaid registers and indexes.

71. (1) Every notary is the owner of the registers of the acts received by him and of their respective indexes.

The notary is the owner of his registers.

Amended by:
II. 1978.9;
XXIV. 2011.58.

(2) He may dispose of the said registers and respective indexes as a whole in favour of any person by a public deed or by will.

(3) The original acts, registers and indexes, shall not be subject to any precautionary or executive warrant and may not be sold by judicial auction.

72. (1) Any notary alienating his registers and respective indexes must, within ten days, give notice of such alienation to the Registrar of the Court of Revision.

Procedure in case of alienation of acts and registers.
Amended by:
II. 1978.10.

(2) In any such case, such notary shall remain responsible for the safe keeping of the acts and registers until such time as, on his demand or on the demand of the alienee the said court shall have appointed as keeper thereof the alienee himself, if he is a notary, or otherwise, another notary proposed by the alienee and accepted by the said court.

73. Any notary, appointed keeper or custodian in any of the cases mentioned in this Act, shall have, in respect of the acts or registers entrusted to his care, the same duties as in respect of his own acts or registers.

Duties of keeper or custodian.

*Amended by:
XXIV. 2011.59.*

Notary has the sole right to allow inspection of acts and give copies thereof.

*Amended by:
XXXVII. 1933.4;
II. 1978.11;
II. 1983.7;
XIX. 1988.10;
XXIV. 2011.60.*

Notary is bound to give copies.
Exceptions.

Cap. 16.

TITLE III OF COPIES, EXTRACTS AND DECLARATIONS

74. (1) Saving the provisions of Part V of this Act, the notary alone during his lifetime and so long as he continues in the exercise of his profession shall have the right to allow the inspection and the reading of the acts received by him or of the acts received by another notary and of which he is the keeper, and to give copies and extracts of or from such acts or issue the declaration referred to in the proviso to article 68(2).

(2) The notary is bound to give any copy, extract or declaration required by any person:

Provided that he may refuse to give any such copy, extract or declaration, if the person requiring the same shall not deposit with him the amount of fees and expenses, or until full payment of the fees, accessory charges and expenses shall have been made.

(3) The notary shall not permit the inspection or the reading of any will or give any copy of or extract from such will, during the lifetime of the testator, except to the testator himself or to a person holding a special authority from him duly authenticated, or to other persons in the presence of the testator, saving the provisions of article 68(2) and of article 81(5).

(4) Saving the provisions of articles 205 and 207 of the Civil Code, the notary shall not on the mere allegation of the death of a testator give any copy of a will, extract thereof or declaration, or make its contents or even its existence known to any person, unless such person produces an extract of the act of death of the testator which extract shall be retained by the notary.

(5) Where a copy of a will, whether authenticated or not, is issued -

(a) the notary shall state in writing at the end thereof:

- (i) to whom such copy has been issued;
- (ii) where the copy has not been issued to the testator himself, that he has ascertained either that the testator is dead or that the person to whom the copy is to be given is duly authorized to receive it;

(b) when the testator is still alive, the person to whom the copy is given shall on receipt thereof sign such copy in the presence of the notary.

(6) Where an extract is issued in terms of article 68(2) or a declaration is issued in terms of the proviso to such sub-article, the notary shall state in writing at the end thereof to whom such extract or declaration has been issued after duly ascertaining that the provisions of such sub-article or proviso apply.

(7) The provisions of sub-article (4) and of sub-article (5)(a)(ii) and (b) shall not apply where one hundred years have elapsed after the making of the will.

75. (1) The provisions of article 30 as to the manner in which the original acts are to be written, and any variation, addition or cancellation is to be made, shall apply also to copies and extracts issued from acts or registers:

How copies and extracts are to be written.
Amended by:
XXIV. 2011.61.

Provided that any variation or addition made in the original act or in the register as provided in the said article and in article 59 shall be copied out in its proper place in the body of the act and not by means of a marginal note.

(2) Copies may also be printed or prepared by other mechanical means, provided the impression of the characters be made with indelible ink.

(3) The notary, however, may not remove from his office the original acts or registers except for the purpose of preparing copies as provided in sub-article (2).

76. (1) A copy contains a faithful transcription of an act in conformity with the original or the register.

Contents of copies, extracts and declarations.
Amended by:
XXIV. 2011.62.

(2) An extract contains a faithful transcription of one or more parts of an act in conformity with the original or the register; it must always reproduce the commencement and the conclusion of the act.

(3) Besides the information referred to in the proviso to article 68(2), a declaration made in terms of such proviso shall contain the date and time when the will was executed, the name of the notary who received it, and the full particulars of the deceased testator and the witnesses, the attestors and the interpreters, if any, and a transcription or the substance of any annexe to the will but only to the extent that such annexe refers to the deceased testator:

Provided that where the contents of an annexe refer exclusively to the deceased testator, the notary may issue a photocopy of such annexe.

77. (1) Every copy and extract shall bear at the end the date of its issue and shall be authenticated by the notary who shall affix his signature thereto and the words "in conformity with the original" or "in conformity with the register" or other similar expression.

Issue of copies, extracts and declarations.
Substituted by:
XXIV. 2011.63.

(2) Every declaration in terms of the proviso to article 68(2) shall bear at the end the date of its issue, and the notary shall affix his signature thereto and the words "declaration made in terms of the proviso to article 68(2) of Chapter 55" or other similar expression.

(3) If the copy, extract or declaration consists of more than one page, each page shall be signed in its margin or at its foot by the notary or the Archivist.

(4) The notary shall transcribe or make a photocopy of any or all of the annexes to the act or register if he is requested to do so by the person requiring the copy or the extract.

(5) The notary shall transcribe at the end of every copy, or in the margin of its first page, the references to other acts entered in the original act or in the register as the case may be.

Declaration where a paleographer, photographer or other expert is employed.

78. Where, for the purpose of interpreting or reproducing any act, owing to its antiquity or to its special nature or to the language in which it is written, or for the purpose of reproducing any impression or design, a paleographer, photographer or other expert has been employed, the notary or Archivist may not certify that the interpretation or the reproduction conforms to the original, but only that it has been made from the original which is under his custody or exists in the Archives.

Acts which may be given out in original.
Amended by:
XXIV. 2011.64.

Authentication of signatures or cross-marks.

OF ACTS WHICH ARE DELIVERED IN ORIGINAL TO THE PARTIES, OF THE AUTHENTICATION AND LEGALIZATION OF SIGNATURES OR CROSS-MARKS

79. The notary may give out to the parties in the original, besides the applications and other acts relating to matters of voluntary jurisdiction prepared by him, the following acts only -

- (a) the *procès-verbaux*;
- (b) the authentications of signatures and cross-marks; and
- (c) the acts and certificates referred to in article 2(2)(c), (d), (e), (g) and (h).

80. (1) The authentication of the signatures or cross-marks set at the end of any private writing and in the margin of the intermediate sheets thereof, must be written out under such signatures or cross-marks, and must contain a declaration that the same were set in the presence of the notary and of the witnesses and attestors, if any, with the date and indication of the place:

Provided that as regards the signatures or cross-marks in the margin and in the intermediate sheets, the signature of the notary alone, under such signatures or cross-marks shall be sufficient.

(2) The notary does not assume any responsibility for any nullity or irregularity contained in any writing authenticated by him, except where such writing contains any stipulations contrary to good morals.

TITLE V

OF FEES, CHARGES AND OTHER EXPENSES DUE TO NOTARIES

Fees payable to notary.
Amended by:
XXIV. 2011.65.

81. (1) The notary is entitled to receive from the parties in respect of every act, copy, extract or declaration as well as in respect of any other professional service under article 2, a fee, in addition to the reimbursement of the expenses and to other accessory charges.

(2) If the act is null or annulable for any cause attributable to the notary, the notary shall not be entitled to any fee or to the reimbursement of the expenses or to any other charge.

(3) The fees and the accessory charges payable to the notary shall be those fixed in the Tariff relating to the Notarial Profession and the Notarial Archives in the Schedule annexed to this Act.

(4) The notary shall, in respect of the services provided in terms of article 84C, be entitled to receive from the transferee the fees fixed in the Tariff and, where there is a contract of engagement, the fees agreed upon in such contract. He shall also be entitled to the reimbursement of all expenses and accessory charges.

(5) Such fees and charges shall be taxed by the court of voluntary jurisdiction, which, for the purpose of taxing the fees due in respect of a will, during the lifetime of the testator, may cause the contents of such will to be examined by its deputy registrar, after administering to him the oath to maintain secrecy in regard to all the provisions of such will.

82. If the act contains several distinct covenants, a fee shall be due in respect of each of such covenants.

Where act contains several distinct covenants.

83. (*Repealed by XXIV. 2011.66.*)

Expenses and fees to be noted on copies.

84. The parties are jointly and severally liable towards the notary for the payment of the fees and charges due to him as well as for the reimbursement of the expenses, except in the case of services rendered by the notary in the exclusive interest of one or some of the parties only.

Joint and several liability of parties towards notary.

PART IIIA

OF NOTARIAL TRUST DEEDS

84A. (1) The formalities for notarial acts for the settlement of property under trusts, including unilateral declarations of trusts and the vesting and divesting of a trustee in respect of trust property applicable when a settlor wishes to create a trust by means of a notarial trust deed or when it is mandatory to do so in terms of article 43A of the Trusts and Trustees Act, shall be laid down from time to time by the Authority referred to in the Trusts and Trustees Act:

Formalities relating to notarial trust deeds.
Added by:
XIII. 2004.49.

Provided that where the deed involves the transfer, vesting or divesting of any immovable property or real rights over such property, a notarial act shall be drawn up in accordance with Part III of this Act.

Cap. 331.

(2) The custody of notarial trust deeds and other trust documents relative to the same trust and their registration by the notary, access thereto and the issue of copies and extracts therefrom may also be regulated by such rules.

(3) In this article "notarial trust deed" shall include such notarial deed whereby a trustee declares an inventory of assets placed under trust in terms of article 43A of the Trusts and Trustees

Cap. 331.

Act.

Notarial deed
creating a private
foundation.

Added by:
XIII. 2007.14.

Added by:
XXIV. 2011.67.

Notary may
examine title.

Added by:
XXIV. 2011.67.

Amended by:
XXXIV.2018.14.

Examination of
title.

Where a notary
examines title.

84B. The provisions of article 84A shall apply *mutatis mutandis* to a notarial deed creating a private foundation.

PART IIIB**OF THE EXAMINATION OF TITLE**

84C. (1) A notary is empowered to compile documents conducive to establishing both the title to an immovable property and the causes of preference among creditors affecting such title. He has the right to interpret the compiled documents and give advice thereon. In this Act, this process of compilation, interpretation and advice is referred to as "the examination of title" or cognate expressions.

(2) Without prejudice to his responsibility in terms of this article, the notary shall have the right to delegate any or all of these powers to persons he deems trustworthy.

(3) The examination of title shall be carried out in terms of regulations made under this article.

(4) A notary may examine title whenever he is instructed to do so by a written contract of engagement whose requisites shall be laid down by regulations.

(5) A notary who publishes a notarial act of transfer of ownership of immovable property or other real rights over such property shall be deemed to have been instructed by the transferee to examine its title:

Provided that the transferee may, by an express declaration recorded in the notarial act, exempt the notary from the obligation imposed on him in terms of this sub-article or limit the extent of such obligation in any way the transferee deems fit:

Provided further that regulations may list the instances where a notary shall be exempt from examining the title, and the notary shall mention in the act that he is so exempt:

Provided further that regulations may list the instances where and the conditions under which a notary may refuse to examine title, and the notary shall mention in the act all the relevant details.

(6) Where a notary publishes a notarial act containing a transaction other than the transfer of ownership of immovable property or other real rights over such property, or where he authenticates a private writing containing a transaction referring to such property, his obligation to examine title shall arise if, and to the extent that, specific regulations are made with regard thereto.

(7) Notwithstanding the provisions of this Act or any law:

(a) a notary's responsibility for the examination of title shall be regulated by, and be strictly interpreted according to, this article and the regulations made

thereunder;

- (b) where a notary examines title he shall exercise the diligence required by the regulations referred to in paragraph (a);
- (c) where he examines title in terms of the regulations, he shall be deemed to have acted with due diligence;
- (d) only the following persons may bring an action against a notary in connection with the examination of title which he has carried out:
 - (i) the person with whom he has entered into a contract of engagement in terms of sub-article (4),
 - (ii) the transferee referred to in sub-article (5), or
 - (iii) the persons indicated in regulations which may be made in terms of sub-article (6).
- (e) Where a notary is deemed to have been engaged to examine title by the transferee or has been engaged to examine title by any person, the said Notary may not, without the prior consent of the transferee or person who engaged him, be questioned on any matter in reference to the said examination of title, or on a property title report, or on any communication related thereto, nor may the notary be constrained to produce any document which is not available publicly, or to disclose in any manner a matter or information which may have come to the knowledge of the notary in professional confidence or in his professional capacity.

(8) (a) Where a notary receives instructions in terms of sub-article (4) or where he is bound to examine title in terms of this article, he shall inform the transferee in any manner, including through verbal communication, of those facts and findings resulting from the searches and those reservations which he is specifically required to mention in terms of the regulations made under this article.

(b) Unless the transferee has already made a declaration in terms of the first proviso to sub-article (5) exempting the notary from examining the title, or where the notary records in the act in terms of the second proviso thereto that he is exempt from examining title, or the notary records in the act in terms of the third proviso thereto that he is authorized to refuse to examine title, the notary shall be deemed to have been instructed by the transferee to examine title.

(9) The notary shall be the owner of the documents he compiles for the examination of title and shall preserve them for a period of five years. Such period shall run from the date agreed upon in the contract of engagement or if no such date was agreed upon from the date of the contract of engagement or in default from the date of the deed where the examination was made in terms of sub-article (4), and from the date of publication of the act where the examination was made in terms of sub-articles (5) or (6) and, in the case of a private writing referred in sub-article (6), from the date it is

Preservation of
documents.

- authenticated by the notary.
- Actions. (10) An action brought against a notary by a person mentioned in sub-article (7)(d) alleging any act or omission of the notary regarding the examination of title shall be barred by the peremptory term of five years which starts running from the dates mentioned in sub-article (9).
- Other services. (11) Nothing in this article shall preclude the notary from being engaged only to compile any of the documents referred to in sub-article (1), or to interpret or give advice on such documents which he or a third party has compiled, but this shall not be deemed to be the examination of title as defined in this article. Such a service shall be regulated by an *ad hoc* contract of engagement made in terms of regulations made under this article.
- Regulations. (12) The Minister responsible for notarial affairs shall from time to time make regulations, after consulting the Notarial Council, prescribing any matter referred to in this article including, but not limited to:
- (a) the manner in which and the extent to which a notary examines title;
 - (b) the exemptions from the obligation to examine title, and the instances where and conditions under which a notary may refuse to examine title;
 - (c) the applicability or otherwise of this article both to notarial acts containing transactions other than the transfer of ownership of immovable property or other real rights over such property, and to transactions referring to such property made by a private writing authenticated by a notary;
 - (d) services analogous to but short of the examination of title in terms of this article;
 - (e) the degree of diligence required of the notary;
 - (f) the formalities of a contract of engagement; and
 - (g) the facts and findings resulting from the examination of title and the reservations which the notary is required to mention to a transferee.

PART IV

OF THE NOTARIAL COLLEGE AND OF THE NOTARIAL COUNCIL

Notarial College.
Amended by:
XXXIV.2018.15.

85. (1) The Notarial College whose object shall be to promote the welfare and progress of the notarial profession, shall be composed of all the notaries actually practising their profession in Malta and Gozo.

(2) By virtue of its constitution under this Act and without the need of any registration or any other formality, the Notarial College shall be a body corporate having distinct legal personality which has a patrimony of assets and liabilities separate and distinct from

that of any other person and the legal powers to achieve its purpose through the administration of its own governing body. The Notarial College, represented by its President may on its behalf be capable of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its objects, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its objects under this Act:

Provided that any contract to which the Notarial College is a party shall be published by the Chief Notary to Government.

86. (1) The direction and management of the Notarial College shall be entrusted to a committee called the Notarial Council, elected annually from among the members of the College.

Notarial Council

(2) The names of the members composing the Notarial Council shall be published in the Gazette.

87. The Notarial Council shall communicate with the Government and the Government with the Council on all matters affecting the profession or connected therewith.

Notarial Council to communicate with the Government, and vice versa.

88. (1) The Notarial Council shall, of its own motion or on the complaint of any person, inquire into the professional conduct of any notary which is considered to be repugnant to the decorum of his profession, or into any charge of negligence or abuse made against any notary in the exercise of his profession or in connection with professional matters, unless the power to take cognizance of and deal with such conduct or charge of abuse or negligence is vested in some other authority under this Act or any other law for the time being in force.

Duties of Notarial Council.
Amended by:
XXIV. 2011.68.

(2) Without prejudice to the generality of sub-article (1), the Code of Ethics made in terms of article 92(2) may define any matter referred to in sub-article (1) as a breach of ethics.

89. (1) If on any such inquiry, the Notarial Council is satisfied that a notary has been guilty of any such conduct, abuse or negligence as mentioned in the last preceding article, the Council shall have power to admonish such notary and shall report the case to the Attorney General and to the Court of Revision.

Power of Council to admonish notary.
Amended by:
XI. 1937.12;
L.N. 46 of 1965;
LVIII. 1974.68;
XXIV. 2011.69.

(2) Where within a period of five years the Council has admonished a notary three times for such conduct, abuse, negligence or a breach of ethics, he may be suspended from office by the Court of Revision for a period from one to six months upon an application being made to the Court by the President of the Council.

90. No admonition shall be made nor shall any case be reported to the Attorney General and to the Court of Revision, as provided in the last preceding article, unless the notary concerned shall have had full opportunity to defend himself, and no decision of the Notarial Council shall be valid unless it has been agreed to by at least two-thirds of the members of the Council.

Conditions for validity of a decision of Council.
Amended by:
XI. 1937.12;
L.N. 46 of 1965;
LVIII. 1974.68.

Right of appeal to Court of Revision.

91. Any notary on whom any punishment has been inflicted under the provisions of articles 88 and 89, may appeal to the Court of Revision of Notarial Acts, by an application to be filed within fifteen days from the date on which notice has been given to him of the punishment so inflicted, and such court shall have power to reverse the decision of, or to vary the punishment inflicted by, the Notarial Council.

Power of Notarial Council to make regulations.

*Amended by:
XXIV. 2011.70.*

92. (1) The Notarial Council shall have power to make regulations respecting the functions and duties of the Notarial College and of the Notarial Council, the meetings to be held by the College and by the Council, the procedure to be followed at such meetings, and the payment of a fee by the members of the College, as well as all other regulations which may be deemed necessary or expedient for the maintenance of the College and the furtherance of its object.

(2) The Notarial Council shall have the power to make and amend, with the approval of the Notarial College, regulations respecting a Code of Ethics for Notaries.

Such regulations to be approved by the Minister responsible for notarial affairs.

*Amended by:
XXV.1962.4;
L.N. 4 of 1963;
XXXI. 1966.2;
IX. 2000.3.*

Annual fee due to the Council.

*Added by:
XXIV. 2011.71.
Amended by:
XXXIV.2018.16.*

93. The regulations mentioned in the last preceding article shall, before coming into operation, be submitted to the Minister responsible for notarial affairs to be approved by him.

93A. Unless a higher fee is prescribed in the regulations made in terms of article 92(1), the annual fee due to the Notarial Council by each notary, to the exclusion of those mentioned in article 22, shall be calculated on the basis of five euro (€5) for every act published by the notary during any calendar year (to the exclusion of wills and acts in terms of Part IIIA), and such fee shall become due at the end of every calendar year and payable upon presentation of the acts in terms of article 94A(12)(d). The annual fee shall be revised according to the cost of living index every ten years from basis year 2010 and, in default of such an index, in terms of regulations made under this Act:

Provided that the said fee of five euro (€5) shall be due on deeds published after the 1st January 2019.

Minister responsible for notarial affairs shall have power to dissolve the Notarial Council.

*Amended by:
XXV. 1962.4;
L.N. 4 of 1963;
XXXI. 1966.2;
IX. 2000.3.*

94. If the Notarial Council fails to comply with the requirements of article 88, the Minister responsible for notarial affairs shall have power to dissolve the same and direct the election of a new Council.

PART IVA
OF THE REVIEW OF ACTS

*Added by:
XXIV. 2011.72.*

94A. (1) For the purposes of this Part and Part VI, unless the context otherwise requires, the following definitions shall apply:

"acts" means the original *inter vivos* acts except those published in terms of Part IIIA;

"Chief Notary" means the Chief Notary to Government, and includes a Notary to Government duly delegated by him and approved by the Court;

"basis year" means any calendar year starting on the first day of January and ending on the thirty first day of December of that year;

"Council" means the Notarial Council;

"Court" means the Court of Revision of Notarial Acts established by article 110;

"inspection" has the meaning assigned to it in Part VI;

"Minister" means the Minister responsible for notarial affairs;

"notary" includes notary keeper;

"partial incapacitation" has the meaning assigned to it in sub-article (19);

"period of presentation" means the months from April to September both inclusive immediately following the end of any basis year;

"period of review" means a continuous period of twelve months starting on the first of July of the year immediately following the end of a basis year, during which period the notarial acts are reviewed;

"President of the Council" means the President of the Council acting in such a capacity in the name of the Council, or his delegate;

"previous basis year" means the basis year immediately preceding the period of presentation, and shall include any part thereof;

"review" has the meaning assigned to it in article 94B;

"review officers" means the persons holding such an appointment in terms of sub-article (4);

"wills" means the the original wills; and includes the original acts of delivery of secret wills published up to 31st December 2011.

(2) It shall be the duty of the Council to ensure that all acts published in any basis year are presented to a review officer during the period of presentation so that the latter may review them during the period of review, and that within two months immediately following the completion of the period of review, the acts are inspected by the Court in terms of this Act.

Review of of
notarial acts.
*Added by:
XXIV. 2011.72.
Amended by:
XIX. 2011.11;
XXXIV.2018.17.*

(3) For the purposes of sub-article (2), the President of the Council shall from time to time by application to the Court submit

Council's duty.

Appointment of
review officers.

the names of such qualified persons as the Council deems appropriate for appointment as review officers, and the Court shall within fifteen days approve or otherwise their proposed appointment.

(4) The Council shall appoint as review officers the persons so approved for such periods of time, which may not be less than one year, and under such conditions as the Council shall determine.

Qualifications (5) (a) No person shall be qualified to be appointed as review officer unless he holds or has held the warrant of notary or advocate for at least two years:

Provided that a notary's appointment as review officer shall be conditional on his resigning his office as notary as provided in article 14(1)(d); so however that, if he is not re-appointed as review officer or if he resigns the office of review officer, he may within three months of the date when he could have been re-appointed review officer or from the date of his resignation as review officer, apply to the Minister responsible for notarial affairs to be granted again the warrant to exercise his profession as notary and, in such case, notwithstanding any other provision of this or any other law and provided the President of the Council confirms to the Minister that the Council is in possession of the documents required by sub-article (12)(a), (b) and (c), the Minister shall submit his name to the President of Malta who shall forthwith re-appoint him notary, and his re-appointment shall be published in the Gazette in terms of article 5(1).

(b) If a review officer is not so re-appointed following his term as a review officer or if he resigns, he shall within seven days of the termination of his term as review officer or of his resignation hand over to another review officer as directed by the President of the Council all acts, registers, indexes, notes and other documents in his possession in view of his former appointment and, if he fails to do so, apart from any other liability in terms of this or any other law, he shall be awarded by the Court at the instance of the President of the Council a penalty of two hundred and fifty euro (€250) due as a civil debt in favour of the Council for every week or part thereof during which he fails to comply.

Oath of office. (6) A review officer shall not enter into his duties unless he has taken before the Court the oath of office as follows: "I, swear to exercise to the best of my ability the office of review officer established by the Notarial Profession and Notarial Archives Act, Chapter 55 of the Laws of Malta. So help me God.":

Provided that a review officer who, immediately following a period in such a capacity, is re-appointed for a further period or periods shall not take the oath of office again.

- (7) A review officer shall have the duty and the power -
- (a) to accept in the name of the Council the presentation of acts published by notaries;
 - (b) to review in the name of the Court the acts of notaries for the purposes of the relevant provisions of this and any other law;
 - (c) to collect from notaries the fees due for the review, and forward them to the Council as soon as he receives them; and
 - (d) to perform such other functions as may be assigned to him by this or any other law.
- (8) (a) In all administrative matters related to the process of acceptance of acts which notaries present during the period of presentation, review officers shall act under the direction of the Council to which they shall be answerable; in all other matters including decisions taken when the acts are presented and during the review of the acts, review officers shall act independently of the Council but subject to any direction of the Court to which they shall be answerable.
- (b) A review officer may apply to the Court for directions concerning the manner in which he may or should act in connection with any matter concerning the presentation of acts and their review; and the Court may give such directions, if any, as it thinks fit.
- (9) Notaries shall be charged for such review a fee of five euro (€5) per act which shall be due to the Council at the end of the basis year when the act was published, and the fee shall be collected by a review officer upon the presentation of the acts by the notary as provided in sub-article (12). Such fee shall be revised every ten years from basis year 2010 according to the cost of living index and, in default of such an index, in terms of regulations made by the Minister after consulting the Council:
- Provided that the said fee of five euro (€5) shall be due on deeds published after the 1st January 2019.
- (10) (a) During the period of presentation all notaries shall present to a review officer on dates and in places mentioned in the notice referred to in paragraph (d), in volumes bound as required by this Act, all the acts they published during the previous basis year including their respective indexes. They shall also present the copy of the notes of enrolment given to the notary by the Director of Public Registry in terms of articles 50(6) and 52(3):

Duties and powers of review officers.

Review officers are answerable to the Council in all administrative matters.

Fees.

Presentation of acts.

places established in sub-article (10)(c)(v). In such cases the Archivist shall draw up a written statement in two copies to be retained as to one each by the Archivist and the Review Officer, which shall be signed by both the Archivist and the Review Officer containing a statement of:

- (i) the number of volumes presented by the Archivist to the Review Officer; and
- (ii) the number of acts in each volume.
- (b) The Council shall ensure that the presentation of such acts be conducted in a transparent and orderly manner.
- (c) (i) For the purposes of paragraphs (a) and (b), the Council shall in January of every year cause to be published in the Gazette a notice containing the following:
 - (i) a list of the names of all notaries who in the previous basis year were known to have practised their profession;
 - (ii) a list of the names of all keepers of the acts of notaries who practised their profession in the previous basis year;
 - (iii) a list of the names of the review officers assigned to each of the notaries mentioned in sub-paragraph (i);
 - (iv) a list of the names of the review officers assigned to each of the notaries keeper mentioned in sub-paragraph (ii); and
 - (v) a time-table with the dates when and the place where the acts, including their indexes, published during the previous basis year are to be presented to the respective review officer for his review.
- (ii) For the purposes of sub-article (16), the same notice shall also contain a time-table with the dates when and the place where notaries and notaries keeper are to present to the Chief Notary for his review the wills, including their indexes, published during the previous basis year.
- (d) Notwithstanding any other provision of this or any other law, the publication of the notice mentioned in paragraph (c)(i) and (ii) shall be deemed for all purposes of law to be sufficient notice to the notaries mentioned therein of their obligation to present on the dates and in the places mentioned in the notice the acts and wills including their indexes, and all other documents and to make the payments required by this and any other article of this Act.
- (e) The Council shall cause to be published in the Gazette any amendment it makes to the notice mentioned in

paragraph (c)(i) and (ii), but such amendment shall not be effective with regard to a notary or notary keeper referred to therein unless at least one month elapses from the date when he is so informed by registered letter.

- (11) (a) Together with the presentation of acts, the notary shall submit a written declaration containing a statement of:
- (i) the number of volumes presented,
 - (ii) the number of acts in each volume, and
 - (iii) the number of pages of acts in each volume.
- (b) The review officer shall immediately check whether the number of volumes, the number of acts and the number of pages tally with the declaration and, if there is any discrepancy, the notary shall have the option either to re-present the acts within such time as the review officer shall determine which shall in no case exceed seven days, together with a declaration that tallies with the aforementioned details of the number of volumes, acts and pages, or to give his consent to the review officer to record on the declaration what the discrepancies are and the notary shall on the same day effect the required corrections regarding the number of volumes, acts and pages and make any corrections in terms of this Act in the progressive number of the acts and the page numbers.
- (c) The review officer shall make two photostatic copies of the original with his comments, if any, one copy of which shall be authenticated by the review officer and given to the notary as a receipt of the acts that have been so presented, and the other shall be authenticated by the notary and kept by the review officer.
- (d) The notary shall appear before the review officer either personally or through a special attorney constituted in writing.
- (12) Together with the declaration required by sub-article (11), the notary shall also submit to the review officer the following:
- (a) the insurance certificate referred to in article 10A, unless he presents a copy of the Court's decree exempting him from complying with such a requirement;
 - (b) the personal details of the notary and such other information, including details of notarial deposit accounts, as may be required in terms of regulations made by the Minister after consulting the Notarial Council;
 - (c) a copy of the extract from the Gazette referred to in article 10B(2) if there has been a change in the notary's name or surname; and
 - (d) the fees due for the review in terms of sub-article (9), and the Council's annual fee for the previous basis

Other documents.

year in terms of article 93A.

Wills.

(13) It shall be the duty of the Chief Notary or the Review Officer appointed by the Notarial Council to ensure that all wills published in any basis year are presented to him in the Archives during the period of presentation so that he may review them during the period of review, and that within two months immediately following the completion of the period of review such wills are inspected by the Court in terms of this Act.

(14) For the purposes of sub-article (13), all notaries shall present to the Chief Notary or the Review Officer in bound volumes as required by this Act the wills which they published during the previous basis year together with a declaration regarding such wills containing information similar to that required in sub-article (11)(a) as well as the fee referred to in sub-article (15), and all the provisions on the functions and powers of review officers regarding the presentation of acts shall *mutatis mutandis* apply to the Chief Notary or the Review Officer, and the notaries shall have the same duties with regard to such presentation.

(15) Notaries shall be charged for such review a fee of five euro (€5) per will which shall be due to the office of the Notary to Government or Review Officer at the end of the basis year when it was published and shall be payable upon the presentation of such wills. This fee shall be revised every ten years from basis year 2010 according to the cost of living index and, in default of such an index, in terms of regulations made by the Minister after consulting the Council.

(16) The presentation of wills shall be made to the Chief Notary or Review Officer appointed by the Notarial Council in terms of the notice referred to in sub-article (10)(c)(ii) and all the provisions of sub-articles (10), (11) and (12) shall *mutatis mutandis* apply:

Provided that where the notary appears through a special attorney, the Chief Notary shall not proceed to accept the presentation of wills unless the special attorney is also a notary who shall be bound to observe the same professional secrecy and confidentiality as required of the notary who published them.

Oath of office of Chief Notary.

(17) The Chief Notary to Government or Review Officer appointed by the Notarial Council shall not enter into his duties in term of this article until he takes before the Court the following oath: "I, swear to exercise to the best of my ability the office of accepting the presentation of and reviewing wills in terms of the Notarial Professions and Notarial Archives Act, Chapter 55 of the Laws of Malta, and to observe the same professional secrecy and confidentiality as required of the notaries who published them. So help me God.".

Failure to comply.

(18) (a) If a notary -

- (i) fails to appear before the review officer and present to him the acts as required by this article, or
- (ii) fails to make a complete declaration with regard to the acts in terms of sub-article (11)(a), or

- (iii) fails to present the insurance certificate or the Court decree as required by sub-article (12)(a), or
- (iv) fails to effect the full payments as required by sub-article (12)(d),

he shall, subject to the following provisions of this article, be liable until he complies to a fine (*ammenda*) of fifty euro (€50) per week or part thereof, to start running from the date of filing of the application mentioned in the proviso to this paragraph, and he shall be partially incapacitated from exercising his functions until he complies:

Provided that the review officer shall grant the notary a period of one month to comply and, if the notary fails to do so, the review officer shall, within three days of such failure, file an application in the Registry of the Court informing the Court of the notary's failure and requesting it to order the Registrar to issue a formal subpoena in terms of article 120.

- (b) The provisions of paragraph (a) shall *mutatis mutandis* apply to -
 - (i) the presentation of wills to the Chief Notary in terms of sub-article (14),
 - (ii) the submission in terms of sub-article (14) of a complete declaration regarding such wills,
 - (iii) the submission of a copy of the insurance certificate or the Court decree, and
 - (iv) the payment of the fee in terms of sub-article (15).
- (c) If the notary fails to appear before the review officer or the Chief Notary on the date and at the place fixed in the subpoena and produce to him the originals, indexes and documents referred to in the subpoena and make the payments mentioned therein, the review officer or the Chief Notary, as the case may be, shall by application filed within three days of the date when the notary should have appeared before the review officer or the Chief Notary bring the notary's alleged failure to the cognizance of the Court and request it to take the appropriate action.
- (d) The Court shall by decree served on the notary and the Attorney General order that the notary and Attorney General make written submissions on the matter, and it shall also set a date for the hearing of the case. If the facts are proved, the Court shall either -
 - (i) impose the disciplinary punishment mentioned in paragraph (a), and partially incapacitate the notary until he complies, or
 - (ii) suspend him in terms of article 132.
- (e) The Court's powers in terms of this sub-article shall be

Partial
incapacitation

Cap. 16.

without prejudice to its powers under article 123.

- (19) (a) A notary who has been partially incapacitated from the exercise of his functions may not, during such incapacitation, exercise any notarial functions but he shall have the right and the duty -
- (i) to sign and submit notices for the payment of duties and taxes in terms of fiscal laws,
 - (ii) to sign and deliver notes in terms of articles 50 and 52 of this Act, and notes of privileges and hypothecs in terms of the Civil Code,
 - (iii) to sign and submit applications at the Land Registry, and
 - (iv) to give copies, extracts and make declarations as required by article 74(1).
- (b) The order of partial incapacitation shall be enforceable notwithstanding an appeal against the Court's declaration of responsibility of the notary, or the award of a disciplinary punishment or the order of partial incapacitation itself.
- (c) Unless the Court orders the seizure of documents in terms of article 123, the provisions of articles 17(1), 20, 70(1) and 126 shall not apply when a notary is partially incapacitated.
- (d) (i) Where following an application filed by a review officer in terms of sub-article (18)(c), the Court partially incapacitates the notary, and the Chief Notary files a similar application with regard to the same basis year, the Court shall not incapacitate the notary for a second time but the incapacitation imposed following the review officer's application shall likewise be deemed to apply to the notary with regard to the application of the Chief Notary, provided that the incapacitation shall not extend for more than six months.
- (ii) The provisions of sub-paragraph (i) shall apply *mutatis mutandis* where the notary is partially incapacitated following the Chief Notary's application and the review officer files a similar application with regard to the same basis year.
- (e) A notary who publishes a notarial act while he is subject to partial incapacitation shall, at the instance of the Attorney General or the President of the Council, be deprived of his office and in addition, but in the Court's discretion, he shall be liable to a fine of not more than five thousand euro (€5,000) for any notarial act which he publishes during such incapacitation.
- (f) Notwithstanding any provision of this or any other law, no notarial act shall be invalid for the sole reason that it was published by a notary while he was subject to partial incapacitation.

- (g) A notary who has been subject to partial incapacitation for a continuous period of six months shall be deprived of his office by the Court at the instance of the Attorney General or the President of the Council, and all the provisions of this Act regarding deprivation of office shall apply including the appointment of a notary keeper which the Court shall order in the same decree.
- (20) (a) Where a notary who is subject to partial incapacitation complies with the requirements of sub-articles (10), (11), (12), (14) and (16), the review officer or the Chief Notary, as the case may be, shall immediately by note filed in the Registry of the Court inform the Court of such compliance. Rehabilitation
- (b) The Court shall forthwith by decree *in camera* rehabilitate the notary in the full exercise of his functions.
- (c) The provisions of article 14(2) shall not apply to such rehabilitation.
- (d) Both the note and the decree shall be served on the notary, the Attorney General and the President of the Council.
- (21) The provisions of article 16 shall apply to partial incapacitation and rehabilitation therefrom. Publication.
- (22) (a) If the notary who fails in his obligations in terms of sub-articles (10), (11), (12), (14) or (16) is the President or another member of the Council he shall, unless he has voluntarily resigned, forfeit his seat on the Council and, in the case of the President of the Council, his functions and powers shall be taken over by the most senior notary in the Council according to regulations made in terms of article 92(1). Other provisions.
- (b) Regulations made under article 92(1) shall provide for such eventualities and, in default, the Minister responsible for notarial affairs shall make regulations to ensure transparency in such matters.
- 94B.(1)(a)** Review officers shall review the acts and the Chief Notary shall review the wills:
Provided that the Notarial Council may elect an Official Reviewer to review the wills in accordance with an agreement between the Chief Notary and the Notarial Council.
- (b) During the review, care shall be taken to ascertain whether all obligations imposed on notaries by this or any other law have been complied with, especially the provisions of the law relating to the drawing up and preservation of notarial acts, registers and indexes, and the payment of duty on documents and other taxes.
- (2) When the review is completed, the review officer and the

Review.

Added by:
*XXIV. 2011.72.**Amended by:*
XIX. 2011.11;
XXXIV.2018.18.

Chief Notary, as the case may be, shall draw up separate reports in the manner prescribed by regulations and they shall file them in the Registry of the Court.

(3) In their reports, the review officer and the Chief Notary shall list the notary's breaches of this Act and of any other law which are punishable by the Court, and they shall propose to the Court the appropriate disciplinary punishments it could apply and any directions that it could give to the notary.

(4) The notary shall have the right, by means of an application filed within thirty days from the date when a report is served on him, to demand that the Court set aside in whole or in part the report of the review officer or the Chief Notary. The application shall be served on the Attorney General who shall have thirty days to reply:

Provided that when a report is filed by the Official Reviewer or the Chief Notary, which appears to the Court to not be in breach of any laws, the Court shall, by means of a decree duly served on the notary and the Attorney General, confirm that report.

(5) Where the notary has contested a report or any part thereof, the Court shall consider the notary's written submissions contesting the report or part thereof and the Attorney General's reply, if any, and shall proceed by a decree *in camera* to confirm or otherwise the reports of the review officer and, or, the Chief Notary and shall award the notary the disciplinary punishments of admonition and reprimand or fine (*ammenda*) and may give any other direction in terms of article 124.

(6) (a) Where the notary has not contested a report, the Court shall proceed to confirm it and award the disciplinary punishments of admonition and reprimand or fine, and give any other directions, unless it appears to the Court that the report contains a manifest error of law or of fact in which case the Court shall through the Registrar send the report back to the review officer or the Chief Notary for his reconsideration. Following his reconsideration, the Court shall decide whether to accept, reject or vary the review officer's or Chief Notary's report and the disciplinary punishments or directions any of them may have proposed.

(b) The provisions of sub-articles (2), (3), (4) and (5) shall *mutatis mutandis* apply with regard to the reconsidered report of the review officer or the Chief Notary.

(7) Where it appears from the report of the review officer or the Chief Notary that the notary is liable to the punishment of suspension from or deprivation of office, even if the notary has not contested the report, the Court shall by decree served on the notary and the Attorney General order that the notary and Attorney General make written submissions on that part of the report that may give rise to either of the said disciplinary punishments, and shall also set a date for the hearing of the case.

(8) Where the notary fails to contest the report or, after he has

done so, the facts alleged in the report are proved during a sitting of the Court, the Court shall, notwithstanding any other provision of this or any other law, opt either to apply the disciplinary punishment of suspension from or deprivation of office in terms of the relevant provisions of this Act or to partially incapacitate the notary for a period not exceeding six months until he regularizes his position and it shall also award a fine (*ammenda*) of fifty euro (€50) per week or part of a week until he regularizes his position.

(9) Where a notary has regularized his position, the provisions of article 94A(20) shall *mutatis mutandis* apply.

(10) (a) The review officer or the Chief Notary may also at any time during the period of presentation and, or, review request the notary to present the registers of acts or wills and their respective indexes for the basis year under review.

(b) The review officer or the Chief Notary shall not keep the registers and their respective indexes for more than twenty-four hours, and he shall be responsible for their custody until they are returned to the notary.

(c) If the notary fails to present the registers to the review officer or the Chief Notary when so requested, the provisions of article 94A(18) shall *mutatis mutandis* apply.

(11) (a) For all intents and purposes of the law, the decisions as well as the judicial acts and written pleadings of the Court of Revision shall be scanned by the Registrar of the Civil Courts and Tribunals, and sent by electronic mail from the Registrar of the Civil Courts and Tribunals to the notary and the Attorney General, and this shall constitute valid service of such decisions, judicial acts and written pleadings of the Court of Revision.

(b) The notary and the Attorney General who receive a scanned copy in accordance with paragraph (a) of this sub-article shall, within seven days from receipt of such electronic mail, confirm receipt by means of electronic mail to the Registrar of the Civil Courts and Tribunals of the acts mentioned in paragraph (a) of this sub-article:

Provided that if the Registrar does not receive such confirmation from the notary and/or the Attorney General, the Registrar shall proceed with service of the acts in accordance with the provisions of article 187 of the Code of Organization and Civil Procedure.

94C. (1) For the purposes of this article, unless the context otherwise requires, the following definitions shall apply:

"acts" means all original *inter vivos* acts, except those acts published in terms of Part IIIA of the Act, published up to and including 31st December 2011 which by 31st December 2012 were either not deposited at the Archives or although deposited therein

Cap. 12.

Procedure for
review of notarial
acts.

*Added by:
XXXIV.2018.19.*

have not been reviewed at any time in terms of law;

"Chief Notary" has the same meaning assigned to it in article 94A;

"notaries" means all notaries appointed according to the Act and shall include all notary keepers and any other person having custody of any notarial act for any reason;

"period of presentation" shall mean the month established in sub-article (3) in the year as established in sub-article (4)(a);

"review" has the meaning assigned to it in article 94B;

"review officers" has the same meaning assigned to it in article 94A;

"wills" means original wills; and includes the original acts of delivery of secret wills published up to 31st December 2011, which by 31st December 2012 were either not deposited at the Archives or although deposited therein were not reviewed in terms of law at any time.

(2) (a) Every Notary shall in pursuance to this Act submit, in the period of presentation, all acts held by him for review, in accordance with the terms established in this article to the Notarial Council and for this purpose the provisions of article 94A(2), (3), (4), (5), (6), (7)(a), (7)(b), (7)(d), (8), (11), (17), (18)(a)(i) and (ii) and the provisos thereof, (b)(i), (c), (d), (e), (19), (20), (21) and (22) shall apply.

(b) Notaries shall also present the copy of the notes of enrolment given to the notary by the Director of Public Registry in terms of articles 50(6) and 52(3).

(c) The coming into force of this article shall be deemed for all purposes of law to be sufficient notice to the notaries to whom this article applies of their obligation to present on the dates and in the places mentioned therein the acts, wills, relative indexes, and all other documents as required by this article and the Act.

(3) The Notarial Council shall for the purpose of sub-article (2) cause to be published in the Gazette, a notice containing the names of Review Officers assigned to review the acts and of the notaries who are assigned to the said review officers to have their acts reviewed by them as well as the place and month where such acts are to be presented during the period of presentation.

(4) (a) Notaries shall present to the Review Officers by the dates mentioned hereunder all acts in their possession:

(i) published on or after the 1st January 2010 and up to the 31st December 2011, by not later than the 1st October 2019;

(ii) published on or after the 1st January 2008 and up to the 31st December 2009, by not later than the 1st

October 2020;

(iii) published on or after the 1st January 2006 and up to the 31st December 2007, by not later than the 1st October 2021;

(iv) published on or after the 1st January 2004 and up to the 31st December 2005, by not later than the 1st October 2022;

(v) published on or after the 1st January 2002 and up to the 31st December 2003, by not later than the 1st October 2023;

(vi) published on any date up to and including the year 2001, by not later than the 1st October 2024.

(b) The Notarial Council may, if circumstances so warrant at its discretion at any time, postpone by means of a notice to be published in the Gazette, by a calendar year, the schedule of presentation established in sub-article (4)(a) or other schedules published by the Notarial Council in terms of this article.

(5) Notaries shall be obliged to present to the Chief Notary or the Review Officer appointed by the Notarial Council by not later than the 1st October 2019 all wills in their possession published on any date up to and including the year 2011.

(6) (a) During the period of presentation every notary shall present to a Review Officer on dates and in places mentioned in the notice referred to in sub-article (3), in volumes bound as required by the Act, all the acts as determined in sub-article (4), including their respective indexes. They shall also present the notes of enrolment, or a copy thereof, given to the notary by the Director of Public Registry in terms of articles 50(6) and 52(3).

(b) The Notarial Council shall ensure that the presentation of acts be conducted in a transparent and orderly manner.

(c) For the purposes of sub-article (2) and in addition to the notice mentioned in sub-article (3), the Notarial Council may cause to be published at any time in the Gazette a notice containing the following:

(i) the names and surnames of all notaries who were known to have practised their profession prior to 2012, during the years which would be the subject of the review;

(ii) the name of the Review Officer assigned to each notary;

(iii) a schedule indicating the month and place of presentation of the acts, including their indexes to the respective Review Officer for his review;

(iv) the publication of the notice mentioned in subparagraphs (i), (ii) and (iii) shall be deemed for all purposes of law to be sufficient notice to the notaries mentioned therein to present on the dates and in the places mentioned in the notice the acts and wills and their indexes, and all other documents as required by this article;

(v) the Notarial Council shall cause to be published in the Gazette any amendment it may deem opportune to any notice made in the Gazette, in terms of this article, but such amendment shall not be effective with regard to a Review Officer, notary or notary keeper referred to therein unless at least one month elapses from the date when the said notice appears in the Gazette.

(7) (a) It shall be the duty of the Chief Notary to ensure that all wills published during the years which are subject of review, are presented to him in the Archives during the period of presentation so that he may review them, and that within two months immediately following the completion of the period of review such wills are inspected by the Court in terms of this Act.

(b) For the purposes of this article, all notaries shall present to the Chief Notary in bound volumes as required by this Act the wills which they published during the years which would be the subject of the review, and all the provisions on the functions and powers of Review Officers regarding the presentation of acts shall *mutatis mutandis* apply to the Chief Notary, and the notaries shall have the same duties with regard to such presentation.

(c) The presentation of wills shall be made to the Chief Notary in terms of the notice referred to in this article and all the provisions of sub-article (6)(a) and sub-article (11) of article 94A shall *mutatis mutandis* apply:

Provided that where the notary appears through a special attorney, the Chief Notary shall not proceed to accept the presentation of wills unless the special attorney is also a notary who shall be bound to observe the same professional secrecy and confidentiality as required of the notary who published them.

(8) All acts which are subject to the review as established in this article shall be reviewed within one year from the date of their presentation by a Notary, which time frame may be reasonably extended by the Court on a request by a Review Officer, whilst the time frame for the revision of wills shall not exceed ten years from the date of the coming into force of this article which time may be reasonably extended by the Court on the request of the Chief Notary.

(9) No fees shall be due by notaries for the presentation of the acts and wills mentioned in this article.

PART V
OF THE NOTARIAL ARCHIVES

95. (1) There shall be two Archives, one in Malta for the preservation of the deeds received by notaries during their residence in the Island of Malta, and another at Gozo, for the preservation of the deeds received by notaries during their residence in the Island of Gozo or Comino.

Archives and officers thereof.

(2) Each of the said Archives shall have a keeper or archivist, who shall be also the treasurer thereof, and such other personnel as shall be necessary for the requirements of the service.

(3) Before entering upon the exercise of his office, the archivist shall take before the Court of Appeal the oath of allegiance in terms of article 10 of the Code of Organization and Civil Procedure, and the oath of office as follows:

The archivist shall take oaths of allegiance and office.
Cap. 12.

"I, , promise and swear, that I will faithfully observe all the laws of Malta and that I will faithfully and with all honesty and exactness carry out the duties of Keeper of the Archives to the best of my knowledge and ability. So help me God".

96. (1) The keeper or archivist shall be selected and appointed by the Prime Minister.

Appointment of archivist.
Amended by:
XXXI.1946.5;
L.N. 4 of 1963;
XXX.1973.10;
II.1978.12;
IX.2000.3.

In the case of absence or other lawful impediment of the keeper or archivist, his duties shall be carried out by such officer as may be designated by the Minister responsible for notarial affairs or in accordance with arrangements made by the said Minister.

Incompatibility of office with any other public office.

(2) Saving, as regards the office of Chief Notary to Government or of Notary to Government, the provisions of article 22(3), the office of Archivist or other officer attached to the Archives shall be incompatible with the exercise of the notarial or any other profession and with any other public office.

97. In the Archives of Malta there shall be deposited for preservation -

Acts deposited for preservation in the Archives of Malta.

Amended by:
XI. 1937.11;
II. 1983.8;
XXIV. 2011.73;
LXIII. 2021.6.

- (a) all original notarial acts received by deceased notaries previously residing in Malta, with the respective indexes;
- (b) all the original notarial acts received by notaries residing in Malta who, for any cause whatsoever, have ceased to exercise the notarial profession, with the respective indexes;
- (c) all the original notarial acts received by notaries residing in Malta, with the respective indexes, when such acts and indexes require to be deposited in the Archives or are seized under the provisions of this Act.

98. In the Archives of Gozo there shall be deposited for preservation -

Acts deposited for preservation in the Archives of Gozo.

Amended by:
II. 1983.9;
XXIV. 2011.74;
LXIII. 2021.7.

- (a) all the original notarial acts received by deceased notaries previously residing in the Island of Gozo or of Comino, with the respective indexes;

- (b) all the original notarial acts received by notaries residing in Gozo or Comino, who, for any cause whatsoever, have ceased to exercise the notarial profession, with the respective indexes;
- (c) all the original notarial acts received by notaries residing in Gozo or Comino, with the respective indexes, when such acts and indexes require to be deposited in the Archives or are seized under the provisions of this Act.

Notarial deeds
deposited for
preservation in the
National Archives.
Added by:
LXIII. 2021.8.

Ss. 68 and 69 to
apply to acts
deposited in the
Archives.

Duties and
responsibilities of
archivist.
Amended by:
XI. 1937. 12;
L.N. 46 of 1965;
LVIII. 1974.68.

Archivist to collect
fees.
Amended by:
XXXI. 1946.6.

Archivist to permit
the inspection and
to give out copies
of acts deposited in
the Archives.
Amended by:
XXXIV. 1979.16;
XIX. 1988.11.

Special register to
be kept by the
archivist.

98A. All registers of notarial deeds received by notaries residing in Malta and Gozo or Comino when such registers belong to the Government, or are privately owned but, for one reason or another, do not have a conservator or delegated notary, or when such registers are seized from the hands of such notaries for a good reason contemplated in this Act they shall be deposited in the National Archives of Malta:

Provided that the Chief Notary to Government may inspect and take copies of the registries at all times and free of charge.

99. The provisions of articles 68 and 69 shall apply to the acts, registers and indexes kept in the Archives.

100. The archivist shall be the lawful representative of the Archives: he shall be responsible for the custody and preservation of all the documents deposited therein, as well as for the proper management of the Archives, and shall report to the Attorney General any contravention committed by any notary or other person for non-compliance with the provisions relating to the Archives.

101. (1) The archivist, in his capacity as treasurer of the Archives, collects the fees and other charges payable to the Archives in accordance with the Tariff relating to the Notarial Profession and Notarial Archives in the Schedule annexed to this Act, and gives the relative receipt.

(2) Every notary may, during his lifetime, without payment of any fee, inspect any of the original acts received by him and deposited in the Archives and give out any copy or extract of or from such acts.

(3) Notaries delegate and keepers shall have a similar privilege.

102. (1) The archivist shall permit the inspection and the reading of the acts deposited in the Archives, and shall give out copies and extracts of or from such acts, observing, so far as they are applicable, the provisions of article 76.

(2) A special register shall be kept in the Archives wherein the archivist shall enter daily all the copies and extracts issued on payment in terms of the law, stating by whom the demand for the issue of such copies and extracts has been made.

<p>(3) Due mention shall be made on the copy or extract of the entry made in the register, and the progressive number assigned in such register to the act so issued shall also be stated.</p> <p>(4) The provisions of articles 76, 77 and 78 shall apply to the copies or extracts issued from the Archives.</p> <p>103. (1) Each archivist must keep a general index of the notaries whose acts or registers are deposited in the Archives.</p> <p>(2) Such index shall be kept in the alphabetical order of the surnames of the notaries and must show in respect of each notary, his name and surname, the number of volumes of acts and registers, the number of pages of each volume, the date of the first and last act received by him, and an indication of the article and shelf wherein his acts are preserved.</p> <p>(3) Where any portion of the acts or registers of any of the said notaries exists in other Archives, a mention of such fact shall also be made in the said index.</p> <p>(4) The said index shall be open to the inspection of any person free of charge.</p> <p>(5) The provisions of this article shall apply to acts and registers of acts published up to and including the 31st December 2011 and deposited in the Archives at any time.</p> <p>103A. (1) Each archivist shall keep a general index of notaries whose acts are published on or after the 1st January 2012 and are deposited in the Archives in terms of law.</p> <p>(2) The provisions of this article shall also apply to the registers of such acts which may be deposited in the Archives.</p> <p>(3) The Minister responsible for notarial affairs shall prescribe the manner in which such index is to be kept and the information it shall contain.</p> <p>104. (1) Whenever any person inspects, reads or makes extracts from any notarial act deposited in the Archives, the archivist shall collect the fees due in accordance with the Tariff relating to the Notarial Profession and Notarial Archives in the Schedule annexed to this Act, to the notary who is the owner or keeper of the relative register.</p> <p>(2) The archivist shall give an account of the fees collected as aforesaid and pay such fees to the notaries concerned, at least once every year.</p> <p>105. Saving the provisions of the <u>Notarial Acts (Temporary Provisions) Act</u> and the proviso of article 94A(10)(a), the acts, registers, registers and indexes deposited in the Archives may not be removed therefrom without an order of a court of justice, and, where any such order is made, the archivist shall see that such acts, registers or indexes be replaced in the Archives as soon as the purpose for which they shall have been removed from the Archives, shall have been served.</p>	<p>Duties of Archivist in the delivery of copies and extracts.</p> <p>Indexes of acts deposited in the Archives. <i>Amended by:</i> <i>XXI. 1946.7;</i> <i>XXIV. 2011.75.</i></p> <p>Index open to inspection free of charge.</p> <p>General index of notaries. <i>Added by:</i> <i>XXIV. 2011.76.</i></p> <p>Collection of fees by archivist. <i>Substituted by:</i> <i>XXI. 1946.8(2);</i> <i>Amended by:</i> <i>II. 1978.13;</i> <i>XXIV. 1979.18.</i></p> <p>Prohibition to remove any act from the Archives without an order of court. <i>Amended by:</i> <i>XXIV. 2011.77;</i> <i>XXXIV. 2018.20.</i> Cap. 408.</p>
---	---

Original acts and registers thereof to be kept in separate places.

Office hours.
Amended by:
L.N. 4 of 1963;
XXXI. 1966.2;
II.1983.10;
IX.2000.3.

Persons entering the Archives shall obey orders of the Archivist.

Substituted by:
II. 1983.11.

Expenses required for the preservation of acts.

Amended by:
II. 1978.14;
L.N. 181 of 2006;
L.N. 186 of 2006.

106. The original acts and their indexes shall be kept in a place separate from that of the registers thereof and possibly in a different room or floor, in the office of the Archives.

107. (1) The Archives shall be kept open on such days and at such hours as the Minister responsible for notarial affairs shall direct.

(2) Unless the act constitutes a graver offence under any other law, any person who enters or remains in the Archives outside such days and hours without the permission of the archivist or of the Court of Revision of Notarial Acts, shall be guilty of an offence and shall on conviction be liable to the punishment established for contraventions.

108. (1) The archivist may give directives for the keeping of order in the premises under his control and for the security and safety of such premises.

(2) Any person disobeying any directives given in terms of sub-article (1) shall, unless the act constitutes a graver offence, be guilty of an offence and shall be liable, on conviction, to the punishment established for contraventions.

109. The archivist shall inform the Court of Revision of Notarial Acts of any expense that might be necessary for the better preservation and custody of the acts and registers deposited in the archives; and, when the owner of such registers is known, the said court may, on the demand of the archivist by sworn application, order such owner to pay the sum so required.

PART VI

OF THE SUPERVISION OVER NOTARIES, THE ARCHIVES AND THE PUBLIC REGISTRY, OF THE COURT OF REVISION OF NOTARIAL ACTS, AND OF DISCIPLINARY PUNISHMENTS

TITLE I

OF THE SUPERVISION OVER NOTARIES, THE ARCHIVES AND THE PUBLIC REGISTRY, AND OF THE COURT OF REVISION OF NOTARIAL ACTS

Court of Revision of Notarial Acts.
Substituted by:
VIII. 1958.2.

Amended by:
L.N. 4 of 1963;
L.N. 148 of 1975;
XXXIV. 1979.19;
IX.2000.3;
VI. 2001.6.
Substituted by:
XXIV. 2011.78.

Amended by:
XIX. 2012.12.

110. (1) Supervision over all notaries, the Notarial Archives and the Public Registry shall be exercised by the Court of Revision of Notarial Acts.

(2) The court shall be presided by a retired Judge or a retired Magistrate or a retired advocate who has practised his profession for over twelve years.

(3) In case of abstention or challenge, any Magistrate in office shall take cognizance of the case.

(4) The court shall be a court of law having the functions set out in this Act and such other functions as may be assigned to it under any other law.

(5) The Minister responsible for notarial affairs shall appoint the retired Judge or retired Magistrate or retired advocate mentioned in sub-article (2) for such period of time as is specified in his appointment which shall not exceed two years. An appointee shall be eligible for further periods of appointment.

(6) For the purposes of sub-article (5), "retired" with reference to the Judge, Magistrate or advocate who has accepted the appointment to preside the Court shall mean that such person is deemed to have renounced to the practice of his profession as an advocate.

(7) Upon the termination of his appointment in terms of sub-article (5) or his resignation from office, the retired Judge, retired Magistrate or retired advocate shall, notwithstanding any law to the contrary and without the need for any further formality, no longer be deemed to have renounced to the practice of his profession as an advocate.

(8) An appointee shall as soon as possible after his appointment and before starting to exercise his functions take the following oath before the Attorney General: "I having been appointed to preside the Court of Revision of Notarial Acts hereby swear to examine and decide with impartiality, fairness and according to law the matters brought before me. So help me God.":

Provided that an appointee who, immediately following a period in such a capacity, is re-appointed for a further period or periods to preside the Court, shall not take the oath of office again.

(9) An appointee shall receive such remuneration as shall be stated in his appointment. Such remuneration may not be altered to the disadvantage of the appointee during his period of office.

(10) (a) If the appointment mentioned in sub-article (5) is not made within two months of the date it should have been made, or if the office is for any reason vacant for over two months, the most senior Magistrate shall, without the need of any formality and notwithstanding any law to the contrary, *ex officio* preside the Court of Revision of Notarial Acts for as long as the appointment is not made or the office remains vacant and, in case such Magistrate is unable for any reason to preside such Court, the immediately next most senior Magistrate shall *ex officio* preside, and so on.

(b) In this sub-article the phrase "most senior Magistrate" means a serving Magistrate who has been in office for the longest time, independently of the provisions of article 7(2) of the Code of Organization and Civil Procedure.

(c) For as long as the Magistrate mentioned in paragraph (a) presides such Court, any reference in this Act and in any law to the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts or a similar reference shall be a reference to the Magistrate mentioned in the said paragraph who presides such Court.

Decisions to be notified to the Attorney General, the President of the Notarial Council, the archivist or the notary concerned.

*Amended by:
XI. 1937.12;
L.N. 46 of 1965;
LVIII. 1974.68;
XXIV. 2011.79.*

Right of appeal.

*Amended by:
XI. 1937.12;
L.N. 46 of 1965;
LVIII. 1974.68;
VI. 2001.6;
XXIV. 2011.80;
XIX. 2012.13.*

Procedures and fees.

*Added by:
VI. 2001.6.*

Cap. 12.

Cap. 12.

Procedure.

*Amended by:
VIII. 1990.3;
L.N. 181 of 2006;
L.N. 186 of 2006.*

111. (1) The Registrar shall, within one month of the date of any decision, decree or order given or made by the said court or of the award of any disciplinary punishment cause a copy of such decision, decree or order or a written notice of such award to be served on the Attorney General and on the archivist or other notary concerned therein, even though such decision, decree or order shall have been given or made, or such punishment awarded, in their presence.

(2) A copy of such decision, decree, order or written notice of an award shall also be served on the President of the Council.

112. (1) In every case, the Attorney General may, within thirty days from the day on which he is served with the copy or notice referred to in the last preceding article, enter an appeal to the Court of Appeal (Inferior Jurisdiction), by an application, against any decision, decree or order given or made by the said Court of Revision, as well as against the award of any disciplinary punishment. A similar right of appeal shall be competent to the notary or archivist in respect of whom any such decision, decree or order shall have been given or made.

(2) An appeal by the archivist or notary in terms of sub-article (1) shall be made only against the Attorney General.

(3) A copy of an application made in terms of sub-article (1) and of all the subsequent records of the case shall, except where the appellant or respondent is the archivist, be also served on the President of the Council.

112A.(1) The Minister responsible for justice may by regulations under this subarticle establish the fees payable to the registry of the Court of Appeal (Inferior Jurisdiction) for the filing of judicial acts under article 112:

Provided that until such fees are so established by the Minister, the fees contained in Schedule A to the Code of Organization and Civil Procedure shall apply.

(2) The board established under article 29 of the Code of Organization and Civil Procedure may make rules governing applications under article 112.

113. (1) Proceedings before the said court shall be held *in camera*.

(2) Such court shall, for the exercise of its functions, the execution of its orders under this Act, the maintenance of the respect due to it and the good order of its sittings, have the same powers as are by law given to the Court of Magistrates, and the laws relating to the service of summonses in connection with, and the conduct of proceedings before the Court of Magistrates shall, in every other respect, apply to the service of sworn applications and to all other proceedings of the said Court of Revision.

(3) In the case, however, of suspension from or deprivation of office, the said court shall have power to order the proceedings to take place in public.

114. The Registrar of the Court of Magistrates shall act as Registrar of the Court and shall take part in its sittings.

Registrar of the court.
Amended by:
L.N. 4 of 1963;
VIII. 1990.3.
Substituted by:
XXIV. 2011.81.

115. (1) The court, whenever it considers it expedient, may, and, at the request of the Attorney General, shall, without giving any previous notice, visit and inspect the Archives, the Public Registry or the office of any notary and any place where he keeps the notarial acts, registers and indexes:

Provided that with regard to a notary, the powers exercisable by the Attorney General in terms of this sub-article shall *mutatis mutandis* be exercisable independently by the President of the Council.

(2) In making the request referred to in sub-article (1), the Attorney General or, as the case may be, the President of the Council may -

- (a) indicate the day and the time or the period of time on, at, within or as from which the visits and inspections are to be made;
- (b) indicate the particular acts, registers and indexes which are to be inspected.

(3) In the case of visits and inspections mentioned in this article, the provisions of articles 94B(1)(b), 111, 112, 116, 118, 119 and 124, and the provisions of article 19(4) of the Duty on Documents and Transfers Act shall *mutatis mutandis* apply.

Cap.364.

116. (1) The inspections of the Notarial Archives must be carried out by the said court in such a manner that a general inspection of the Archives be carried out every year.

Inspection of
Notarial Archives.
Amended by:
L.N. 4 of 1963;
XXXI. 1966.2;
XI. 1977.2;
IX.2000.3.

(2) In the course of such inspections the said court shall examine whether the service is being performed according to law, whether the respective officers have the requisite qualifications for the office occupied by them, whether such officers attend to their duties with the due regularity and diligence, and particularly-

- (a) whether the service of the inspection of acts and the issue of copies and extracts proceeds in accordance with the prescribed rules;
- (b) whether the registers and the indexes are regularly kept in accordance with the provisions of articles 102 and 103;
- (c) whether the premises are fit for the purpose for which they are intended and are kept with all due care.

(3) The court, where necessary, shall submit to the Minister responsible for notarial affairs the measures which it considers expedient for remedying and preventing deficiencies.

General inspection of acts to be made twice in every year.
Substituted by:
XXIV. 2011.83.

117. (1) A general inspection of the notarial acts of every notary, their respective indexes and registers shall be made by the Court once a year following the review carried out in terms of article 94B.

(2) Where the Court has dealt with a report in terms of article 94B, the notarial acts shall be deemed to have been regularly inspected as provided in sub-article (1).

(3) The originals, together with the respective indexes shall, on the termination of such inspection and following the Court's order, be deposited in the Archives by a review officer or the Chief Notary, as the case may be.

Record of each inspection.
Amended by:
XI. 1937.12;
L.N. 46 of 1965;
LVIII. 1974.68;
XXIV. 2011.84.

118. (1) Following the inspections made in terms of articles 115 or 116, the court shall draw up in duplicate a special *procès-verbal* of each inspection, one copy to be kept in the records of the said court and the other to be transmitted to the Attorney General.

(2) Such *procès-verbal* shall also be signed by the archivist or the notary, as the case may be.

(3) If the archivist or the notary refuses to sign, mention of such refusal shall be made in the *procès-verbal* stating the grounds thereof.

Counter-signature of volumes.
Substituted by:
XXIV. 2011.85.
Amended by:
XXIV. 2011.85;
XIX. 2012.15.

Procedure where notary is summoned.

119. Each volume of original notarial acts, registers and indexes, and every book and register which the notaries and the archivist are bound to keep shall be countersigned by the review officer or the Chief Notary who reviewed the notarial acts in terms of article 94B, and by the court in all other cases.

120. (1) Where a notary fails to appear before a review officer or the Chief Notary as required by article 94A(18) or where he appears but does not produce what is required by the aforesaid sub-article (18), he shall, on an application filed by the review officer or the Chief Notary, as the case may be, be called to do so by means of a formal writ of subpoena issued by the Registrar in the name of the said Court, which must be served on the notary at least seven days before the new date fixed for presentation before the review officer or the Chief Notary as the case may be and must specify the acts or wills, registers and indexes, as well as other documents which the notary is to produce and payments he is to make, the place where and the day and hour in which he is to attend.

(2) No previous notice shall be given for the inspection of the Archives and the Public Registry.

Appearance of notary and production of acts.
Substituted by:
II. 1983.12.

The court may require the production of the acts of any period.

121. (*Deleted by Act XXIV. 2011.87.*)

122. The court may for a just cause call upon the notary or the Archivist, to produce the acts, registers, books and indexes of any period.

123. If any person, summoned as provided in articles 120 or 122, fails to appear before the court, the review officer or the Chief Notary, as the case may be, and produce the notarial acts, registers, books, documents and indexes specified in the subpoena, the court may issue a warrant of escort against such person and it may also order the seizure of the documents specified in the writ of subpoena.

The court may issue warrants of escort or seizure.
Substituted by:
XXIV. 2011.88.

124. (1) The court shall examine whether the notary, the archivist and the Director of the Public Registry have performed the duties imposed upon them by this Act or by any other law, and, in case of any contravention, the court may award punishment and give any other directions which it may deem expedient according to law.

Duties of the court
Amended by:
XXIV. 2011.89.

(2) When the contravention consists in any omission on the part of the notary or the archivist, the court shall order such notary or archivist to do that which he has omitted, within such time as the court shall fix in its discretion.

(3) Where the order is made to the archivist, the court shall direct the registrar to see whether such order is punctually carried out. If the archivist fails to comply with any such order, the court may suspend the archivist from his office for such time as the default continues.

(4) Where the order is made to a notary, the court shall direct one of the review officers if the order refers to acts, or the Chief Notary if the order refers to wills, to ensure that such order is punctually carried out. If the notary fails to comply with such order, the court may in its discretion order the partial incapacitation of the notary until such time as he complies, and all the provisions on partial incapacitation shall *mutatis mutandis* apply.

125. (1) Any complaint in respect of any contravention committed by any notary or by the archivist against the provisions of this Act, or of any breach of his duties, or of any abuse, negligence or other irregularity, may, at any time, be brought to the cognizance of the said court by the Attorney General, the President of the Notarial Council or by any other person, by an application.

Information of any contravention may be laid by any person.
Procedure.
Amended by:
XI. 1937.42;
L.N. 46 of 1965;
LVIII. 1974.68;
XXIV. 2011.90.

(2) The court upon ascertaining summarily on such evidence as it may deem proper to require the matter of the complaint, shall order the said application to be served to the Attorney General.

(3) If the contravention, abuse or negligence imputed to the notary or archivist is such as to call for the application of a punishment heavier than that of admonition and reprimand, the court shall determine whether there are or not sufficient grounds for further proceedings. In the former case the court, upon ascertaining summarily on such evidence as it may deem fit to require, the matter of the complaint, shall order the said application to be served on the party concerned, allowing him fifteen days within which to file a statement of defence, by means of a note, and if such party fails to present such note, or the court considers insufficient the defence set up by him, the court shall summon such party to appear before it at the place, day and hour fixed in the writ of subpoena and shall give notice thereof to the Attorney General.

The person so summoned may appear either personally or by a special attorney and may be assisted by an advocate and may file statements of defence.

(4) The court, after hearing the person summoned as aforesaid or his representative and the Attorney General, if present, shall dispose of the case.

Seizure of acts and deposit thereof in the Archives in case of death, etc., of a notary.

126. (1) On the death of any notary, or, in default of appointment of a keeper in the case of absence of any notary from Malta or of the cessation, suspension or incapacitation of any notary from the exercise of his office in any case under this Act, the Court of Revision shall order the acts, registers and indexes existing in the estate of the deceased notary or in the possession of the notary who is absent or has ceased to exercise his functions or has been suspended or incapacitated as aforesaid, even if such acts, registers and indexes were or are in his possession as keeper thereof, to be seized and deposited in the Archives as provided in article 70.

(2) For the enforcement of such seizure, the said court may order the search of any place where it has reason to believe that the said acts, registers and indexes may be found.

(3) The said court shall have the powers referred to in the foregoing sub-articles of this article whenever it has sufficient reason to believe that any notary, on account of insanity or other infirmity, is unable to exercise his office, notwithstanding that such notary shall not have yet been incapacitated as provided in paragraph (g) of sub-article (1) of article 14.

(4) In any of the cases referred to in this article, the said court shall proceed *ex officio* upon information given by any person, after having, summarily and without delay, ascertained the truth of the facts brought to its notice, and shall have for such purpose the power to call witnesses and to examine them on oath.

Person in possession of acts of deceased notary, etc., to give notice thereof to the registrar.

*Amended by.
XIII. 1938.4;
VIII. 1990.3;
L.N. 408 of 2007;
XXIV. 2011.91.*

127. Any person having in his possession the acts or registers of any deceased notary or of any notary who is absent or has ceased to exercise his office, or knowing that any such acts or registers are in the possession of any other person, must forthwith give notice thereof to the registrar of the said court under penalty of a fine (*ammenda*) not exceeding one hundred euro (€100), to be awarded by the Court of Magistrates as court of criminal judicature, at the suit of the Executive Police or of any other person.

TITLE II

OF DISCIPLINARY PUNISHMENTS

Disciplinary punishments.

128. (1) The disciplinary punishments to which notaries may be liable for any breach of duty are:

- (a) admonition and reprimand;
- (b) fine (*ammenda*);

- (c) suspension;
- (d) deprivation of office.

(2) Such punishments shall be awarded independently of any other punishment imposed by any other law and, in all cases, without prejudice to any action for damages and interest which may be competent under any other law.

129. The punishment of admonition and reprimand consists in reproaching the notary for the offence committed by him, and cautioning him against committing another offence.

Admonition and
reprimand.

130. (*Repealed by XXIV. 2011.92.*)

Offence against
sec. 29.
*Second part of s.2
of Ord. VIII of
1859,
consolidated.
Amended by:
L.N. 408 of 2007.*

131. (1) A notary who -

- (a) is a recidivist in any contravention under articles 68, 68A, 68B and 69; or
- (b) offends against any of the provisions of article 12(a), (c)(i), (c)(ii) and (d), article 25(6) or article 26,

shall be liable to a fine (*ammenda*) of five hundred euro (€500).

(2) A notary or archivist who contravenes the provisions of articles 11, 28(1)(a), (i) and (k), 34, 35, 36, 37, 38, 44, 55, 58, 60, 62, 64, 68, 68A, 68B, 69, 100, 103 and 105 shall be liable for every contravention, to a fine (*ammenda*) of fifty euro (€50).

Contraventions
punishable with a
fine (*ammenda*).
*Amended by:
XL.1940.4;
XXXI.1946.10;
XI.1977.2;
II.1983.13;
XIII.1983.5;
XIX.1988.12;
L.N. 408 of 2007.
Substituted by:
XXIV. 2011.93.
Amended by:
XXXIV.2018.21;
LXIII.2021.9.*

(3) The notary who during his suspension or incapacitation (except for partial incapacitation), issues any copy, extract or declaration shall be liable to a fine (*ammenda*) of thirty euro (€30).

(4) A notary who contravenes the provisions of article 50 shall incur a fine (*ammenda*) of ten euro (€10) if the said deed is not registered within one month, a fine of twenty-five euro (€25) if the said deed is not registered within two months, and a fine of fifty euro (€50) if the said deed is not registered within three months and an additional fine of ten euro (€10) over and above the said fifty euro (€50) for every week or part thereof until the said deed is registered. This article shall come into force for all acts published on or after the year 2018:

Provided that a notary who fails to insert any declaration required by any law shall incur a fine (*ammenda*) of ten euro (€10). This article shall come into force for all acts published on or after the year 2018.

(5) A notary who breaches the provisions of article 12(k) shall incur an administrative penalty, for each breach, of not less than five hundred euro (€500) and not more than five thousand euro (€5,000).

(6) Saving the provisions of articles 88, 89 and 143, the notary who contravenes any other provision of this Act for which there is no specific disciplinary punishment shall be liable for each such

contravention to a fine (*ammenda*) of ten euro (€10).

(6) Where, with reference to the same notarial act, a notary is guilty of more than one contravention punishable with a fine (*ammenda*), he shall be awarded the higher or highest applicable punishment or, if they are all punishable with a similar fine, to one such fine.

Contraventions
punishable with
suspension.
Substituted by:
XXIV. 2011.93.

132. Any notary who -

- (a) through negligence, fails to preserve the acts received by him as provided in this Act; or
- (b) opposes the inspection referred to in article 115 or otherwise renders the same impossible; or
- (c) is, for a second time, a recidivist in any of the contraventions mentioned in article 131(1)(a); or
- (d) is a recidivist in any of the contraventions mentioned in article 131(1)(b),

shall be liable to suspension for a period from one to six months.

Causes which
entail temporary
incapacitation from
exercise of notarial
functions.

133. Any notary -

- (a) against whom any warrant of arrest has been issued; or
- (b) who has been sentenced for any of the offences mentioned in paragraph of article 14(1)(f) by a judgment which has not yet become *res judicata*, or who has been sentenced to be deprived of his office by a judgment or order which is not yet final and absolute; or
- (c) who is undergoing any punishment restrictive of personal liberty on conviction for any other offence,

shall be temporarily incapacitated from the exercise of his office.

The incapacitation
of the notary shall
be declared in
judgment.
Amended by:
XXIV. 2011.94.

Incapacitation
during the course
of proceedings.
Amended by:
XXIV. 2011.95.

Incapacitation
enforceable
notwithstanding
appeal.

Penalty of
suspension is
enforceable
notwithstanding
appeal.

134. In the case of any of the judgments mentioned in the last preceding article, the incapacitation of the notary from the exercise of his office shall be ordered in the judgment and, in default, in an order of the Court of Revision either of its own motion or at the instance of the Attorney General or the President of the Notarial Council.

135. Any notary against whom proceedings for a contravention against the notarial laws punishable with deprivation of office or for any of the offences mentioned in article 14(1)(f) have been commenced, may be incapacitated from the exercise of his office by order of the Court of Revision at the instance of the Attorney General or the President of the Notarial Council.

136. The order of incapacitation in any of the cases referred to in article 133(b) and (c) and article 135 shall be enforceable notwithstanding any appeal therefrom.

137. Any sentence ordering the suspension of any notary from the exercise of his office shall be enforceable notwithstanding appeal, whether such suspension is imposed as an accessory penalty or as a principal penalty.

<p>138. A notary shall be liable to be deprived of his office if -</p> <ul style="list-style-type: none"> (a) he continues to practise during his suspension or temporary incapacitation, saving the provisions of article 131(3); or (b) he publishes a notarial act while he is partially incapacitated; or (c) he has wilfully failed to preserve the acts received by him or the registers thereof or any other acts or the registers whereof he is the keeper; saving any heavier punishment prescribed in the <u>Criminal Code</u>; or (d) is, for a second time, a recidivist in any of the contraventions mentioned in 132(b). 	<p>Deprivation of office. Amended by: <i>XXI. 1946.11.</i> Substituted by: <i>XXIV. 2011.96.</i></p> <p>Cap. 9.</p>
<p>139. Any notary who has been sentenced for any of the offences mentioned in article 14(1)(f), may be deprived of his office by the President of Malta unless the deprivation of office has been ordered in the sentence itself.</p>	<p>Cases in which deprivation of office may be ordered by the President of Malta. Amended by: <i>L.N. 46 of 1965;</i> <i>LVIII. 1974.68.</i></p>
<p>140. If in the facts with which the notary is charged there are extenuating circumstances, the court, having regard to the particular circumstances of the case, may apply any of the lesser punishments or even exempt the notary from any punishment.</p>	<p>Extenuating circumstances.</p>
<p>141. The offender shall be deemed to be a recidivist if the second or subsequent contravention is committed by him within five years of the previous conviction.</p>	<p>Relapse.</p>
<p>142. The disciplinary action against any notary for any contravention under the provisions of this Act, punishable with admonition and reprimand, fine (<i>ammenda</i>), suspension or deprivation of office, shall be barred by the lapse of five years from the day on which the contravention was committed.</p>	<p>Limitation of disciplinary action.</p>
<p>143. Any notary whose conduct in his practice shall be in any manner derogatory to the honour and dignity of the profession, shall be liable to admonition and reprimand, and, if he is a recidivist, to suspension for a time not exceeding one year.</p>	<p>Punishment of notary whose conduct is derogatory to the honour and dignity of the profession.</p>
<p>144. Every order given by any competent judicial authority against any notary in criminal matters shall be communicated to the Attorney General by the Registrar of the Criminal Court.</p>	<p>Any order made against any notary in criminal matters shall be communicated to the Attorney General. Amended by: <i>XI. 1937.12;</i> <i>L.N. 46 of 1965;</i> <i>LVIII. 1974.68.</i></p>
<p>145. The disciplinary punishments mentioned in this Part shall be applied by the Court of Revision, saving the provisions of article 89.</p>	<p>Application of disciplinary punishments mentioned in this Part. Amended by: <i>XI. 1977.2.</i></p>

PART VII

SUPPLEMENTARY AND TRANSITORY PROVISIONS

Tariff.
Amended by:
XXV.1962.3;
L.N. 4 of 1963;
L.N. 46 of 1965;
XXXI.1966.2;
XXXIV.1979.20;
IX.2000.3.

See, s 4 of Ord. XIX of 1936 as amended by s. 12 of Ord. XL of 1940 omitted under the S.L.R. Ord. & Act of 1936 & 1980 respectively.

Saving.

Transitory provisions regarding notarial practice.

Present notaries and Keepers may continue to exercise their office.

Notaries exercising the profession of legal procurator.
Amended by:
XL. 1937.12;
L.N. 46 of 1965;
LVIII. 1974.68

List of notaries entitled to continue to practise as legal procurators.

Power to make regulations.
Added by:
XXVI.1946.12
Amended by:
L.N. 4 of 1963;
XXVI.1962.4;
XXXI. 1966.2.
Substituted by:
II. 1983.14.
Amended by:
IX. 2000.3;
XXIV. 2011.98;
LI. 2021.9.

146. (1) The fees and other charges payable under the provisions of this Act shall be those fixed in the Tariff relating to the Notarial Profession and Notarial Archives in the Schedule annexed to this Act.

(2) The Minister responsible for notarial affairs may by regulation add to, or amend, the Schedule to this Act or make any other Tariff or Schedule in substitution thereof.

147. (*Repealed by XXIV. 2011.97*).

148. (*Repealed by XXIV. 2011.97*).

149. (*Repealed by XXIV. 2011.97*).

150. (*Repealed by XXIV. 2011.97*).

151. (*Repealed by XXIV. 2011.97*).

152. (1) The Minister responsible for notarial affairs may make regulations generally for carrying out the provisions of this Act and in particular but without prejudice to the generality of the foregoing, may by such regulations:

- (a) provide for the making of duplicate registers of any original notarial acts lost, destroyed or damaged, and for the substitution of any register lost, destroyed or damaged;
- (b) prescribe the mode in which such duplicate registers or new registers shall be prepared and authenticated;
- (c) prescribe that acts or registers deposited in the Archives be reproduced by microfilming and by any other form of digitisation and the mode in which such reproductions are to be made, stored and made accessible to the public;
- (d) prescribe the manner in which reproductions made by microfilming and by any other form of digitisation and

- copies thereof may by authenticated;
- (e) prescribe the fees and other charges to be levied and paid in respect of anything done under the foregoing provisions;
 - (f) provide guidelines on the manner in which any of the provisions of articles 94A and 94B and any of the provisions of the articles in Part VI of the Act is to be interpreted or applied, so however that such interpretation or application shall not be in conflict with the provisions of this Act or of any regulations made thereunder;
 - (g) provide for any matter incidental or supplementary to any of the foregoing provisions.
- (2) Any duplicate register or new register made in accordance with regulations made under sub-article (1) or under the Duplicate Register of Notarial Acts (Emergency) Regulations, 1942, shall for all intents and purposes, replace the original acts or registers.

Transitory provisions included in Legal Notice 498 of 2011:

The provisions of articles 91, 93, 94, 95 and 96 of the Act^{*} shall be without prejudice to the provisions of articles 98 and 103 of the Act.

Where articles 93 and 96 of the Act refer to provisions of the principal Act[†] which were amended by the Act, and such provisions as amended have not yet come into force, articles 93 and 96 of the Act shall start affecting such provisions as soon as the amendments to such provisions come into force and, for such time as such provisions shall not yet have come into force, the provisions of the principal Act as they stood before the coming into force of such amendments made by means of articles 93 and 96 shall continue to apply.

Act XXIV. 2011.103, as amended by article 17 of Act XIX of 2012:

- 103.** (1) (a) Any notary who on 31st December 2011 is lawfully entitled to exercise the office of notary in terms of the principal Act as on that day is being confirmed in his appointment as notary from 1st January 2012 as if he had been appointed in terms of the provisions of the principal Act as amended by this Act, even if not all such amendments come into force on that day.
- (b) Any notary who on 31st December 2011 is the keeper of notarial acts and registers in terms of the principal Act before the coming into force of the amendments made by this Act is being confirmed in such appointment as keeper from 1st January 2012 as if he had been so appointed in terms of the provisions of the principal Act as amended by this Act, even if not all such amendments come into force on that day.

Repeal, transitory,
and applicability of
certain provisions.
*Amended by:
XIX. 2012.17.*

(2) Article 4(1) of the principal Act as substituted by this Act shall refer to January of the year 2013 and subsequent years.

(3) Articles 5(4) and 5(5) of the principal Act added by this Act shall refer to offences committed on or after the coming into force of such

*that is, the Notarial Profession and Notarial Archives (Amendment) Act, 2011 - Act XXIV of 2011.

†that is, the Notarial Profession and Notarial Archives Act - Cap. 55.

provisions.

- (4) (a) The requisites for appointment as a notary mentioned in article 6(1)(c) and 6(1)(d) of the principal Act as substituted by this Act after their coming into force shall not apply to persons who sit for the qualifying examination before the year 2018, and the requisites required by article 6(c) and article 6(d) of the principal Act as they stood prior to the coming into force of their substitution by this Act shall continue to apply to such persons.
- (b) Reference in article 7(2) and article 8(2) of the principal Act as substituted by this Act to the qualifications of article 6(1)(a) to (e) shall, with regard to the persons taking the qualifying examination before the year 2018, be a reference to the provisions of article 6(1)(a), (b) and (e) of the principal Act after the coming into force of their substitution by this Act, and to the provisions of article 6(c) and (d) of the principal Act before the coming into force of their substitution made by this Act.
- (c) Article 6(c) and 6(d) of the principal Act as they stood before the coming into force of their substitution by this Act shall be reproduced in a footnote to the principal Act with reference to article 6 as substituted by this Act, and it shall also be stated in the footnote that the said article 6(c) and article 6(d) before the coming into force of their substitution by this Act shall continue to apply to the persons taking the qualifying examination up to and including 2017. Such footnote shall be retained up to the end of 2017.

(5) Article 7 of the principal Act as substituted by this Act shall come into force on 1st November 2012. This substituted article shall be reproduced together with the date of its coming into force in a footnote in the principal Act with reference to article 7 before the coming into force of its substitution by this Act, and such footnote shall be retained till 31st October 2012.

(6) Articles 8 and 9 of the principal Act as substituted by this Act shall come into force on 1st November 2012 and shall regulate the qualifying examination to be held in 2013 and subsequent years, and connected and ancillary matters. The date of the coming into force of such substitution together with articles 8 and 9 as substituted by this Act shall be reproduced in footnotes to the principal Act with reference to articles 8 and 9 before the coming into force of their substitution by this Act, and such footnotes shall be retained till 31st October 2012:

Provided that the provisions of article 8(7) of the principal Act as substituted by this Act shall not apply to persons who sit for the qualifying examination before the year 2018:

Provided further that the Board of Examiners appointed in terms of article 7 of the principal Act as substituted by this Act shall have the right, in its discretion before the year 2018, to hold another qualifying examination in any calendar year, sohowever that the examination cannot be held less than six months from the date of the results of the examination held in March of such year.

(7) Article 10(1)(d) and article 10(1)(e) of the principal Act as added by this Act shall refer to notaries who enter upon the exercise of their functions as from 1st January 2013, provided that article 10(1)(d) and article 10(1)(e) shall not be applicable until regulations have been made respectively under articles 10A(3) and 10(1)(e) of the principal Act as added by this Act.

(8) There shall be no obligation of compulsory insurance in terms of article 10A of the principal Act added by this Act before the Minister responsible for notarial affairs has made regulations under sub-article (3) thereof.

(9) Article 12 of the principal Act as substituted by this Act shall

refer to acts published upon the coming into force of such substitution.

(10) A notary shall have no obligation in terms of article 24A of the principal Act added by this Act to open a Notarial Deposit Account until regulations have been made in terms of sub-article (10) thereof.

(11) (a) Article 40 of the principal Act as substituted by this Act shall apply to all notarial acts published after the coming into force of such substitution.

(b) Without prejudice to the rights already acquired by third parties, the Minister responsible for notarial affairs shall by regulations provide that a notarial act published before the coming into force of such substitution having one or more of the defects mentioned in article 40 of the principal Act as it stood prior to the coming into force of such substitution and -

- (i) is enrolled in the Public Registry; or
- (ii) in respect of which a note is filed in such registry for the registration of a privilege arising from such act or of a hypothec constituted therein; or
- (iii) in respect of which an application is lodged in the Land Registry for the first registration of or the dealing with the immovable the subject-matter of the act,

shall be deemed valid notwithstanding such defect or defects, and in making such regulations the Minister responsible for notarial affairs may also subject the said validity to such terms and conditions as he may consider appropriate:

Provided that such regulations shall not apply to a notarial act which has been declared null by a judgement of a competent Court for any of the defects mentioned in article 40 prior to the coming into force of its substitution by this Act, and which has become *res judicata*:

Provided also that, so long as the Minister responsible for notarial affairs does not make regulations in terms of paragraph (b) of this sub-article regarding acts published, before the coming into force of article 40 of the principal Act as substituted by this Act, by notaries who died or shall have died at any date, the Acts of Deceased Notaries Regulations, made by Legal Notice 303 of 2005, (L.S. 55.05) shall remain in force notwithstanding that article 40 of the principal Act, under which they were made, has been substituted by this Act.

(12) Articles 45A and 45B of the principal Act added by this Act shall apply to *inter vivos* notarial acts whenever published.

(13) (a) The amendments made by this Act to the provisions of Title I of Part VI of the principal Act shall come into force on 1st January 2013 and shall, subject to the provisions of this sub-article, refer to all notarial acts whenever published:

Provided that the appointment in terms of article 110 of the principal Act as substituted by this Act of the retired Judge, retired Magistrate or retired advocate to preside as from 1st January 2013 the Court of Revision of Notarial Acts shall be made in October 2012 as if all the provisions of article 110 of the principal Act substituted by this Act had already come into force:

Provided further that for the purposes only of membership of the Board of Examiners in terms of article 7 of the principal Act as substituted by this Act, and subject to the provisions thereof, such appointee shall be deemed already to be the person ordinarily presiding such Court.

(b) The provisions of articles 94A and 94B of the principal Act both added by this Act shall come into force on 1st January 2013 and shall apply, subject to the provisions of this sub-article, to all notarial acts whenever published.

Provided that the fee for the review mentioned in sub-articles (9) and (15) of article 94A of the principal Act added by this Act shall refer to all notarial acts mentioned therein published from 1st January 2012 onwards.

Cap. 408.

- (c) Notarial acts published up to and including 31st December 2011 which at any time up to 31st December 2012 are deposited in the Archives by the Special Commissioner in terms of the Notarial Acts (Temporary Provisions) Act and which by the 31st December 2012 are not inspected in terms of Title I of Part VI of the principal Act as it stood prior to the coming into force of the amendments made to its provisions by this Act, shall be reviewed by a review officer or the Chief Notary to Government as the case may be in terms of article 94B of the principal Act as added by this Act.

Cap. 408.

- (d) Notarial acts published up to and including 31st December 2011 which by 31st December 2012 are not deposited in the Archives by the Special Commissioner in terms of the Notarial Acts (Temporary Provisions) Act, shall be presented in terms of article 94A added by this Act to a review officer or to the Chief Notary as the case may be for their review in terms of article 94B added by this Act.

Cap. 408.

- (e) Without prejudice to any other power of the Minister responsible for notarial affairs to make regulations, he shall, after consulting the Notarial Council, make regulations:
 - (i) to ensure the orderly presentation of notarial acts referred to in sub-article (13)(d);
 - (ii) to determine which provisions of article 94A added by this Act apply to the presentation of such notarial acts; and
 - (iii) to determine when the review of acts referred to in sub-article (13)(c) and (13)(d) shall take place.

- (f) The Notarial Acts (Temporary Provisions) Act shall be repealed with effect from 1st January 2013, without prejudice to whatever will have lawfully been done thereunder.

- (g) Notwithstanding the provisions of Title I of Part VI of the principal Act before the coming into force of their amendment by this Act, the Court of Revision of Notarial Acts shall not after the 30th April 2012 summon any notary, in terms of article 120 of the principal Act as it stood before the coming into force of its amendment by this Act, to present to such Court any notarial acts for general inspection in terms of article 117 of the principal Act before the coming into force of its substitution by this Act.

- (h) All uninspected notarial acts in the possession of the Court of Revision of Notarial Acts or any of its Visitors, shall be inspected by the 31st October 2012 in terms of the provisions of Title I of Part VI of the principal Act as they stood prior to the coming into force of the amendments made to them by this Act and, after the inspection, they shall be deposited in the Archives by 31st December 2012.

- (i) Notarial acts referred to in paragraph (h) of this sub-article which are not inspected by such Court by 31st October 2012 shall be deposited in the Archives by 31st December 2012, and they shall be reviewed in terms of article 94B of the principal Act as added by this Act.

The provisions of sub-article (13)(e)(iii) of this article shall *mutatis mutandis* apply to such acts.

- (j) Wherever in this sub-article there is reference to review carried out by a review officer or the Chief Notary as the case may be, this shall be followed by inspection of the Court in terms of the provisions of Title I of Part VI of the principal Act as amended

by this Act.

(14) All the disciplinary punishments contained in the principal Act prior to the coming into force of their amendment by this Act, shall continue to be applicable to breaches of duty mentioned therein committed by a notary before the coming into force of the respective amendments.

(15) Saving what is otherwise provided in sub-article (13) of this article regarding the inspection of acts published up to the 31st December 2011, matters which on 31st December 2012 are pending before the Court of Revision of Notarial Acts shall from 1st January 2013 be continued before the same Court composed in terms of article 110 of the principal Act as substituted by this Act.

*Amended by:**G.N. 204 of 1927;**G.N. 90 of 1928;**G.N. 352 of 1936;**G.N. 140 of 1940;**G.N. 434 of 1940;**XXXI. 1946.13;**G.N. 313 of 1949;**G.N. 205 of 1954;**L.N. 46 of 1965;**L.N. 56 of 1970;**XXX. 1973.11;**L.N. 77 of 1980;**XIII. 1983.4;**L.N. 70 of 1987;**L.N. 74 of 1988;**L.N. 227 of 1997;**IX. 2000.3;**L.N. 186 of 2000;**L.N. 173 of 2001;**L.N. 429 of 2003;**L.N. 408 of 2007.**Substituted:**L.N. 356 of 2012.**Amended by:**L.N. 83 of 2014;**XXXIV. 2018.22.*

SCHEDE

Articles 81(3), 101(1), 104(1) and 146(1)

TARIFF RELATING TO THE NOTARIAL
PROFESSION AND NOTARIAL ARCHIVES

PART I

FEES AND ACCESSORY CHARGES PAYABLE
TO NOTARIES

1. The notary shall, in respect of acts received or authenticated by him, and of other professional services, be entitled to the fees and accessory charges and the reimbursement of expenses as hereunder:

- (a) a fixed fee for acts of indeterminable value;
- (b) a fee proportionate to the value of the act;
- (c) a fee for acts prepared at the request of the parties and remaining unexecuted;
- (d) a fee for copies, extracts, declarations, searches, translations, inspections, reading and collation of acts;
- (e) a fee for other services rendered by the notary at the request of the parties or in pursuance of an order of any judicial authority;
- (f) a fee for the examination of title conducted by the notary at the request of any person, or where so required by law;
- (g) accessory charges and reimbursement of expenses.

I. Fixed Fees

€

2. Public Wills:

For dispositions containing the institution of heir and customary dispositions, at the discretion of the notary having regard to the circumstances of the testator and the complexity of the testamentary dispositions, from

50

..... to

250

in addition to the following fees charged on the basis of its value:

For every legacy; or every property placed in a testamentary trust -

Up till €1000, from

5

..... to

10

	For every €1000 or part thereof, in excess of the first €1000,	
 from	1.25
 to	2.50
	For the appointment of a tutor, curator, or executor,	from 10 to 20
	Testamentary trust where the value is either nominal or indeterminable having regard to the circumstances of the testator and the complexity of the dispositions	from 150 to 1000
3.	Secret Wills:	
	For the drawing up of a secret will by the notary, the fees shall be the same as those specified in paragraph 2 in respect of Public Wills.	
	For the act of delivery of a secret will,	from 30 to 60
	For the publication of a secret will,	from 125 to 250
4.	Notarial trust deed or a deed of foundation, where the value is either nominal or indeterminable, depending on the deed's complexity, the time for preparing it and other circumstances,	
 from	250
 to	2000
5.	Act of emancipation or acknowledgment of a child.	
	For each person emancipated or acknowledged,	from 75 to 150
6.	Marriage contract, variation or counter-declaration in connection with a marriage contract, or cessation of the community of acquests,	from 75 to 150
7.	Act of Personal Separation, Act of Cohabitation and Act of Civil Union,	from 100 to 200
8.	Donation, compromise, community or partition of movable or immovables where value is indeterminable,	from 50 to 250
9.	Deposit of movable things of an indeterminable value, receiving back same from the depository,	from 35 to 75
10.	Presentation to a particular benefice or donation of the right of advowson, whatever the number of patrons taking part in the act,	from 30 to 50
11.	(deleted)	
12.	Partnership where the value is indeterminable,	from 150 to 450
13.	Acknowledgement of the grantee in any emphyteutical or subemphyteutical grant,	from 30 to 60
14.	Protest of bill of exchange:	
	For any amount up to €1000,	from 25

.....	to	50
For any amount exceeding €1000 but not €10000,	from	50
.....	to	100
For any amount exceeding €10000,	from	100
.....	to	200
15. Appointment of arbitrators, saving the provisions of the <u>Arbitration Act</u> (Cap. 387),	from	50
.....	to	100
16. Act of ratification, correction, validation or convalidation, where the value is indeterminable, unless the fee exceeds the fee which was due for the original act, in which case the fee shall be reduced to such a figure,	from	75
.....	to	150
17. "Act of notoriety",	from	25
.....	to	50
18. Enrolment of documents (in addition to the fees in respect of the annexes)	from	30
.....	to	60
19. (<i>deleted</i>)		
20. Certificate in proof of life or existence of a person,	from	25
.....	to	50
21. Total cancellation of hypothecary rights,	from	30
.....	to	60
Reduction or postponement of hypothecary rights,	from	50
.....	to	100
Subrogation of hypothecary rights,	from	75
.....	to	150
These fees shall apply whether the values are determinable or indeterminable.		
22. For the drawing up of a declaration to be verified on oath, from		10
.....	to	100
23. For every jurat and administration of the oath,	from	10
.....	to	20
24. Act of consent,	from	10
.....	to	20
25. For the drawing up of a power of attorney, including any necessary authentication of signature or marks,	from	15
.....	to	50
26.. (<i>deleted</i>)		
27. Act of discharge in general terms, where the value is indeterminable,	from	25
.....	to	50
28. For every other act where the value is indeterminable,	from	25
.....	to	100
29. For authentication of signature or cross-marks affixed on any document containing any act or agreement of any indeterminable value,	from	5
.....	to	10

II. Fees Proportionate to the Value

30. For any act of transfer, under any title, of any immovable property, creation of an annuity, usufruct, use, habitation, easement, assignment, declaration regarding transmission *causa mortis*, emphyteusis or sub-emphyteusis, fees shall be charged according to the value as follows:

For the first sum not exceeding €10,000:	1%
For any additional sum not exceeding €500,000:	0.5%
For any additional sum over €500,000:	0.25%

Two-thirds of the said fees shall be charged for any act of transfer of movable property, loan, acknowledgement of debt, surety, hypothecation by separate act, or substitution of hypothec.

The said fees shall be due even if the act is subject to a suspensive condition.

In the case of an act of exchange, the said fees shall be assessed on the portion of immovables or movables exchanged which has the greater value.

In the case of acts of creation of an annuity or of emphyteusis or sub-emphyteusis, the said fees shall be calculated on the value resulting on capitalising the annual amount of the annuity or ground-rent respectively at three per cent: provided that in the case of a temporary emphyteusis or sub-emphyteusis, such fee will be reduced by one-half where the period for which the emphyteusis or sub-emphyteusis is being granted or extended does not exceed thirty years.

In the case of an act of suretyship or hypothecation accessory to any obligation arising from a separate act, the said fees shall be calculated on the value of such obligation

For any act of grant of any grave, site or space in a cemetery, from	50
..... to	100
Unless a higher fee is due on its price or value, for any act of transfer of any grave, site or space in a cemetery excluding what has just been mentioned in the preceding disposition, from	100
..... to	200

31. The fees specified in paragraph 30 shall also be due in respect of:

Any act of reduction or redemption of an annuity, on the value of the amount reduced or redeemed capitalised at 3%;

Any act of reduction or redemption of ground-rent or of emphyteutical renunciation, on the value of the amount of ground rent reduced or redeemed, capitalised at 3%, or on the value of the consideration for such renunciation;

Any act of partnership or community of property, on the value of the things brought into the partnership or placed in community, but so that in no case shall the fee be of less than

Any act of partition of immovable property including community property following its cessation, on the value of the mass without deduction of the debts;

Any act of compromise, on the value of the things forming the subject matter thereof;	
Any act of contract of works or <i>locatio operis</i> , on the price of the works reduced to one-third, but so that in no case shall the fee be of less than	200
Any act of liquidation or inventory, on the value of the mass without deduction of the debts. In any such case, however, the fee shall be reduced to one-half, but so that in no case shall the fee be of less than	200
Any act of letting and hiring, on the total amount of rent payable (ignoring any increase according to the rate of inflation, percentage increase or any other form of increase), reduced by one-half or, at the notary's discretion, the equivalent of one month's rent in the first year, but in no case shall the fee be less than	250
Any act of pledge or antichresis, on the amount of the debt secured by the pledge or antichresis reduced by one-half but so that in no case shall the fee be of less than	50
Any act of deposit of any sum, stock, or other things or of delivery of same, payment, extension of the time for payment, receipt, or delivery of possession of a legacy, rectification, rescission or dissolution of any other act, acknowledgement of an assignment of a debt, promise of alienation or loan; in any of these cases, the fee shall be reduced to one third of the value but shall in no case be of less than	60
32. Where any matter referred to in paragraphs 30 and 31 can form the object of a private writing, for the drawing up by the notary of such writing and the authentication of signatures thereon, the notary shall be entitled to from one half to two thirds of the fee which would have been due to him for the execution of such act but it shall not be less than	50
III. Fees for Acts or Private Writings prepared at the request of the parties and remaining unexecuted or unsigned	
33. For any act or private writing prepared by the notary at the request of the parties and remaining unexecuted or unsigned for any cause not attributed to him, the notary shall be entitled to two thirds of the fee which would have been due to him for the execution of such act or for the drafting and signing of such private writing, in addition to the reimbursement of any expense incurred by him.	
IV. Fees for Copies, Extracts, Declarations, Searches, Translations, Inspections, Reading and Collation of Acts	
34. For copies and extracts legalised by the notary, there shall be charged a fee of from one euro (€1) to two euro (€2) for every page. If they are not legalized, a fee of from fifty cents (€0.50) to one euro (€1) for every page shall be charged.	

35. For the certification or attestation of the accuracy of copies or extracts from books or documents produced by the parties as provided in article 2(2)(g) of the Act there shall be charged a fee of from one euro (€1) to two euro (€2) for every page or part thereof.
 36. For any certificate attesting any translation in terms of article 2(2)(h) of the Act, there shall be charged a fee of fifteen euro (€15) in addition to the fee of from ten euro (€10) to twenty euro (€20) for every page of about one hundred words to be translated.
 - 36A. For any declaration in terms of the proviso to article 68(2) of the Act, there shall be charged a fee of twenty five euro (€25) in addition to a fee of from two euro and fifty cents (€2.50) to five euro (€5) per page.
 37. For a search of an act where only the year in which it was received is indicated, a fee of from two euro and fifty cents (€2.50) to five euro (€5) shall be payable to the notary; where the search extends over two or more years, a fee of from one euro and fifty cents (€1.50) to two euro fifty cents (€2.50) for every year to which the search extends.
 38. For the inspection and reading of an act, a fee of from two euro and fifty cents (€2.50) to five euro (€5) shall be due.
If the act, is read over by the notary to the person making the request, the said fee shall be doubled.
No fee shall be charged for the inspection of the act, if the party orders a copy thereof or an extract therefrom.
The same fees as aforesaid shall be due for the collation of the copy or extract with the original act where such collation is required by the parties after the copy or extract has been authenticated by the notary.
Where the collation, at the request of the parties, is to be made with an act deposited in the Archives, in addition to the said fee, the notary shall be entitled to an extra fee for attendance and to another fee calculated at the rate of from ten euro (€10) to twenty euro (€20) for every half an hour of the time employed in the work.
For the drawing up of an act in a language other than the Maltese or the English language, including the translation of such act into Maltese or English as required by law, the notary shall be entitled to the fee payable in respect of the act increased by from 30% to 50%.
- V. Fees for other services rendered by a Notary at the request of the parties or in pursuance of an order of any Judicial Authority
39. For the drawing up and the signing of applications to be filed in the court of voluntary jurisdiction the notary shall be entitled to the same fees as are payable to advocates under Tariff E in the Schedule annexed to the Code of Organization and Civil Procedure.

40. For the examination of title to immovable property in terms of article 84C of the Act, unless otherwise specified in a contract of engagement, the notary shall be entitled to the same fees as an advocate would be entitled to under Tariff E in the Schedule annexed to the Code of Organization and Civil Procedure.
41. For any other work or service performed by the notary at the request of the parties or in pursuance of any order of any judicial authority, the fee due to the notary shall, in case of dispute, be taxed by the court of voluntary jurisdiction, or, as the case may be, by the court making the said order, regard being had to the nature of the work or services performed by the notary.

VI. Accessory Charges

42. (a) Where for the performance of his functions the notary has to leave his office or any of his offices, he shall be entitled to the reimbursement of all travelling and board and lodging expenses.
(b) In addition to what is stated in paragraph (a) hereof:
 - (i) if he has to travel between two islands, there shall be a fee of sixty euro (€60) together with the fee in respect of the service given; or
 - (ii) if his attendance is required between 10 pm and 7 am, the fee in respect of the service given shall be increased by 50%.
(c) No fee shall be due for attending at the Public Registry, the Land Registry or the court of justice for the purpose of filing any note, application or act.
43. For the registration of acts and annexes as provided in article 58 of the Act, the notary shall be entitled to a fee of one euro (€1) for every page.
44. For the drawing up of any note of enrolment of a public will, of the opening of a secret will, of an endowment, of a marriage contract without the conveyance of immovables, of a counter-declaration to a marriage contract, of personal separation and cessation of the community of acquests, and for any other note relating to any notarial act where the value involved is not ascertainable, and where there is not otherwise provision in this Tariff, the notary shall be entitled to a fee of from two euro and fifty cents (€2.50) to five euro (€5).
For the drawing up of any note of reference to an assignment, subrogation, reduction or postponement, the notary shall be entitled to a fee of from two euro and fifty cents (€2.50) to five euro (€5).
For the drawing up of any note of total cancellation, the notary shall be entitled to a fee of from one euro (€1) to two euro (€2).

For the drawing up of any note of enrolment of any act, where the value is ascertainable, or of any note of registration or renewal of registration of any privilege or hypothec, the notary shall be entitled to the following fees on the basis of the value involved in the case of enrolment, or of the amount of the debt in the case of registration or renewal of registration: from one fifth to one third of the fee due to the Public Registry in terms of the [Public Registry Act](#) or any Act substituting that law.

For entering any marginal note or note at the foot of the original act in terms of article 47(1) of the Act following an act of rescission, cancellation, variation, validation, convalidation, or of a notarial corrective act or subsequent corrective act, a fee of from two euro and fifty cents (€2.50) to five euro (€5) shall be due to the notary.

For submission in terms of articles 47(2) or 47(3) of the Act to the Archivist or to a notary or notary keeper of a copy of the note filed in terms of article 50 or, if the act is not so registerable, a copy of an act of rescission, cancellation, variation, validation, convalidation, or of a notarial corrective act or subsequent corrective act, a fee of from five euro (€5) to ten euro (€10) shall be due to the notary submitting such document.

A similar fee shall be due to the notary or notary keeper who enters in the margin or at the foot of the original act and of its registration in the register a reference in terms of article 47(4) of the Act to an act of rescission, cancellation, variation, validation, convalidation or to a notarial corrective act or subsequent corrective act and, where the original is deposited in the Archives, the fee shall also be due to the Archivist.

VII. General Provisions

45. In any case not expressly provided for in the foregoing provisions of this Tariff, the fee payable shall be assessed by analogy to other cases expressly mentioned in those provisions. The fees chargeable under this Tariff shall not be subject to rebate by reason of the acts not having been drawn up by the notary by whom they are received or of their being drawn up on printed forms.
- 45A. The Minister shall, at the end of every ten-year period from the coming into force of this Part of this Schedule, revise the provisions of the said Part, on the basis of the cost-of-living index for the particular period of ten years and shall, before implementing such revision, be bound to seek the views of the Notarial Council regarding such implementation.

PART II**FEES PAYABLE IN THE NOTARIAL ARCHIVES**

46. (i) For any informal photocopy of any notarial act or part thereof deposited in the Archives, there shall be charged a fee of seventy cents (€0.70) for every page; sohowever that informal photocopies of any such acts which are requested by persons who are making researches for a purely historical, literary or scientific purpose and who are authorised as such in virtue of item 49 hereof, shall be charged at the reduced rate of ten cents (€0.10) per page, up to a maximum of three hundred pages of copies in any one year.
(ii) For any informal copy, to be executed in handwritten or type-written form whenever this is deemed possible by the Archivist, of any notarial act or part thereof deposited in the Archives, there shall be charged a fee of one euro and twenty cents (€1.20) per page of about one hundred words.
(iii) Where any such photocopies or copies are to be authenticated by the Archivist, the fee payable shall be increased by fifty cents (€0.50) per page in all cases; provided that where any copies to be authenticated are prepared by third parties, the fee to be charged for their authentication shall be one euro and twenty cents (€1.20) per page of about one hundred words.
(iv) Where in the preparation of type-written or handwritten copies, experts are needed for the transcription and/or deciphering of the original document, the fees payable to such experts shall be charged in addition to the fees above-mentioned.
(v) For any digital copy of any notarial act or part thereof deposited in the Archives, there shall be charged a fee of twenty-five cents (€0.25) per digitized page. The provision of digital copies of notarial acts by the Archives does not imply the transfer of any copyright therein to the recipients. Any commercial use of such images requires the written permission of the Archivist:
Provided that digital copies of any such acts which are requested by persons who are making researches for a purely historical, literary or scientific purpose and who are authorised as such, by virtue of paragraph 49 hereof, shall be charged at the reduced rate of ten cents (€0.10) per digitized page.
47. For the inspection or perusal of any notarial act kept in the Archives a fee of sixty cents (€0.60) shall be charged, whereof fifty cents (€0.50) shall be kept by the Archives and the balance shall be payable to the notary or keeper of such act in accordance with the provisions of article 104(1).

No fees shall be levied for the inspection of any act if the party orders a copy or extract thereof or therefrom. Provided that if at the request of a person, a notarial act is read to that person by a member of the staff of the Archives, a fee of seventy cents (€0.70) for every half-hour or part thereof so occupied, shall be charged.

No fee shall be payable by a notary who inspects or reads acts received by him or by a notary of whose acts he is Keeper, but such Notary shall pay the fee due for copies if he orders a copy thereof.

48. For the search of any act whereof the Archivist is Keeper, a fee of twenty-five cents (€0.25) shall be payable to the Archivist in respect of each year to which the search extends.
49. No fee shall be charged for the inspection or reading of any act or for any search made for a purely historical, literary or scientific purpose by any person specially authorized in that behalf by the Minister responsible for notarial affairs, with the advice of the Notarial Council and the Archivist.
50. Where the Archivist is required to attend at any place outside the Archives in connection with the removal of any act therefrom a fee of twenty euro (€20) shall be paid to the Archives by the person in whose interest the act shall have been so removed.