

SUBSIDIARY LEGISLATION 55.01

FUNCTIONS AND DUTIES OF THE NOTARIAL COLLEGE AND NOTARIAL COUNCIL REGULATIONS

16th March, 1928

GOVERNMENT NOTICE 64 of 1928, as amended by Government Notice 67 of 1937; Act XIII of 1983; and Legal Notice 408 of 2007.

1. The title of these Regulations is Functions of Duties of the Notarial College and Notarial Council Regulations. Title.

The Notarial College

2. The Notarial College shall be composed of all the notaries actually in the exercise of their profession in Malta and Gozo. Composition of college.

Notaries who have been suspended, incapacitated or temporarily interdicted from the exercise of their profession shall continue to form part of the college but shall not attend the sittings as long as the suspension, incapacitation or interdiction lasts.

3. The college will hold ordinary and extraordinary meetings which shall be called by a notice published by the President of the Notarial Council in the hall of the Council, and transmitted to each notary with an indication of the agenda, at least ten days beforehand, except in cases of urgency. Meetings.

No subject shall be discussed at any meeting which has not been indicated in the notice calling such meeting.

When an urgent meeting has been called, the members present shall approve of its urgency before proceeding to deal with the agenda; the notice for such meetings shall be given at least twenty-four hours previously.

4. The ordinary meeting of the college shall be held yearly during the month of December for the object of nominating the members of the Council for the ensuing year. Ordinary and extraordinary meetings.

Extraordinary meetings shall be held whenever the Council will deem it convenient, or one-third of notaries in the exercise of their profession composing the college have applied for such a meeting, or an election has become necessary, consequent on the death, resignation or lapse of membership of a councillor.

5. The office of President and that of Secretary shall be held by the President and the Secretary of the Notarial Council respectively, or, in default, by those who are acting as such. President and secretary.

6. For the validity of the proceedings, the presence of at least one-third of the notaries belonging to the college shall be required; should one-third of the notaries fail to respond to the first call, a second call will be made and the deliberations of the college, at the meeting held in response to the second call, shall be valid whatever the number of members present. Validity of proceedings.

The provisions of regulation 14 are applicable to the college.

The Notarial Council

Composition of council.

7. The Notarial Council shall be composed of nine members to be selected by the Notarial College from among notaries in the exercise of their profession composing the said college.

Relatives by blood or affinity to the third degree inclusively may not be members of the Notarial Council simultaneously, and in the event of such simultaneous election the junior notary shall be precluded from sitting on the Council.

Election and replacement of members.

8. The members of the Council shall remain in office for three years and shall be eligible for re-election.

One third of the members of the Council shall be replaced yearly, according to their seniority as members of the college, the first batch of vacancies being determined by lot.

Lots shall also be drawn in the case of councillors of equal seniority.

The notary who surrogates a councillor who, through death or other cause, has ceased to exercise his functions, shall remain in office only for a period for which the councillor surrogated by him would have remained in office.

Should more than one surrogate be required, the one who has obtained the greater number of votes, and, in the event of equality of votes, the senior in the exercise of the profession, shall surrogate the councillor who has remained in office for a longer period.

Election of members to be made by secret voting lists.

9. The election of the members of the Council shall be made by means of secret voting lists.

Those obtaining an absolute majority of votes at the first ballot shall be deemed to have been elected.

Should anyone fail to obtain such majority, or should the number of members elected be less than that for which the election has been held, a second ballot shall take place during the same sitting and the members obtaining the greater number of votes shall be deemed to have been elected.

On an equality of votes, preference shall be given to the member who is senior in the exercise of the profession, and in case of equal seniority to the elder member.

Election of president, secretary and treasurer.

10. The Notarial Council shall elect from its own body the President, the Secretary and the Treasurer, in accordance with the rules established in the preceding regulation.

They shall remain in office for the period of three years and shall be eligible for confirmation should they retain their seats on the Council.

The Secretary should be selected preferably from among the notaries residing in Valletta; and on equality of votes preference should be given to the elder for the office of President

and to the younger for that of Secretary.

In the absence of the President and the Secretary, their duties shall be discharged by the elder and by the younger member of the Council, respectively.

11. The President shall convene the Council, shall be its representative, shall preside its meetings, shall regulate its proceedings and shall correspond with the authorities after taking the advice of the Council on matters coming within its competence.

Functions of the president and the secretary.

The Secretary shall have the charge of the office of the Council and be responsible therefor; he shall prepare the minutes of proceedings, shall keep all documents relative thereto, and, with the President's authority, shall issue copies of the deliberations of the Council and of the Notarial College.

The minutes of proceedings shall be signed by the President and the Secretary.

The deliberations of the Council and of the college shall be signed by the Secretary jointly with the President.

Any deliberations concerning disciplinary measures shall be signed by all the members present.

Any person may, by payment of the relative fee established by the notarial tariff, obtain copies of deliberations, barring deliberations which concern persons, copies of the latter deliberations shall be obtainable by those to whom they refer.

12. The Treasurer of the Council shall collect any fees due to the Notarial College and to the Notarial Council from whatever source, shall be responsible for the monies belonging to the college and shall pay for the warrants issued by the President and countersigned by the Secretary.

Fees due to be collected by the treasurer.

13. For the validity of the deliberations of the Council the intervention of the majority of its members shall be necessary.

Validity of deliberations.

14. The deliberations are taken by a majority of the members present, and on an equality of votes the President shall have the casting vote.

Deliberations taken by majority of members present.

Votes shall be recorded openly; however in matters concerning persons the voting shall be by secret ballot, and in case of an equality of votes, the deliberation shall be deemed favourable to the person to whom it refers.

15. Any members failing to attend three consecutive sittings, without adducing to the Council a legitimate impediment within one month from the communication made to them by the President, or the member acting as such, of the deliberation establishing their absence, shall be declared to have ceased to be members of the Council, and in case the Council is unable to take a valid deliberation for want of quorum, the declaration shall be made by the Notarial College convoked by the available members of the Council.

Failure to attend three consecutive sittings.

Other duties of the council.

16. In addition to the attributions devolving on it by law, the Council -

- (a) shall ensure the observance of due decorum in the exercise of the profession and in the professional conduct of notaries, and of exactitude in the performance of their duties;
- (b) shall watch over the conduct of articled notaries and on the manner in which their duties are carried out, and shall issue the relative certificates;
- (c) shall, at the request of the competent authorities, give its views on matters relating to the notarial profession;
- (d) shall frame and certify yearly the role of notaries exercising their profession and of articled notaries;
- (e) shall intervene, when requested with a view to settling differences between notaries, or between notaries and third parties, concerning the return of papers or documents, questions of expenses or honorarium, or any other matter relative to the exercise of the notarial profession.

The notarial profession

Disciplinary measures.

17. Any disciplinary measures decided upon by the Notarial Council will be communicated by order of the President, to the Minister responsible for Justice.

Office of the Notarial Council.
Amended by:
XIII.1983.5;
L.N. 408 of 2007.

18. In the office of the Notarial Council there shall be kept -

- (a) a register of correspondence received and sent by the Council, in which all applications received shall be recorded day by day;
- (b) a register of sittings and decisions taken by the college;
- (c) a register of sittings and decisions taken by the Notarial Council;

The two last mentioned registers shall contain a précis of the proceedings;

- (d) a register of articled notaries;
- (e) a register of the signatures of notaries;
- (f) the roll of notaries in the exercise of their profession;
- (g) the roll of deceased notaries and of notaries who have ceased to exercise their profession, with the relative indication of the notaries appointed keepers of their acts and registers;

All the above registers shall be kept by the Secretary who in case of contravention, shall become liable to a fine (*ammenda*) not exceeding one euro and sixteen cents (1.16);

- (h) a counter-foil book for moneys to be collected from any source whatsoever;
- (i) a cash-book for moneys received and paid;

(j) a register of payment-orders;

the three last mentioned registers shall be kept by the Treasurer, who, in case of contravention, shall be liable to a fine (*ammenda*) not exceeding one euro and sixteen cents (1.16).

19. To meet expenses, a fee of one euro and sixteen cents (1.16) *per annum*, payable in advance, shall be imposed on each notary in the actual exercise of his profession.

Fees.
Substituted by:
G.N. 67 of 1937.
Amended by:
XIII.1983.5;
L.N. 408 of 2007.

20. Any change in the composition of the Notarial Council or in the roll of notaries shall be reported by the President of the Notarial Council to the Minister responsible for Justice, without delay.

Changes in
composition of
council to be
reported.

21. No member of the Council or of the Notarial College shall take part in deliberations or be present at discussions, when the matter to be dealt with concerns him personally or concerns his relatives by blood or affinity in direct line to any degree or in any collateral line to the third degree inclusively.

Conflict of interest.
