

SUBSIDIARY LEGISLATION 622.02**PERITI WARRANTING BOARD REGULATIONS**

27th December 2022

LEGAL NOTICE 371 of 2022.

1. (1) The title of these regulations is the Periti Warranting Board Regulations. Citation and scope.

(2) The scope of these regulations is to transpose Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications and Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

2. In these regulations, unless the context otherwise requires - Interpretation.

"Act" means the Periti Act; Cap. 622.

"Annex V" and "Annex VI" shall have the same meaning as assigned to it in the Act;

"Board" means the Periti Warranting Board established by article 10 of the Act.

3. (1) Apart from the responsibilities established in article 11 of the Act, the Board shall also have the following responsibilities: Responsibilities and functions of the Board.

(a) to maintain and to publish, not later than three (3) months after the end of each year, such register and sub-registers, referred to in articles 4 to 9 and 16 of the Act in the Gazette and on its website or the website of any other designated public agency, as well as on the IMI, in accordance with prescribed regulations;

(b) to notify the Kamra tal-Periti about any new warrant-holder within one (1) week from attaining a warrant to practice the profession;

(c) to verify that the formal academic qualifications obtained and the professional training undertaken by a Maltese national, satisfy the prescribed regulations for attaining a warrant to practice the profession in Malta;

(d) to verify that a national of a Member State has the right to access to the profession and the right to use the title of Perit Arkitekt subject to the submission of evidence of formal qualifications issued by the designated authorities of the Member State of origin or the Member State of domicile and of the certificates listed in Annex V, in conformity with the

reference year that appears in the said Annex, and in accordance with prescribed regulations;

(e) to verify that a national of a Member State has the right to access to the profession and the right to use the title of Perit Inġinier Ċivili, subject to the submission of evidence of formal qualifications issued by designated authorities of the Member State of origin or the Member State of domicile and of the relative certificates, in accordance with prescribed regulations;

(f) to decide on an application submitted by a national of a Member State for authorisation to practice the profession in Malta on a temporary and occasional basis, in accordance with prescribed regulations; and

(g) to verify evidence of formal professional qualifications obtained in a third country, by a citizen of a third country.

(2) The Board shall have the authority to:

(a) determine the form and organise the holding, of any examination referred to in the Act;

(b) assess professional traineeship undertaken for the purpose of the Act;

(c) request, in the case of justified doubts, the confirmation of authenticity of attestations and evidence of formal qualifications;

(d) request information from designated authorities of Member States confirming whether any applicant, seeking to establish himself in Malta or to offer a service, is not suspended or prohibited from exercising the profession as a result of serious professional misconduct or conviction of criminal offences related to the exercise of professional activities.

Duties of the Board.

4. The Board shall have the duty of notifying the European Commission and other Member States, by means of the IMI or other prescribed means, about the following:

(i) the legislative, regulatory and administrative procedures governing access to the profession;

(ii) the duration and content of academic courses in connection with Annexes V and VI;

(iii) the duration and content of professional traineeship as required in the Act;

(iv) the associations of professionals recognised in Malta;

(v) the schemes for continuing professional development required for the continued safe and effective practice of the profession;

(vi) any disciplinary action or criminal convictions or any other serious, specific circumstances which are likely to have consequences on the practice of the profession, within three (3) days of the decision of restriction or prohibition;

(vii) the identity of any person who has been prohibited by national authorities or courts from exercising the profession, even temporarily, on the territory of Malta, within three (3) days of prohibition;

(viii) the identity of any person who, after having applied for the recognition of qualifications under this Act, and who was subsequently condemned by the authorities or the courts for using falsified evidence of professional qualifications in this context, in accordance with regulations that may be prescribed:

Provided that in executing the duties specified above, the Warranting Board shall ensure confidentiality when exchanging information regarding disciplinary action or criminal convictions. It shall also be incumbent on the Warranting Board to inform contemporaneously such professionals in writing of decisions or warnings, subject to appeal to the Administrative Review Tribunal;

(ix) the opinion of the Board on notifications from the European Commission on proposals from Member States for admission of training programmes and professional qualifications required for the profession of architect to Annex V of the Directive.

5. The Warranting Board shall, when requested by the designated authority of a Member State:

Ulterior duties of the Board.

(i) issue certificates in connection with acquired rights, in terms of Annex VI, that a Maltese national was authorised not later than May 2004 to use the title of Perit and was engaged in the practice of architecture for at least three (3) years during the five (5) years preceding the issuance of the certificates;

(ii) provide confirmation of authenticity of attestation and evidence of formal qualifications that fulfils, for the purpose of the respective profession, the minimum training requirements, including when professional training in terms of

articles 5 and 6 of the Act was undertaken in part in another Member State;

(iii) exchange information regarding any disciplinary action, or criminal convictions, or serious specific circumstances likely to have consequences on the practice of the profession;

(iv) advise whether any warrant holder seeking to establish himself, or to offer a professional service, in a Member State, is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or the conviction of criminal offences related to the exercise of professional activities.

Election for all
warrant holders.

6. The Kamra tal-Periti shall organise an election among all warrant holders to elect members of the Warranting Board in accordance with article 10(1)(d) of the Act and the following requisites shall apply:

(1) There shall always be one (1) elected member from the list of Periti Arkitetti and one (1) elected member from the list of Periti Inġiniera Ċivili sitting on the Board at any one time:

Provided that if the term of one (1) of the elected members expires, the call for nominations shall be for eligible warrant holders in terms of sub-regulation (4) belonging to the same list as the outgoing member, who may recontest.

(2) The members shall be elected by secret ballot through an election held electronically.

(3) At least fourteen (14) days before the date and time established by the Kamra tal-Periti for the election, the Kamra shall issue a call for nominations for candidates for the election. Each nomination shall be signed by the candidate, and by two periti as nominators of the candidate. Nominations are to be received by the closing date established by the Kamra tal-Periti, which date shall not be later than fourteen (14) days prior to the date of the election. Late nominations shall not be accepted.

(4) Only periti who have been in possession of a warrant for at least eight (8) years prior to the date of the opening of the nominations for candidates to submit their respective nomination are eligible to be accepted as candidates for the election;

(5) The Kamra tal-Periti shall select an election official who shall be a notary public to supervise the election. The election official shall:

(a) perform any acts as may be proper to conduct the election with fairness towards all members;

(b) determine the authenticity and validity of the votes;

(c) hear and determine all contestations and questions in any way arising out of, or in connection with the right to vote;

(d) count and tabulate all votes;

(e) ensure that the polls shall close on time;

(f) certify the tabulated results of the election;

(g) ensure that the election is conducted impartially, in good faith and as expeditiously as is practical, and in a manner that protects the interest of all warrant holders.

(6) The Kamra tal-Periti shall register all persons in possession of a warrant on the date referred to in sub-article (3) in its electronic voting system, and shall provide access thereto not less than seven (7) days before the date of the election;

(7) The Kamra tal-Periti shall ensure that as from December 2023 the electronic system:

(a) securely authenticates the identity of the voter;

(b) allows the voter to securely review an electronic ballot prior to its transmission to the electronic voting system;

(c) ensures the secrecy and integrity of each ballot upon transmission of the vote;

(d) is accessible to voters with disabilities;

(e) is secure from, among other things, malicious software and the ability of others to remotely monitor or control the system;

(f) is able to securely communicate with each voter's electronic voting platform;

(g) is able to securely authenticate the validity of each electronic ballot to ensure that such ballot has not been altered in transit;

(h) is able to securely transmit an acknowledgement to each voter;

(i) is able to securely and permanently separate any authentication or identifying information from the electronic ballot, rendering it impossible to link any ballot to any specific voter;

(j) is able to securely allow members to confirm that their ballot has been received and counted;

(k) is able to store electronic ballots in a secure manner, keeping them accessible for the election official for recount and inspection.

(8) All votes shall be counted and tabulated by the election official in public at a duly notified meeting for all warrant holders. Any candidate and a representative of the Kamra tal-Periti may witness the counting and tabulation of the votes.

(9) The tabulated results of the election shall be promptly reported to the Minister by the Kamra tal-Periti and shall be published in the Gazette as soon as possible.

(10) The candidate who obtains the most votes shall fill in the vacant seat reserved in terms of article 10(1)(d) of the Act.

(11) In the first election carried out after the enactment of these regulations, the candidate who obtains the second highest number of votes shall sit on the Board for eighteen (18) months in accordance with the proviso to article 10(3) of the Act:

Provided that if the candidate who obtains the highest number of votes belongs to the list of Periti Arkitetti, the candidate who shall occupy the second seat shall belong to the list of Periti Inġiniera Ċivili and vice-versa.

(12) In the case of parity in the election count for any vacant position on the Board pursuant to article 10(1)(d) of the Act, the election official shall select the member to sit on the Board by lot in the presence of the candidates and a representative of the Kamra.

7. (1) The Recognition of Academic Qualifications (Periti) Regulations made under the Periti Act shall continue to apply as in force before the coming into force of these regulations, until revoked or amended, to any pending matter or procedure in accordance with the provisions of the Periti Act.

(2) Any warrant granted before the coming into force of the Act shall, notwithstanding anything contained in the Act, remain in force after the coming into force of the Act and shall be deemed to have been granted under the Act and shall be governed by the provisions of the Act.

Transitory
provision.
S.L. 390.04.
Cap. 390.