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

The notary is the owner of the acts received by him.

Amended by 11. 1978.9.

71.

(1) Every notary is the owner of the registers of the acts received by him and of their respective indexes. He shall be responsible for the safe keeping of the original acts received by him until these are deposited in terms of the other provisions of this Act.

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

Procedure in case of alienation of acts and registers. Amended b

l...

1/. 1978.10,

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.

(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.

Duties of keeper or custodian.

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.

Title III

OF COPIES AND EXTRACTS

Notary has the sole right to allow inspection of acts and give copies thereof Amended by: XX X VII. 1933 4

II. 1978, II;

II. 1983.7;

XIX. 1988. 10.

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.

Notary is bound to give copies.

Exceptions.

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

Provided that he may refuse to give any such copy or extract, 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 subsection (2) of section 68 and of subsection (4) of section 81.

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(4) Saving the provisions of sections 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, or make its contents or even its existence known to any person, unless such person produces an abstract of the act of death of the testator which abstract 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) The provisions of subsection (4) and of subparagraph (ii) of paragraph (a) and of paragraph (b) of subsection (5) of this section shall not apply where one hundred years have elapsed after the making of the will.

How copies and extracts are to be written

75.

(1) The provisions of section 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:

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Provided that any variation or addition made in the original act or in the register as provided in the said section and in section 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 even for the purpose of preparing copies as provided in subsection (2).

Contents of copies and extracts.

76.

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

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

Issue and authentication of copies.

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 other similar declaration.

(2) If the copy or extract consists of more than one leaf, each leaf shall be signed in the margin by the notary or Archivist.

(3) The notary shall transcribe at the end of every copy all the annexes to the original act unless the person requiring such copy shall have dispensed him therefrom, in which case the notary shall make a mention of such fact in the copy.

(4) The notary shall transcribe at the end of every copy the references to other acts entered in the original act.

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.

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Title IV

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

Acts which may be given out in original.

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 proces-verbaux.

(b) the authentications of signatures and cross-marks; and

(c) the acts and certificates referred to in paragraphs (c) (d), (e), (g) and (h) of subsection (2) of section (2).

Authentication of signatures or cross-marks.

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.

81.

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

(2) If the act is null 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.

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(2) 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.

(3) 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.

Where this act contains several distinct covenants.

82.

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

Expenses and fees to be noted on copies.

83.

The notary shall, at the foot or in the margin of every copy or extract, make a note duly signed by him, of the relative expenses, fees and charges.

Joint and several liability of parties towards notary.

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.

PART IV

OF THE NOTARIAL COLLEGE AND OF THE NOTARIAL COUNCIL

Notarial College.

85.

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.

Notarial Council.

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.

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

Notarial council to communicate with the Government. and viceversa.

87.

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

Duties of Notarial Council

88.

The Notarial Council shall, of its own motion or on the complaint of any person, inquire to 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.

Power of Council to admonish notars

Amended by

XI 1937, 12;

IX 46 of 1965

LV III 1974, 68

89.

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 section, the Council shall have the power to admonish such notary and shall report the case to the Attorney General and to the Court of Revision

Conditions for validity of a decision of Council

Amended by:

XL, 1937 12

LN 46 of 1965

LX 1974 68

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 section, 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 by at least two-thirds of the members of the Council.

Right of appeal to Court of Revision.

91.

Any notary on whom any punishment has been inflicted under the provisions of sections 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.

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92.

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 ...

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...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.

Such regulations to be approved by the Minister responsible for justice.

Amended by:

XXV 1962. 4.,

L.N. 4 of 1963:

XXXI. 1966. 2.

93.

The regulations mentioned in the last preceding section shall, before coming into operation, be submitted to the Minister responsible for justice to be approved by him.

Minister responsible for justice shall have Power to dissolve the Notarial Council.

Amended by:

XXV. 196-.4.

L.N. 4 of 1963:

XXXI. 1966.?

94.

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

PART V

OF THE NOTARIAL ARCHIVES

Archives and officers thereof.

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.

(3) 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.

The Archivist oaths shall take of allquance and office. Cap. 12.

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

"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".

Appointment of Archivist.

96.

(1) The Keeper or Archivist shall be selected and appointed by the Prime Minister.

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Amended by:

XXXI 1946, 5

LN 4 of 1965

XXX 1973,10

1978.12

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 justice or in accordance with arrangements made by the said Minister.

Incompatibility of office with any other public office.

(2) Saying, as rcgards the office orChief Notary to Government or of Notary to Government, the provisions of subsection (3) of section 22, the office of Archivist or other officer attached to the Archives shall be incompatible with the exercise of the notarial or any othes profession and with any other public office.

Acts deposited for preservation in the Archives of Malta.

Amended by;

97.

In the Archives of Malta there shall he deposited for preservation –

(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 provision of this Act;

(d) all the registers of notarial acts received by notaries residing in Malta when such registers belong to the Government, or belong to private parties but, for any reason whatsoever, have no Keeper or notary delegate, or when such registers are seized from the possession of such notaries for any lawful cause under this Act;

(e) the copies deposited in terms of section 54 of this Act.

Acts, deposited for preservation in the Archives of Gozo,

II 1983.9

98.

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

(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:

(d) all the registers of notarial acts received by notaries residing in Gozo or Comino when such registers belong to the Government, or belong to private parties

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But, for any reason whatsoever, have no keeper or notary delegate, or, when such registers are seized from the possession of such notaries for any lawful cause under this Act;

(e) The copies deposited in terms of section 53 of this Act.

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

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

Duties and responsibilities of Archivists.

Amended by: XI. 1937.12,

L.N. 46 of 1965-

LVIII 1974,68,

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.

Archivist to

collect (Cos. Archives. Amended by, X X X 1. 1946.6.

101.

(1) The Archivist, in his capacity as Treasurer of the 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.

Archivist to permit the inspection and to give out copies of acts deposited in the archives.

Amended by:

XXXIV, 1979,16.

XIX 1989, 11.

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 section 76.

Special register to be kept by the Archivist.

(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.

Duties of Archivist in the delivery of copies and extracts.

(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.

(4) The provisions of sections 76, 77 and 78 shall apply to the copies or extracts issued from the Archives.

Indexes of acts deposited in the Archives. Amended by, XXI, 1946,7.

103.

(1) Each Archivist must keep a general index of the notaries whose acts or registers are deposited in the Archives.

(2) Such index shall be kept in the alphabetical order of the

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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 section and shelf wherein his acts are preserved.

(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.

Index open to inspection free of charge.

(4) The said index shall be open to the inspection of any person free of charge.

Collection of fees by Archivist,

Substituted by: XXI 1946.8 (2).

Amended by.

XXXIV, 1979,18,

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 11. IV78.13, the relative register.

(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.

Prohibition to remove any act from the Archives without an order of court.
105.

The acts, 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.

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

Office hours.

Amended by:

LN 4 of 1963: XXXI 1966.2.

II. 1983,10

107.

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

Persons entering the Archives shall obey orders of the Archivist. Substituted by:

II, 1983.11

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 subsection (1) of this section 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.

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Expenses required for the preservation of acts.

Amended by: 11. 1978 . 14

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 writ of summons, 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,
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1*111, M3.2.

A pndvd ht L.N, 4 of 19,63- ' L V~ IM W /V -5. may
XXXII, 1979,19.
110.

(1) Supervision over all notaries. the Notarial Archives and the Public Rcgistrv shall be exercised by a special court called the "Court of Revision of Notarial Acts"

(2) The court shall consist of such members. called Visitors, as the Minister responsible for justice may appoint for such period as may be specified in their appointment. The Visitors shall be appointed from among the Judges of the Superior Courts, the Magistrates of Judicial Police, and from among advocates and notaries public who have practised their profession foe not less than seven years:

Provided that a notary public shall not be appointed a Visitor unless he has resigned his office as provided in paragraph (d) of section 14 of this Act.

(3) The court shall at all times be duly constituted when three or more Visitors, of whom one at least shall be a judge or a magistrate and who shall preside, are sitting together.

(4) Visitors may separately carry out inspections and apply the disciplinary punishment of admonition and reprimand or fine (ammenda).

(5) Notaries shall be charged for such supevision and inspection such fees as may be contained in the Schedule to this Act.
Such fees shall be paid to the Registrar of the Court of Revision of Notarial Acts.

Decisions to be notified to the Attorney General and to
Archivist or other notary concerned,
XI 1937 12,
LN. 46 of 1965.
LVII. 1974,68.
111.

The Registrar shall, within one month or the date of any the 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 beserved on the Attorney General and on the Archivist or other ...

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...notary concerned therein, even though such decision. decree or order shall have been given or made. or such punishment awarded, in their presence.

Right of appeal.
Amended by
XI 1937.12.
LN 46 of 1965,
LVIII 1947,68
112.

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 section, enter in appeal to the Court of Appeal, by an application. against any decision, decree or order given or made by the said court or by any of the Visitors separately. 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.

Procedure.
113.

(1) Proceedings before the said court shall be field 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 Judicial Police, and the laws relating to the service of summonses in connection with, and the conduct of proceedings before the Court of Judicial Police shall, in every other respect, apply to the service of writs of subpoena and to all other proceedings of the said Court of Revision.

(2) 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.

Registrar of the Court

Amended by:

L.N. 4 of 1963.

114.

Both in Malta and in Gozo the Registrar of the Court of Magistrates of Judicial Police, or any other officer designated by the Prime Minister, shall act as Registrar of the said Court of Revision and shall take part in its sittings.

Inspections without previous notice.

Substituted by:

X X X 1. 1946 9,

Amended by:

LN 46 of 1965

XI 1977.2

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.

(2) In making the request referred to in subsection (1) of this section, the Attorney General 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 section, the provisions of sections 111, 112, 116, 118, 119, 124 and of subsection (2) of section 117 of this Act and the provisions of section 19 of the Duty on Documents Act shall apply.

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Inspection of Notarial Archives. Amended by: V X1. 1977.2,

L.N. 4 of 1963:

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.

(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 sections 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 justice the measures which it considers expedient for remedying and preventing deficiencies.

General inspection of
twice in every

year,
acts to be made
117.

(1) A general inspection of the acts, registers and indexes of every notary must be made twice in every year, the first inspection to begin on the 1st of May and the second on the 1st of November of every year.

(2) In every such inspection care shall be taken to ascertain particularly whether the provisions of the law relating to the drawing up and preservation of the acts, registers and indexes and to the payment of duty on documents have been complied with.

(3) The original acts, together with the respective indexes, shall, on the termination of such inspection, be deposited by the registrar in the Archives.

Record of each inspection.
Amended by: fl. 1937.12,
L.N. 46 of 1965: 01 If, 19'4 68,
118.

(1) The said 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.

The Visitor shall countersign each~olurne inspectrd him.

119.

Each volume of original acts, registers and indexes, and every book and register which the notaries and the Archivist are bound to keep shall be countersigned by the Visitor inspecting the same as provided in this Act.

Procedure for summoning notary for inspection of acts
120.

(1) The notary shall be called for such inspection by means of a formal writ of subpoena issued by the registrar in the

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name of the said court, which must be served on the notary at least fifteen days before the day fixed for the inspection and must specify the acts, registers and indexes which the notary is to produce and the day and hour on 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
121.

(1) The notary summoned as aforesaid must appear either personally or by means of a special attorney, and produce to the Registrar of the Court the acts, registers and indexes specified in the writ of subpoena: and upon such production the

court shall proceed to the inspection of the same.

(2) Together with the acts, registers and indexes, the notary or his attorney shall produce the relative writ of subpoena to the Registrar of the Court who shall make thereon a record of the volumes produced in compliance therewith. Such writ of subpoena shall be retained by the notary or his attorney.

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

The court may, issue warrants of twort or selzurc.
123.

If any person summoned as provided in the last two preceding sections, fails to appear, the court may issue a warrant of escort against such person and order the seizure of the acts, registers, books and indexes specified in the writ of subpoena.

Duties of court

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.

(2) When the contravention consists in any omission on the part of the notary or 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, and shall direct the registrar to see whether such order is punctually carried out. In default of compliance with any such order the notary or the archivist may be liable to suspension from his office for such time as the default continues.

Information of any contravention may be laid by any Person. Procedure.

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-Vj. JYJ74.7. L_-' 4') 01 1965, 0111, 074458,

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 or by any other person, by an application.

(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.

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(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 or 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 section 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 subsections of this section 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 subsection (1) of section 14.

(4) In any of the cases referred to in this section, 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 1 notary. Cc- to -
elive notice thereof to the registrar

Amended by:
XXI 1983,4
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 Lm5, to be awarded by the Court of

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Judicial Police 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.

Admonition and reprimand.

129.

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

Offence against

sec. 29,

Second Part of s.

2 of Ord. VIII of 1859, consolidated.

130.

Any notary who, after having been once admonished by the Court of Revision of Notarial Acts, commits an offence against the provisions of section 29, shall, on conviction by such court, be liable in respect of each such offence to a fine (ammenda) not exceeding fifty cents.

Contraventions punishable with a fine (ammenda)

Amended by:

XI, 1940.4:

XXXI. 1946.10;

XI. 1977.2.

II. 1983.13

XIII 1983,5

XIX. 1988.12;

131.

(1) The notary or Archivist who contravenes the provisions of section 11, paragraph (d) of section 12, paragraphs (a), (i) and (k) of subsection (1) of section 28, sections 34 to 38, section 44, paragraph (a) of subsection (1) of section 52, sections 53, 54, 55, 58, 60, 62, 64, 69, 100, 103 and 105 shall be liable for every contravention, to a fine (ammenda) not exceeding thirty liri.

(2) The notary who contravenes any other provision of this Act shall be liable to a fine (ammenda) not exceeding fifty cents, provided that any notary who during his suspension or incapacity issues any copy or extract shall be liable to a fine (ammenda) from five to twenty liri.

Contraventions punishable with suspension

132.

Any notary who -

- (a) is a recidivist in any contravention under section 68. or;
- (b) through negligence, fails to preserve the acts received by him as provided in this Act; or
- (c) makes opposition to the inspections referred to in sections 115 and 117 or otherwise renders the same impossible; or

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(d) offends against the provisions of paragraphs (a), (b) and (c) of section 12 or of sections 25 and 26. shall be liable to suspension for a period from one to six months.

Causes which entail temporary

Incapacitation of notarial functions.

133.

Any notary -

- (a) against whom any warrant of arrest has been issued; or from exercise or
- (b) who has been sentenced for any of the offences mentioned in paragraph (f) of subsection (1) of section 14 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 be declared in judgment.

134.

In the case of any of the judgments mentioned in the last preceding section. the incapacitation of the notary from the exercise shall of his office shall be ordered in the judgment.

Incapacitation

during the course of proceedings.

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 paragraph (f) of subsection (1) of section 14 have been commenced, may be incapacitated from the exercise of his office by order of the Court of Revision.

Incapacitation enforceable notwithstanding appeal.

136.

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

Penalty of suspension is enforceable notwithstanding appeal.

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 appeal. or as a principal penalty.

Deprivation of office

Amended by: XXXI. 1946,11,

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138.

A notary shall be liable to be deprived of his office if

- (a) he continues to practise during his suspension or incapacitation, saving the provisions of subsection (2) of section 131; or

(b) he has wilfully failed to preserve the acts received by him or the registers thereof or any other acts or registers whereof he is the keeper, saving any heavier punishment prescribed in the Criminal Code; or (C) is, for a second time, a recidivist in any of the contraventions mentioned in paragraphs (a) and (b) of section 132 and paragraph (1) of subsection (1) of section 28.

Cases in which deprivation of office may be ordered by the President of Malta

Amended by:

L.N. 46 of 1965:

LVIII. 1974, 68,

139.

Any notary who has been sentenced for any of the offences

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mentioned in paragraph (f) of subsection (1) of section 14. may be deprived of his office by the President of Malta, unless the deprivation of office has been ordered in the sentence itself.

Extenuating circumstances.

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.

Relapse.

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.

Limitation of disciplinary

142. The disciplinary action against any notary for any contravention under the provisions of this Act, punishable with admonition and reprimand, fine (ammenda), suspension or deprivation of office, shall be barred by the lapse of five years from the day on which the contravention was committed.

Punishment of notary whose conduct is derogatory in the honour and dignity of the profession.

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.

Any order made against any notary in criminal matters shall be communicated to the Attorney General.

Amended by: XL 1937, 12.

LN 46 of 1965:

LVIII, 1974, 68.

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.

Application of punishments mentioned in this Part.

Amended by:

XL 1977, 2,

145.

The disciplinary punishments mentioned in this Part shall be applied by the Court of Revision, saving the provisions of disciplinary section 89.

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

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.

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See s 4 of Ord

XIX of 1936 as amended by:

12 of Ord. XL of

1940 Omitted Under title S.L.R. Ord. & Act of 1936 & 1980 respectively.

(2) The Minister responsible for justice may by regulation add to, or amend, the Schedule to this Act or make any other Tariff or Schedule in substitution thereof.

Saving.

147.

(1) Any obligation, liability, penalty or punishment incurred under Ordinance No. V of 1855, which is hereby repealed, or in connection with any breach of the provisions of that Ordinance, or any proceedings or remedy relating to any such obligation, liability, penalty or punishment, shall not be affected by such repeal.

(2) Every other law or custom contrary to or inconsistent with the provisions of this Act is likewise repealed.

Transitory provisions regarding notarial practice.

148.

The provisions of this Act relating to the practice of the notarial profession shall be observed, so far as they are applicable, even by those notaries who commenced to practise under the provisions of Ordinance No. V of 1855, hereby repealed.

Present notaries and Keepers may continue to exercise their office.

149.

Any notary who under any law hereby repealed was lawfully entitled to exercise the office of notary as well as any notary is at present the Keeper of notarial acts and registers may continue to exercise his office.

Notaries exercising the profession of legal procurator.

Amended by: XL 1937.12.

LN, 4- of 1965:

LVIII. 1974,68.

150.

(1) Notwithstanding the provisions of section 3 any notary who on the first day of January, 1927 was practising as legal procurator may continue to practise as such:

Provided that it shall not be lawful for any such notary to act as legal procurator in lawsuits substantially arising from acts received by him or to receive acts relating to any lawsuit in which he has acted as legal procurator; and in case of contravention the President of Malta, may on the report of the Board referred to in section 7, disable any such notary either from practising as notary or from practising as legal procurator.

(2) It shall be the duty of the Registrars of the courts of justice to communicate to the Attorney General any such contravention which may come to their knowledge.

List of notaries entitled to continue to practise as legal procurators

151.

The names of the notaries who may continue to practise as legal procurators in accordance with the provisions of the last preceding section shall be published by a notice in the Government Gazette* after the expiration of one month from the date of the commencement of this Act.

Power to make regulations

Amended by:

XXXI, 1946.12.

Amended by:
L.N. 4 of 1963:
XXV. 1962.4
XXXI. 1966.2
Substituted by.
II. 1983.14.
152.

(1) The Minister responsible for justice may make regulations generally for carrying out the provisions of this Act and

* See Government Notice No. 348 of 1927

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in particular but without prejudice to the generality of the foregoing such regulations:

- (a) provide for the making of duplicate registers of any original notarial acts lost, destroyed or damaged, 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 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 copies thereof may be authenticated;
- (e) prescribe the fees and other charges to be levied and paid in respect of anything done under the foregoing provisions;
- (f) 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 subsection (1) of this section or under the Duplicate Register of Notarial Acts (Emergency) Regulations, 1942, shall for all intents and purposes, replace the original acts or registers.

SCHEDULE

Sections 81(3), 101(l), 104(l) and 146(l)

TARIFF RELATING TO THE NOTARIAL PROFESSION AND NOTARIAL ARCHIVES

Amended by.
G.N. No. 204 of 1927
G.N. No. 90 of 1928
G.N. No. 352 of 1936
G.N. No. 140 of 1940
GN. No. 434 of 1940
XXXL 1946.13
G.N. No 313 of 1949.
G.N. No 205 of 1954.
L.N. 46 of 1965
L.N. 56 of 1970
XXX 1973.11
L.N. 77 of 1980.
XXI 1983.4
L.N. 74 of 1988.

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 of 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, searches, translations, inspections, reading and collation of acts;
- (e) a fee for other services rendered by notary at the request of parties or in pursuance of an order of any judicial authority;
- (f) accessory charges and reimbursement of expenses.

FIXED FEES

2. Public Wills

Lm c m

For dispositions containing the institution of their and the customary dispositions for the funeral rites, at the discretion of the notary having regard to the circumstances of the testator from 1.00,0 to 3.00,0 in addition to the following fees:

Where the will contains more than one institution or substitution, for each	25,0	
For every foundation		50,0
For every foundation secured by hypotec		75,0
For repeal of previous disposition		25,0
For every legacy of an indeterminable value		30,0
For the legacy –		
Where the value does not exceed Lm 20	30,0	
Where the value exceeds Lm 20 but does not exceed Lm 50	50,0	
Where the value exceeds Lm 50 – for every further Lm 20 or part thereof	15,0	
Where the legatees are two or more, as many fees are due there are legatees.		
For the appointment of an executor		25,0
For the appointment of a tutor or curator	25,0	
For every declaration		25,0
For every declaration verified on oath by the testator	25,0	

3. Secret wills:

For the drawing up of a secret will by the notary, the fee shall be the same as those specified in paragraph 2 in respect of Public Wills.

For the act of delivery of a secret will including the copy to be kept in the minute-book of the notary's acts
2.00,0

For the publication of a secret will (in addition to the expenses and accessory charges) 2.00,0 4.

Deed of foundation, where the value is indeterminable 1.50,0

5. Deed of adoption, emancipation or acknowledgement of an illegitimate child –

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For each person adopted, emancipated or acknowledged

1.50.0

6. Marriage contract containing settlement of dowry of an indeterminable value, variation or counter-declaration in connection with a marriage contract, personal separation or separation of property between husband and wife, cessation of the community of acquests

2.25.0

7. Marriage contract without any settlement of dowry or promise of dower 1.50.0

8. Donation, compromise, community or partition of movables or immovables, where value is indeterminable 1.50.0

9. Deposit of movable things of an indeterminable value, receiving back same from the depository 1.50.0

10. Presentation to a particular benefice or donation of all the right of advowson, whatever the number of patrons taking part in the deed 1.50.0

11. Renunciation on the taking of religious vows 2.25.0

12. Deed of partnership where value is indeterminable from 1.50.0

to 3.50.0

13. Acknowledgement of the grantee in any subemphyteutical grant 75.0

14. Protest of bill of exchange:

For any amount to Lm100 75.0

For any amount exceeding Lm100 but not Lm500 1.20.0

For any amount exceeding Lm500 1.50.0

15. Appointment of arbitrators 90,0

16. Deed of ratification, where value is indeterminable 1.15.0

17. "Act of notoriety" 75.0

18. Enrolment of documents (in addition to the fees in respect of the annexes) 75,0

19. Promise of marriage 75,0

20. Certificate in proof of life or existence of a person	65.0	
21. Renunciation or postponement of hypothecary rights, where value is indeterminable		65.0
22. (a) Any declaration or covenant	75.0	
(b) Any declaration varified on oath	65.0	
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		Lm c m
23. For every jurat		62,5
24. Act of consent		75,0
25. For the drawing up of a power of attorney, including any necessary authentication of signature or marks from 1.00,0 to 3.00,0		
26. Authorization of consent -		
if it relates to only one matter	65,0	
if it relates to several matters	90,0	
if given in general terms by husband or wife or father to son expecting trade	1.50,0	
27. Deed of discharge in general terms, where value is indeterminable	1.50,0	
28. For every other act, where the value is indeterminable		1.50,0
29. For the authentication of signature or cross-marks affixed on any writing containing any act or agreement of any indeterminable value	25,0	
Where the writing is drawn in two or more originals or contains two or more distinct authentications, the said fee shall be increased by twenty-five cents for each additionakl original or authentication.		

II. Fees Porportionate to the value

30. For any deed of transfer, under any title, or any immovable property, creation of annuity, usufruct, use, habitation, easement, assignmet, settlement of dowry, emphyteusis or sub emphyteusis, fees shall be charged according to the value as follows:

For the first amount not exceeding Lm 1.000	1 ½ %
For any additional amount over Lm 1.000 but not exceeding Lm 30.000	½ %
For any additional amount over Lm 30.000 – Lm2 10.0 for every Lm 1.000 or fraction thereof.	

Two-thirds of the said fees shall be charged for any deed of transfer of movable property, loan, acknowledgement of debt, surety, hypothecation by separate deed or substitution of dowry.

The said fees shall be due if the deed is subject to a suspensive condition.

In the case of deed of exchange, the said fees shall be assessed on the portion of immovable or movables exchanged which has the greater value.

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In the case of deeds 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 a deed of suretyship or hypothecation accessory to any obligation arising from a separate deed, the said fees shall be calculated on the value of such obligation.

For any deed of transfer of any grave, site or space at a cemetery	1.00.0
--	--------

31. The fees specified in paragraph 30 shall also be due in respect of -

any deed of reduction or redemption of an annuity, on the value of the amount reduced or redeemed capitalised at 3 %.

any deed of reduction or redemption of ground-rent or of em-phyteutical 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 deed 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 Lm1;

any deed of partition, on the value of the mass without deduction of the debts;

any deed of compromise, on the value of the things forming the subject matter thereof;

any deed of settlement of dowry, on the value of the dowry.

any deed of contract work or locatio operis, on the price of the work reduced to one-third, but so that in no case shall the fee be of less than Lml;

any deed of promise of dower or of securement of the dower or dowry, on the amount of the dower or, as the case may be. on the value of the things assigned in securement of the dower or dowry;

any deed 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 Lml;

any deed of letting and hiring, on the total amount of rent payable reduced by one-half, but so that in no case shall the fee be of less than Lml;

any deed 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 Lml;

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any deed of deposit of any sum, stock, or other things or of delivery of same, payment, enlargement of the time for payment, receipt, consent for the postponement, subrogation, reduction or cancellation of a hypothec, payment or delivery of possession of a legacy, rectification, rescission or dissolution of any other deed, 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 but shall in no case be of less than fifty cents provided that in the case of deeds of cancellation of hypothec relative to deeds of contract of works or locatio operis, such fee shall in no case exceed Lml.

32. Where any matter referred to in paragraphs 30 and 31 can form the object of a private writing, for the authentication of signatures or cross-marks affixed on any such writing there shall be charged the fee specified in those paragraphs reduced to one-half, provided that no extra fee shall be charged for the drawing up of the private writing, if it was drawn by the notary, and that the fee shall not in any case be less than twenty-five cents.

Provided also that if the writing is drawn up in two or more originals, or contains two or more distinct authentications, there shall be charged in addition to the said fee. a fee of twenty-five cents for each additional original or authentication.

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 signing of such private writing, in addition to the reimbursement of any expense incurred by him.

IV. Fees for Copies. Extracts, Searches, Translations, Inspections, Reading and Collation of Acts

34. For copies and extracts legalised by the notary, there shall be charged a fee of ten cents for every page containing about one hundred written words besides a transcription fee of five cents for every such page. Every page whereon five lines have been written (exclusive of the date and signatures) shall be deemed to be a full page.

The said fee shall in no case be less than twenty-five cents.

For any copy or extract not legalised by the notary, even though prepared by the parties, and for any precis of an act. the said fee shall be reduced to one-half. provided that it shall in no case be of less than fifteen cents.

35. For the certifying or attesting of the accuracy of copies or extracts from books or documents produced by the parties as

provided in paragraph (g) of subsection (2) of section 2 of the

Notarial Profession and Notarial Archives Act there shall be charged a fee of twenty-five cents in addition to the fee under the last preceding paragraph.

36. For any certificate attesting any transition in terms of paragraph (h) of subsection (2) of section 2 of the said Act, there shall be charged a fee of forty cents in addition to the fee of fifty cents for every page of about one hundred words to be translated.

37. For a search of a deed where only the year in which it was received is indicated, a fee of five cents shall be payable to the notary; where the search extends over two or more years, a fee of five cents shall be due in respect of the first year, and a fee of five cents in respect of each subsequent year to which the search extends.

If the search extends to all acts received by the notary, there shall be charged a fee of five cents for each year.

38. For the inspection and reading of an act. a fee of five cents shall be due.

If the act, at the request of the parties, is read over to them by the notary, the said fee shall be doubled.

No fee shall be charged for the inspection of the act, if the party orders or makes a copy or extract thereof or 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 10c0 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 30%.

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.

Cap.12

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.

Cap 239

40. For the drawing up of the notice of any succession or other transfer chargeable with duty under the Death and Donation Duty I Act. the notary shall be entitled to the same fees as an advocate....

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...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. Where for the performance of his functions the notary has to leave his office or any of his offices, in addition to the reimbursemerit of all travelling and board and lodging expenses, he shall be entitled to the following fees:

If the place to which he has to travel is at a distance

Lm c m

not exceeding eight kilometres from his office or, as the case may be, his nearest office 50,0

If the distance exceeds eight kilometres, but does not involve travelling between two islands . 1.00.0

If the notary has to travel between two islands 3.00,0

If the notary's attendance is required at night-time, the said fee shall be doubled.

"Night-time" means the time between the hours of 7 p.m. and 8 a.m. during the period from the 1st day of October to the 31st day of March, and the time between 8 p.m. and 7 a.m. during the period from the 1st day of April to the 30th day of September.

No fee shall be due for attending at the Public Registry or the court of justice for the purpose of filing any note.

43. For the registration of acts and annexes as provided in section 58 of the Act already referred to, the notary shall be entitled to a fee of five cents 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 a renunciation made on the taking of monastic vows, 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 deed where the value involved is not ascertainable, the notary shall be entitled to a fee of 25cO.

For the drawing up of any note of reference to an assignment or reduction, the notary shall be entitled to a fee of 75cO, in addition to a transcription fee of 5cO for every 100 words copied in such note.

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For the drawing up of any note of cancellation, the notary shall be entitled to a fee of 25cO, in addition to a transcription fee of 5cO for every 100 words copied in such note.

For the drawing up of any note of enrolment of any deed, 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:

	Lmcm
where the value or the amount of the debt does not exceed Lm50	15.0
where it exceeds Lm50 but does not exceed Lm100	20.0
where it exceeds Lm100 but does not exceed Lm250	25.0
where it exceeds Lm250 but does not exceed Lm500	30.0
where it exceeds Lm500 but does not exceed Lm750	50.0
where it exceeds Lm750 but does not exceed Lm 1.000	60.0
where it exceeds Lm 1.000 but does not exceed Lm 2.500	75.0
where it exceeds Lm 2.500 but does not exceed Lm5.000	1.00.0
where it exceeds Lm5.000 but does not exceed Lm7.500	1.65.0
where it exceeds Lm7.500 but does not exceed Lm10.000	1.50.0
where it exceeds Lm 10.000 an initial fee of	1.50.0

and in addition fifteen cents in respect of each Lm 1.000 or part of Lm 1.000, over and above the first Lm 10,000.

For every note for enrolment relating to an annuity or a pension or for registration or renewal of registration of a privilege or hypothec in respect of a debt which is an annuity or pension, the fees laid down in the foregoing scale shall be levied in the following manner, viz.

- (a) if the annuity is constituted in perpetuity or for twenty years or more, or for an indefinite period, the fee is to be assessed on the total amount payable during the period of twenty years;
- (b) if the annuity is constituted for a definite period under twenty years, the fee is to be assessed on the total amount payable during such period.

(c) if the annuity is constituted for the life or lives of any person or persons, the fee is to be assessed on the total amount payable during the period of twelve years.

For the drawing up of any note referred to in section 47 and 49 of the Act already mentioned or of any other note, a fee of fifteen cents shall be due to the notary.

For every annotation in the margin of an act required or ordered under the provisions of the said Act the notary may charge a fee of ten cents.

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.

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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.

PART II

FEES PAYABLE IN THE NOTARIAL ARCHIVES

46. For any copy, extract, inspection or perusal of any notarial act deposited in the Archives, the same charges as are due to notaries by way of fee, shall be levied: provided 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 3cO per page.

No fee shall be levied for the inspection of an act if the party orders a copy or extract thereof or therefrom.

For any copy of or extract from any act which is difficult to read, the fees normally payable shall be doubled.

47. For the inspection or perusal of any notarial act kept in the Archives, a fee of 5cO shall be charged:

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 5cO 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.

48. For the search of any act whereof the Archivist is keeper, the fees prescribed in paragraph 37 of this Tariff, shall be payable to the Archivist.

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 justice 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 20c shall be paid by the person in whose interest the act shall have been so removed.

CAP. 56.1 PUBLIC REGISTRY

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CHAPTER 56

PUBLIC REGISTRY ACT

To repeal and to re-enact with amendments the law relating to the Public Registry.
(12th May, 1927) *

Enacted by Act XII of 1927, as amended by Act of 1928, Ordinances. XXV of 1938, XL of 1939 and XXIV of 1940: Acts: XXIX of 1948 and VI of 1951., Legal Notice 4 of 1963: and Acts: XXV of 1963, III and XXIII of 1967, III of 1969. V of 1972. XI of 1973, VI of 1974, XXXV of 1979 and XIII of 1983, XVII of 1984, XII of 1986 and XXXI of 1986: Legal Notice 71 of 1987 and Act XXXVII of 1988. Incorporating also Sections 7(2), 8, II and 12 of, and Form annexed to Ordinance XIII of 1983.

Short title.

1. This Act may be cited as the Public Registry Act.

A Public Registry Office in Valletta (Malta) and another in Victoria (Gozo)

2. There shall be a Public Registry Office in the city of Valletta (Malta) and another in the city of Victoria (Gozo) for the registration of causes of preference among creditors for the enrolment of acts requiring registration in order to have effect in regard to third parties, and for all other registrations required by law.

Director of the Public Registry,

Amended by:

III. 1967.2:

XXIII. 1967.2:

XXXV. 1979.2;

XXXI. 1986.2.

3. (1) Each of the said offices shall be under the management of an officer called Director of the Public Registry, hereinafter referred to as the Director, who shall also be the Treasurer of the Registry, and shall receive on account of the Government the fees leviable in accordance with the Tariff in the First Schedule hereto.

Assistant Director of Public Registry.

(2) In the Public Registry Office of Valletta (Malta), there shall also be two Assistant Directors.

(3) Saving the provisions of subsection (1) of this section and of section 35, any of the Assistant Directors may exercise all or any of the functions which are by this Act assigned to the Director.

Delegation of Functions by Director

(3A) The Director may delegate or assign any of his functions under this Act to officers who hold the degree of Doctor of Laws and who perform duties in the Public Registry, which delegation or assignment shall be notified in the Gazette before such officers commence to perform such functions.

(3) In the exercise of any such function an Assistant Director or an officer mentioned in subsection (3A) of this section shall have the same powers and the same obligations as are by this Act conferred on or imposed upon the Director and to the extent required for that purpose any reference in this Act to the Director, except such reference in subsection (3) of this section, in section 35 and in section 37, shall be deemed to include a reference to an Assistant Director or an officer mentioned in subsection (3A) of this section.

* See Act No. V of 1927. omitted under the Statute Law Revision Ordinance. 1936, the Statute Law Revision Act. 1980, and Government Notice No. 145 of the 26th of April, 1927.

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PART III

FEES PAYABLE TO EXPERTS AND INTERPRETERS

51. The fees payable to any paleographer, photographer or other special expert for services rendered under section 77 of the Act, and the fees payable to any interpreter shall be taxed by the notary or the Archivist, as the case may be, by agreement with the parties, before the execution of the work by the paleographer, photographer or expert or before the employment of the interpreter.

In case of dispute the said fees shall be taxed by the court of voluntary jurisdiction, regard being had to the particular circumstances.
