

Nru. 17

14. 5. 82.

MALTA**KAMRA TAD-DEPUTATI****HOUSE OF REPRESENTATIVES**

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Cassar, M.P., Deputat Prim Ministru Anzjan u Ministru tal-Gustizzja u Affarijiet tal-Parlament u moqri għall-Ewwel Darba fis-Seduta ta' l-10 ta' Mejju, 1982.

A BILL introduced by the Honourable Joseph Cassar, M.P., Senior Deputy Prime Minister and Minister of Justice and Parliamentary Affairs and read the First time at the Sitting of the 10th May, 1982.

ATT biex ikompli jemenda l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, Kap. 92.

AN ACT further to amend the Notarial Profession and Notarial Archives Act, Cap. 92.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

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Clerk to the House of Representatives

ABBOZZ TA' LIĠI

msejjah

ATT biex ikompli jemenda l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, Kap. 92.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, fiha b'liġi dan li ġej:—

Titolu
fil-qosor u bidu
fis-señh.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1982 li jemenda l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

(2) Dan l-Att għandu jibda f'dak il-ġum li l-Ministru responsabbli għall-ġustizzja jista' jstabbilixxi b'avviż fil-Gazzetta.

Emenda ta'
l-artikolu 18
ta' l-Att
prinċipali.

2. Minnufih wara l-proviso għall-artikolu 18 ta' l-Att prinċipali għandu jiżded il-proviso ġdid li ġej:

"Izda wkoll meta l-kariga ta' Nutar Pubbliku fid-Dipartiment ta' l-Artijiet tkun vakanti, il-Konservatur ta' l-Arkivju ta' Malta jkun *ex officio* il-Konservatur ta' l-artijiet u registri tan-Nutara ta' qabel fid-Dipartiment ta' l-Artijiet."

Zieda ta'
artikoli godda
52A u 52B ma'
l-Att prinċipali.

3. Minnufih wara l-artikolu 52 ta' l-Att prinċipali għandhom jiżdedu l-artikoli godda li ġejjin:

"Dmirijiet
ta' Nutara
li joqgħodu
f'Malta li
jirċievu
ċerti
attijiet
dwar
immobbli
sitwati
f'Għawdex
jew
Kemmuna.

52A. (1) Kull Nutar li joqgħod fil-Gżira ta' Malta li jirċievi xi att imsemmi fil-paragrafi (a), (b), (ċ), (e), (f), (g), (h), (i), (j) u (k) tas-subartikolu (1) ta' l-artikolu 50 ta' dan l-Att dwar immobbli sitwati fil-Gżejjer ta' Għawdex u Kemmuna għandu, fi żmien xahar mid-data ta' l-att, jibgħat kopja awtentika ta' dak l-att u tad-dokumenti mehmuża miegħu lill-Konservatur ta' l-Arkivji f'Malta.

(2) Il-Konservatur ta' l-Arkivji f'Malta għandu jagħti riċevuta għal dik il-kopja u n-Nutar għandu jehmeż dik ir-riċevuta ma' l-att originali.

(3) Il-Konservatur ta' l-Arkivji f'Malta għandu, mhux iktar tard mill-ħmistax-il jum ta' kull xahar, jibgħat il-kopji riċevuti skond is-subartikolu (1) ta' dan l-artikolu bejn l-ewwel u l-aħħar jum tax-xahar ta' qabel lill-Konservatur ta' l-Arkivji f'Għawdex.

(4) Il-Konservatur ta' l-Arkivji f'Għawdex għandu jzomm il-kopji riċevuti matul kull sena skond dan l-artikolu f'volum jew f'volumi illegati, u għandu jinkludi fihom indiċi tal-kopji li juri l-isem tan-Nutar li jirċievi l-att, id-data ta' l-att u l-partijiet fih.

(5) Il-Konservatur ta' l-Arkivji f'Għawdex għandu jkollu, dwar il-kopji riċevuti skond dan l-artikolu, idmirijiet mogħtija lilu dwar l-attijiet originali.

“Dmirijiet ta' Nutara li joqgħodu f'Għawdex jew Kemmuna li jirċievu attijiet dwar immobbli sitwati f'Malta.

52B. (1) Kull Nutar li joqgħod f'waħda mill-Gzejjer ta' Għawdex u Kemmuna, li jirċievi xi att imsemmi fil-paragrafi (a), (b), (ċ), (f), (g), (ħ) u (i) tas-subartikolu (1) ta' l-artikolu 50 ta' dan l-Att dwar immobbli sitwati fil-Gżira ta' Malta, għandu, fiż-żmien speċifikat fis-subartikolu (1) ta' l-artikolu 52A ta' dan l-Att jibgħat lill-Konservatur ta' l-Arkivji f'Għawdex kopja awtentika ta' dak l-att.

(2) Id-disposizzjonijiet tas-subartikoli (2), (3), (4) u (5) ta' l-artikolu 52A ta' dan l-Att għandhom japplikaw *mutatis mutandis* għall-kopji msemmija fis-subartikolu (1) ta' dan l-artikolu.”.

4. L-artikolu 57 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (3) tiegħu għandu jidhul dan li ġej:

“(3) Fir-reġistru ma jista' jsir ebda brix jew tħassir jew zieda ta' aktar minn għoxrin kelma f'kull att:

Izda meta xi kliem jithassru u jkunu sostitwiti b'xi kelma waħda jew iktar, għandu jingħad biss in-numru tal-kliem imħassra jew tal-kliem miżjuda minflokhom, skond liema jkun l-ikbar.”; u

(b) minnufih wara l-proviso għas-subartikolu (4) tiegħu għandu jidhul il-proviso ġdid li ġej:

“Izda wkoll it-tħassir u ż-żidiet imsemmija fis-subartikolu (3) ta' dan l-artikolu jistgħu jkunu miktubin bl-idejn minkejja li r-reġistru jkun dattilografat jew stampat.”.

Emenda ta' l-artikolu 57 ta' l-Att prinċipali.

5. Minflok l-artikolu 60 ta' l-Att prinċipali għandu jidhul dan li ġej:

“Kull volum m'għandux ikun fih iktar minn 750 paġna.

60. Ebda volum ta' l-attijiet originali jew tar-reġistri ma jista' jkun fih iktar minn seba' mija u ħamsin paġna.”.

Sostituzzjoni ta' l-artikolu 60 ta' l-Att prinċipali.

6. Fis-subartikolu (1) ta' l-artikolu 66 ta' l-Att prinċipali minflok il-kliem “ħilief għat-testatur innifsu jew persuna li jkollha mandat awtentiku minnu, jew persuni oħra fil-preżenza tat-testatur” għandhom jidhlu l-kliem “ħilief għat-testatur innifsu jew lil xi persuna fil-preżenza tat-testatur, jew lil xi persuna oħra li jkollha mandat speċjali mingħand it-testatur, liema mandat speċjali għandu jkun awtentikat u jinżmm min-Nutar.”.

Emenda ta' l-artikolu 66 ta' l-Att prinċipali.

- Emenda ta' l-artikolu 72 ta' l-Att prinċipali.
- 7.** Minnufih fit-tarf tas-subartikolu (4) ta' l-artikolu 72 ta' l-Att prinċipali għandhom jiżdedu l-kliem "liema estratt għandu jinzamm min-Nutar".
- Emenda ta' l-artikolu 95 ta' l-Att prinċipali.
- 8.** Minnufih wara l-paragrafu (d) ta' l-artikolu 95 ta' l-Att prinċipali għandu jiżded il-paragrafu ġdid li ġej:
“(e) il-kopji depożitati skond l-artikolu 52B ta' dan l-Att.”.
- Emenda ta' l-artikolu 96 ta' l-Att prinċipali.
- 9.** Minnufih wara l-paragrafu (d) ta' l-artikolu 96 ta' l-Att prinċipali għandu jiżded il-paragrafu ġdid li ġej:
“(e) il-kopji depożitati skond l-artikolu 52A ta' dan l-Att.”.
- Emenda ta' l-artikolu 108 ta' l-Att prinċipali.
- 10.** L-artikolu 108 ta' l-Att prinċipali għandu jiġi emendat kif ġej:
(a) id-disposizzjoni preżenti għandha tiġi numerata mill-ġdid bħala subartikolu (1); u
(b) minnufih wara s-subartikolu (1) tiegħu għandu jiżded is-subartikolu ġdid li ġej:
“(2) Kemm-il darba l-egħmil ma jikkostitwix reat iktar gravi taħt xi liġi oħra, kull persuna li tidhol jew li tibqa' fl-Arkivji barra dawk il-ġranet u ħinijiet mingħajr il-permess ta' l-Arkivist jew tal-Qorti ta' Revizzjoni ta' l-Attijiet Nutarili, tkun ħatja ta' reat u tehel meta tinsab ħatja l-piena stabbilita għal kontravvenzjonijiet.”.
- Sostituzzjoni ta' l-artikolu 109 ta' l-Att prinċipali.
- 11.** Minflok l-artikolu 109 ta' l-Att prinċipali għandu jidhol dan li ġej:
“Persuni li jidhlu fl-Arkivji għandhom jobdu l-ordnijiet ta' l-Arkivist.
109. (1) L-Arkivist jista' jagħti direttivi biex jinzamm l-ordni fil-lokal taħt il-kontroll tiegħu u biex ikun hemm sigurtà u ħarsien mill-periklu f'dak il-bini.
(2) Kull persuna li ma tobdux xi direttivi mogħtija skond is-subartikolu (1) ta' dan l-artikolu tkun, sakemm l-egħmil ma jikkostitwix reat iktar gravi, ħatja ta' reat u tehel, meta tinsab ħatja, il-piena stabbilita għal kontravvenzjonijiet.”.
- Emenda ta' l-artikolu 133 ta' l-Att prinċipali.
- 12.** Minflok is-subartikolu (1) ta' l-artikolu 133 ta' l-Att prinċipali għandu jidhol dan li ġej:
“(1) In-Nutar jew l-Arkivist li jikser id-disposizzjonijiet ta' l-artikolu 11, tal-paragrafu (d) ta' l-artikolu 12, tal-paragrafi (a), (i) u (k) tas-subartikolu (1) ta' l-artikolu 28, ta' l-artikoli mill-34 sat-38, ta' l-artikolu 44, tal-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 52, ta' l-artikoli 52A, 52B, 53, 56, 58, 62, 66, 67, 98, 102 u 106 ikun ħati għal kull kontravvenzjoni, ammenda ta' mhux iżjed minn ħames liri.”.
- Sostituzzjoni ta' l-artikolu 154 ta' l-Att prinċipali.
- 13.** Minflok l-artikolu 154 ta' l-Att prinċipali għandu jidhol dan li ġej:
“Setgħa' għall-egħmil ta' regolamenti.
154. (1) Il-Ministru responsabbli għall-gustizzja jista' jagħmel regolamenti b'mod ġenerali sabiex jitwettqu d-disposizzjonijiet ta' dan l-Att u b'mod partikolari iżda bla ħsara għall-ġeneralità ta' dak li ntqal qabel, jista' b'dawk ir-regolamenti:
(a) jipprovd i sabiex isiru registri duplikati ta' kull attijiet nutarili oriġinali li jkunu mitlufa, distrutti jew

danneġġati, u biex jiġi sostitwit xi reġistru mitluf, distrutt jew danneġġat;

(b) jippreskrivi l-mod li bih dawn ir-reġistri duplikati jew ir-reġistri godda jkunu preparati u awtentikati;

(ċ) jippreskrivi li attijiet jew reġistri depożitati fl-Arkivji jiġu riprodotti permezz ta' *microfilming*, u l-mod li bih dawn ir-riproduzzjonijiet għandhom isiru, jinħażnu u jkunu aċċessibbli għall-pubbliku;

(d) jippreskrivi l-mod kif riproduzzjonijiet magħmula permezz ta' *microfilming* u l-kopji tagħhom jistgħu jiġu awtentikati;

(e) jippreskrivi d-drittijiet u l-hlasijiet oħra li għandhom jingabru u jithallsu dwar kull haġa magħmula taħt id-disposizzjonijiet ta' hawn fuq;

(f) jipprovdi għal kull haġa inċidentali jew supplimentari għal kull waħda mid-disposizzjonijiet ta' hawn fuq.

(2) Kull reġistru duplikat jew reġistru ġdid li jkun sar skond regolamenti magħmula taħt is-subartikolu (1) ta' dan l-artikolu jew taħt ir-Regolamenti ta' l-1942 dwar ir-Reġistru Duplikat ta' l-Attijiet Nutarili f'Emergenza, għandhom għall-għanijiet u finijiet kollha, ikunu flok l-attijiet jew ir-reġistri originali.”.

Għanijiet u Ragunijiet

L-Abbozz jipprovdi li tinghata s-setgħa lill-Ministru responsabbli għall-ġustizzja biex jagħmel regolamenti fuq il-*microfilming* ta' attijiet depożitati fl-Arkivji, u jipprovdi wkoll li kopji ta' xi attijiet nutarili jkunu aċċessibbli fl-Arkivji tal-Gżira fejn il-proprjetà tkun sitwata u għal hwejjeġ li għandhom x'jaqsmu ma' l-amministrazzjoni ta' l-Arkivji.

A BILL

entitle

AN ACT further to amend the Notarial Profession and Notarial Archives Act, Cap. 92.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.

1. (1) This Act may be cited as the Notarial Profession and Notarial Archives (Amendment) Act, 1982, and shall be read and construed as one with the Notarial Profession and Notarial Archives Act, hereinafter referred to as “the principal Act”.

(2) This Act shall have effect from such date as the Minister responsible for justice may by notice in the Gazette appoint.

Amendment of section 18 of the principal Act.

2. Immediately after the proviso to section 18 of the principal Act there shall be added the following new proviso:

“Provided further that where the office of Notary Public in the Land Department is vacant, the Keeper of the Malta Archives shall *ex officio* be the Keeper of the deeds and registers of former Notaries in the Land Department.”.

Addition of new sections 52A and 52B to the principal Act.

3. Immediately after section 52 of the principal Act there shall be added the following new sections:

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

52A. (1) A Notary residing in the Island of Malta who receives any act mentioned in paragraphs (a), (b), (c), (e), (f), (g), (h), (i), (j) and (k) of subsection (1) of section 50 of this Act relating to immovables situated in the Islands of Gozo and Comino shall, within one month from the date of the act, deliver an authenticated copy of such act and of the documents annexed thereto to the Keeper of the Archives in Malta.

(2) The Keeper of the Archives in Malta shall give a receipt for such copy and the Notary shall annex such receipt to the original act.

(3) The Keeper of the Archives in Malta shall, not later than the fifteenth day of each month, deliver the copies received in terms of subsection (1) of this section between the first and last day of the preceding month to the Keeper of the Archives in Gozo.

(4) The Keeper of the Archives in Gozo shall keep the copies received in any one year in terms of this section in a bound volume or volumes, and shall therein include an index of the copies showing the name of the Notary receiving the act, the date of the act and the parties thereto.

(5) The Keeper of the Archives in Gozo shall have, with respect to the copies received in terms of this section, the duties which are conferred on him with respect to original acts.

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

52B. (1) A Notary residing in one of the Islands of Gozo and Comino, who receives any act mentioned in paragraphs (a), (b), (c), (f), (g), (h) and (i) of subsection (1) of section 50 of this Act relating to immovables situated in the Island of Malta, shall, within the time specified in subsection (1) of section 52A of this Act deliver to the Keeper of the Archives in Gozo an authenticated copy of such act.

(2) The provisions of subsections (2), (3), (4) and (5) of section 52A of this Act shall *mutatis mutandis* apply to the copies referred to in subsection (1) of this section.”

4. Section 57 of the principal Act shall be amended as follows:
 (a) for subsection (3) thereof there shall be substituted the following:

Amendment of section 57 of the principal Act.

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

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

- (b) immediately after the proviso to subsection (4) thereof there shall be added the following new proviso:

“Provided further that cancellations and additions referred to in subsection (3) of this section may be handwritten notwithstanding that the register is typewritten or printed.”

5. For section 60 of the principal Act there shall be substituted the following:

Substitution of section 60 of the principal Act.

“Volumes not to contain more than 750 pages

60. No volume of the original acts or of the registers shall contain more than seven hundred and fifty pages.”

6. In subsection (1) of section 66 of the principal Act for the words “except to the testator himself or to a person holding a special authority from him, duly authenticated, or to any other person in the

Amendment of section 66 of the principal Act.

presence of the testator” there shall be substituted the words “except to the testator himself or to any person in the presence of the testator, or to any other person holding a special authority from the testator, which special authority shall be duly authenticated and shall be retained by the Notary.”.

Amendment of section 72 of the principal Act.

7. Immediately at the end of subsection (4) of section 72 of the principal Act there shall be added the words “which abstract shall be retained by the Notary”.

Amendment of section 95 of the principal Act.

8. Immediately after paragraph (d) of section 95 of the principal Act there shall be added the following new paragraph:

“(e) the copies deposited in terms of section 52B of this Act.”.

Amendment of section 96 of the principal Act.

9. Immediately after paragraph (d) of section 96 of the principal Act there shall be added the following new paragraph:

“(e) the copies deposited in terms of section 52A of this Act.”.

Amendment of section 108 of the principal Act.

10. Section 108 of the principal Act shall be amended as follows:

(a) the present provision shall be renumbered as subsection (1); and

(b) immediately after subsection (1) thereof there shall be added the following new subsection:

“(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.”.

Substitution of section 109 of the principal Act.

11. For section 109 of the principal Act there shall be substituted the following:

“Persons entering the Archives shall obey orders of the Archivist. 109. (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.”.

Amendment of section 133 of the principal Act.

12. For subsection (1) of section 133 of the principal Act there shall be substituted the following:

“(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 (b) of subsection (1) of section 52, sections 52A, 52B, 53, 56, 58, 62, 66, 67, 98, 102 and 106 shall be liable for every contravention, to a fine (*ammenda*) not exceeding five pounds.”.

13. For section 154 of the principal Act there shall be substituted the following:

Substitution of section 154 of the principal Act.

“Power to make regulations.

154. (1) The Minister responsible for justice may make regulations generally for carrying out the provisions of this Act and in particular but without prejudice to the generality of the foregoing, may by such regulations:

(a) provide for the making of duplicate registers of any original notarial acts lost, destroyed or damaged, and for the substitution of any register lost, destroyed or damaged;

(b) prescribe the mode in which such duplicate registers or new registers shall be prepared and authenticated;

(c) prescribe that acts or registers deposited in the Archives be reproduced by microfilming, and 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.”.

Objects and Reasons

The Bill provides for empowering the Minister responsible for justice to make regulations on the microfilming of acts deposited in the Archives, and provides also for copies of some notarial acts to be made available in the Archives of the Island where the property is situated and for matters relating to the administration of the Archives.