

Abbozz ta' Liġi msejjah

ATT biex jemenda l-Att dwar il-Patrimonju Kulturali, Kap 445.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2011 li jemenda l-Att dwar il-Patrimonju Kulturali, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-Patrimonju Kulturali, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-seħh.

Kap. 445.

(2) Id-disposizzjonijiet ta' dan l-Att għandhom jiġu fis-seħh f'dik id-data li l-Ministru responsabbli għall-patrimonju kulturali jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. Fl-artikolu 2 tal-Att prinċipali, minnufih wara t-tifsira "sena finanzjarja", għandha tiżdied it-tifsira ġdida li ġejja:

Emenda tal-
artikolu 2 tal-
Att prinċipali.

" "snajja' ta' konservazzjoni tal-patrimonju" tinkludi, iżda mhiex limitata għal, dawk is-snajja, attitudini u kompetenzi xierqa għal xogħol partikolari fil-qasam tal-patrimonju kulturali; dan jinkludi l-applikazzjoni ta' sengħa jew xogħol, għerf, użanza, arti, teknika jew okkupazzjoni li hija frott għerf u sengħa li tkun żviluppata u protetta, sew permezz ta' tradizzjoni sew jekk b'istruzzjoni, u li għandha kuntest ta' konservazzjoni. Dawn it-tipi ta' snajja' jirrapreżentaw xhieda importanti tat-tip

ta' hajja, użanzi, htigijiet, fehmiyet u tradizzjonijiet ta' soċjeta tul id-diversi snin u dixxiplini varji;".

Sostituzzjoni tal-artikolu 31 tal-Att prinċipali.

3. L-artikolu 31 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Kwalifiki għal *warrant*."

31. (1) Hadd ma għandu jeżerċita l-professjoni ta' Konservatur-Restawratur kemm-il darba ma jkunx id-detentur ta' *warrant* taht l-artikolu 33.

(2) Persuna ma tikkwalifikax għall-ġhoti ta' *warrant* kemm-il darba -

(a) ma tkunx ċittadin ta' Malta, tal-Unjoni Ewropea, jew xort'oħra jkollha permess li taħdem f'Malta skont xi liġi;

(b) ma jkollhiex kondotta u reputazzjoni tajba;

(ċ) ma jkollhiex kapaċità legali sħiħa;

u

(d) ma tissodisfax lill-Bord li -

(i) ikollha kwalifiki akkademiċi miksuba wara t-temm b'suċċess ta' kors ta' studju f'livell terzjarju, ekwivalenti għall-livell 7 tal-*European Qualifications Framework* ta' mill-anqas tliet snin *full-time*, jew livell 6 ta' mill-anqas erba' snin *full-time*, jew perjodu ekwivalenti *part-time* f'dik l-università jew istituzzjoni akkademika kif tista' tkun rikonoxxuta mill-Bord imsemmi fl-artikolu 34, u li jkun kors li jkun fih u jkopri dawk is-suġġetti prinċipali fil-qasam tal-konservazzjoni u restawr kif il-Bord jista' jippreskrivi:

Iżda, fil-każ ta' individwi li jkunu ġew mharrġa f'ġurisdizzjonijiet oħra fejn it-taħriġ ma jwassalx għal kwalifiki akkademiċi kif imfisser f'dan is-subparagrafu, l-individwu kkonċernat għandu jippreżenta din l-informazzjoni lill-Bord, flimkien ma' kull evidenza ta' taħriġ jew apprentistat li għadda minnu dan l-individwu, u jkun fid-diskrezzjoni tal-Bord biex jiddeċiedi jekk l-individwu jkunx lahaq livell adegwat fit-taħriġ tiegħu jew le; u

(ii) għal perjodu ta' mhux inqas minn sentejn wara li tikseb il-kwalifiki akkademiċi msemmija fis-subparagrafu (i), tkun tħarrġet fil-prattika ta' konservazzjoni-restawr taħt is-superviżjoni ta' detentur ta' persuna bil-*warrant* prattikanti, skont dawk il-linji gwida kif il-Bord jista' jippreskrivi, jew ma' istituzzjoni rikonoxxuta mill-Bord:

Izda għall-ewwel hames snin wara li tiġi fis-seħh din it-Taqsima, il-prattika tal-konservazzjoni-restawr tista' titwettaq taħt is-superviżjoni ta' persuna li hi stess hija eligibbli għall-*warrant* ta' konservatur-restawratur; u

(iii) tkun giet debitament eżaminata mill-Bord f'valutazzjoni għal dan il-għan, wara li tkun ipproduċiet evidenza ta' taħriġ akkademiku u *portfolio* tax-xogħol tagħha lill-Bord, kif il-Bord jista' jippreskrivi fil-proċeduri tiegħu:

Izda fejn il-kwalifiki akkademiċi msemmija fis-subparagrafu (i) huma miksuba wara kors *full-time* fil-konservazzjoni-restawr li fit-total idum għall-inqas għal hames snin, sal-livell 7 tal-*European Qualifications Framework* jew oġhla, u li jkun fihom dak il-livell ta' taħriġ prattiku kif jista' jkun approvat mill-Bord, il-kondizzjoni ta' taħriġ taħt superviżjoni titqies li giet sodisfatta."

4. L-artikolu 32 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 32 tal-Att prinċipali.

"Ċirkostanzi speċjali.

32. Minkejja d-disposizzjonijiet tal-artikolu 31, persuna tista' tingħata *warrant* jekk ikollha:

(a) il-kwalifiki elenkati fl-artikolu 31(2)(a), (b) u (ċ); u

(b) tkun, qabel il-bidu fis-seħh ta' dan l-artikolu, ipprattikat bħala konservatur-restawratur f'Malta jew barra minn Malta għal perjodu ta' mhux inqas minn hames snin; u

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(ċ) wara eżami tal-*portfolio* tagħha mill-Bord, kif il-Bord jista' jippreskrivi, ikollha fl-opinjoni tal-Bord il-kompetenza u l-abbiltà akkademika meħtieġa."

Sostituzzjoni tal-artikolu 33 tal-Att prinċipali.

5. L-artikolu 33 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"*Warrant* ta' prattika bhala konservatur-restawratur professjonali.

33. (1) *Til-warrant* biex persuna tipprattika l-professjoni ta' konservatur-restawratur jingħata mill-Ministru fuq ir-rakkomandazzjoni tal-Bord, u ffirmat mill-istess Ministru, lil kull min jissodisfa l-htigiet tal-artikoli 31 jew 32:

Iżda fl-eventwalità li deciżjoni ma tiġix notifikata lill-applikant f'terminu ta' żmien raġjonevoli, l-applikant ikollu d-dritt jappella quddiem il-Bord tal-Appelli dwar il-Patrimonju Kulturali:

Iżda wkoll applikazzjoni għal *warrant* ma titqiesx li tkun giet ippreżentata minn applikant kemm il-darba din ma tkunx mimlija kollha u jkollha magħha l-informazzjoni u d-dokumentazzjoni kollha meħtieġa.

(2) Detentur ta' *warrant* biss jista' juża t-titolu Konservatur-Restawratur flimkien ma' ismu.

(3) Persuna li jkollha *warrant* maħruġ skont it-termini ta' dan l-artikolu tista', b'żieda ma' dan, ikollha ċertifikat wieħed jew aktar maħruġin mill-Bord (minn hawn 'il quddiem msejjaħ "ċertifikat ta' prattika") sabiex tipprattika f'oqsma partikolari ta' konservazzjoni-restawr li jistgħu jkunu elenkati mill-Bord minn żmien għal żmien, u ma tistax tipprattika f'dawk l-oqsma mingħajr ma jkollha ċ-ċertifikat ta' prattika rilevanti.

(4) Il-*warrant* mogħti bis-setgħa ta' din it-Taqsima jibqa validu għal hames snin u jista', wara dan il-perjodu, jiġġedded.

(5) It-tiġdid tal-*warrant* ta' konservatur-restawratur jista' jkun soġġett għal ċerti htigiet professjonali stabbiliti mill-Bord, bħal ma hi l-htieġa li wieħed iwettaq numru stabbilit ta' sigħat ta' żvilupp professjonali kontinwu."

Sostituzzjoni tal-artikolu 33A tal-Att prinċipali.

6. L-artikolu 33A tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Persuni oħra li jaħdmu flimkien ma' Konservatur-Restawratur. Kap. 390.

33A. (1) Fir-rigward ta' patrimonju mibni, xejn f'dan l-Att ma jeżenta lill-Perit inkarigat minn sit mir-responsabbiltajiet li, b'riżultat tal-Att dwar il-Periti, jew ta' regolamenti rilevanti magħmula taħt l-Att, jappartjenu biss lill-Perit inkarigat mis-sit jew mill-proġett.

Kap. 390.

(2) Xejn f'dan l-Att ma għandu jiġi interpretat jew jinftiehem li qed jattribwixxi lid-detentur ta' *warrant* ta' konservatur-restawratur l-istess setgħat li jappartjenu lil Perit skont l-Att dwar il-Periti.

(3) Il-Bord jista' jikkollabora ma' bordijiet ta' *warranting*, assoċjazzjonijiet, jew organizzazzjonijiet ta' professjonijiet oħra li jaħdmu mill-qrib ma' konservaturi-restawraturi biex jaqsmu elenki rikonoxxuti ta' professjonisti rispettivi, hawn iżjed 'il quddiem imsejha "persuni elenkati".

(4) Persuni mharrġa adegwatament jew ta' esperjenza jistgħu japplikaw mal-Bord sabiex ikunu elenkati bħala persuni li għandhom sengħa waħda jew aktar, kif ikun il-każ, ta' konservazzjoni tal-patrimonju:

Iżda l-Bord ikollu d-diskrezzjoni li jistabbilixxi regoli u proċeduri dwar min hu eliġibbli biex jikkwalifika bħala persuna li għandha snajja' ta' konservazzjoni tal-patrimonju."

7. Minnufih wara l-artikolu 33A tal-Att prinċipali, għandu jizjed l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid mal-Att prinċipali.

"Servizzi fuq bażi temporanja. Kap. 451.

33B. (1) Mingħajr preġudizzju għall-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki u minkejja d-disposizzjonijiet tal-artikoli 31 u 32 ta' dan l-Att, kull persuna stabbilita fi Stat Membru ieħor tista' teżerċita l-professjoni ta' konservatur-restawratur f'Malta fuq bażi temporanja u okkażjonali jekk dik il-persuna hija stabbilita legalment fi Stat Membru ieħor sabiex teżerċita l-professjoni ta' konservatur-restawratur f'dak l-Istat Membru.

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(2) Il-persuni msemmija fis-subartikolu (1) għandhom jinfurmaw lill-Bord permezz ta' dikjarazzjoni bil-miktub minn qabel, liema dikjarazzjoni għandha tinkludi dan li ġej:

(a) id-dettalji ta' kopertura tal-assigurazzjoni jew mezzi oħra ta' protezzjoni personali jew kollettiva rigward ir-responsabbiltà professjonali; din id-dikjarazzjoni għandha ssir darba fis-sena jekk il-provditur ta' servizz ikollu l-ħsieb li jipprovdi servizzi temporanji jew okkażjonali matul dik is-sena;

(b) prova taċ-ċittadinanza tal-provditur tas-servizz;

(ċ) attestazzjoni li tkun tiċċertifika li l-professjonist hu stabbilit legalment fi Stat Membru bil-għan li jeżerċita l-attivitajiet konċernati u li mhuwiex projbit milli jeżerċita, ukoll fuq bażi temporanja, il-professjoni ta' konservatur-restawratur, fil-mument li jikkonsenja l-attestazzjonijiet; u

(d) prova ta' kwalifiki u esperjenza professjonali.

(3) Meta l-Bord, waqt li jkun qed jeżerċita l-awtorità tiegħu skont dan l-artikolu, jidhirlu li hemm differenza sostanzjali bejn il-kwalifiki professjonali tal-provditur tas-servizz u l-kwalifiki akkademici meħtieġa skont l-artikolu 31, li tkun tali li dik id-differenza tkun ta' ħsara għas-saħħa jew għas-sigurtà pubblika, jew jidhirlu li jkun hemm nuqqas sostanzjali fl-esperjenza professjonali tal-persuna hekk li jfisser li dak il-professjonist ma jkunx ippreparat biex joffri servizzi ta' konservazzjoni-restawr f'Malta minhabba fir-realtajiet preżenti tax-xogħol Malti, il-Bord jista' jagħti lill-provditur tas-servizz l-opportunità li juri, b'mod partikolari permezz ta' test ta' kapacità, li huwa jkun kiseb l-għarfien jew il-kompetenza li jkunu neqsin.

(4) Il-Bord għandu jivvaluta n-natura temporanja u okkażjonali tal-għoti tas-servizzi fuq bażi ta' każ b'każ.

(5) Il-Bord għandu, fi żmien xahar mid-data meta tasal id-dikjarazzjoni msemmija fis-subartikolu (2), jinforma lill-provditur tas-servizz jew bid-deċizzjoni tiegħu li ma jeżaminax il-kwalifiki tiegħu jew bl-eżitu ta' dan l-eżami. Meta ma tkunz tista' tingħata deċizzjoni fiż-żmien stabbilit, il-Bord għandu javża lill-provditur tas-servizz fiż-żmien stabbilit f'dan is-subartikolu. Il-Bord jista' jestendi dan il-perijodu darba biss għal perjodu ieħor ta' xahar.

(6) Kull persuna li tħoss li hi aggravata bid-deċizzjoni tal-Bord għandha d-dritt tappella lill-Bord tal-Appelli tal-Patrimonju Kulturali.

(7) Persuna li teżercita l-professjoni skont dan l-artikolu jkollha d-disposizzjonijiet ta' dan l-Att, speċjalment ta' din it-Taqsima, u ta' kull liġi oħra applikabbli, jgħoddu għaliha bl-istess mod kif jgħoddu għal kull persuna oħra detentriċi ta' *warrant*."

8. L-artikolu 34 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 34 tal-Att prinċipali.

"Bord tal-*Warrant* tal-Konservazzjoni -Restawr.

34. (1) Ikun hemm Bord, li jkun magħruf bħala l-Bord tal-*Warrant* tal-Konservazzjoni-Restawr (hawnhekk iżjed 'il quddiem imsejjaħ "il-Bord") li jkun magħmul minn:

(a) President li jkun maħtur minn fost persuni li jkunu jew kienu kwalifikati li jkunu maħtura mħallfin f'Malta;

(b) tliet membri maħtura minn fost persuni li fil-fehma tal-Ministru għandhom l-għerf u l-esperjenza meħtieġa, u li wieħed minnhom ikun minn fost il-membri tal-persunal akkademiku tal-Università ta' Malta;

(ċ) is-Sovrintendent jew ir-rappreżentant tiegħu *ex officio*; u

(d) żewġ konservaturi-restawraturi li għandhom il-*warrant*, maħtura minn lista ta' mhux inqas minn erba' persuni li tipproponi l-organizzazzjoni professjonali rikonoxxuta skont id-dispożizzjonijiet tal-artikolu 38:

Iżda l-paragrafu (d) għandu jidhol fis-seħħ u jkollu effett sena wara li tidhol fis-seħħ din id-dispożizzjoni, u dan meta organizzazzjoni professjonali tkun hekk rikonoxxuta skont id-dispożizzjonijiet tal-artikolu 38.

(2) Il-membri kollha tal-Bord għandhom jiġu maħtura mill-Ministru, u jibqgħu fil-kariga għal dak iż-żmien, li ma jkunx iktar minn tliet snin, u taht dawk il-kondizzjonijiet li jistgħu jiġu stipulati fl-ittra tal-ħatra tagħhom:

Iżda meta jispiċċa t-terminu tal-kariga li għaliha persunaġiet maħtura skont dan is-subartikolu, dik il-persuna tista' terġa tinħatar għal perijodu jew perjodi oħra.

(3) Hlief kif hawn aktar qabel imsemmi, il-Bord jista' jagħmel ir-regoli tiegħu nnifsu u xort'oħra jirregola l-proċeduri tiegħu stess.

(4) Sabiex jaqdi l-funzjonijiet tiegħu, il-Bord jista' jagħmel użu minn dawk il-fondi li l-Ministru jista', minn żmien għal żmien, jordna li jingħataw lill-Bord, kif ukoll minn dawk il-fondi li jista' jiġbor bhala drittijiet, skont regolamenti magħmula taht dan l-Att, jew xort'oħra.

(5) Meta jkun hemm xi vakanza fil-Bord, il-Ministru għandu kemm jista' jkun malajr jahtar lil xi persuna oħra biex timla dik il-vakanza.

(6) L-għadd ta' membri meħtieġa biex jagħmlu *quorum* ikun ta' tlieta, iżda, sakemm ikun hemm *quorum*, il-Bord jista' jagixxi minkejja kull vakanza fost il-membri tiegħu.

(7) Il-Ministru jista' wkoll jiddelega uffiċjal pubbliku biex jagħmilha ta' segretarju tal-Bord, u dak is-segretarju ma jkollux vot.

(8) L-eżistenti Bord tal-*Warrant* tar-Restawraturi huwa abolit u sostitwit bil-Bord imsemmi f'dan l-artikolu."

Sostituzzjoni tal-artikolu 35 tal-Att prinċipali.

9. L-artikolu 35 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Funzjonijiet tal-Bord.

35. (1) Il-funzjonijiet tal-Bord huma li:
(a) jikkonsidra applikazzjonijiet għall-ħruġ ta' *warrant* u jagħmel ir-rakkomandazzjonijiet tiegħu dwar dan lill-Ministru;

(b) jorganizza, jirregola u jiddeċiedi talbiet għal ċirkostanzi speċjali skond l-artikolu 32, u taht ċirkostanzi oħra bħal dawk imsemmija fl-artikolu 33B;

(ċ) iżomm lista ta' universitajiet u istituzzjonijiet akkademiċi skond l-artikolu 31;

(d) jistabilixxi dak il-minimu ta' suġġetti bażiċi fil-qasam ta' konservazzjoni-restawr li applikant għall-*warrant* u applikant biex jiġi akkreditat għandu jkollhom għarfien fihom;

(e) jorganizza u jirregola valutazzjonijiet xierqa u perijodi ta' taħriġ Prattiku kif stipulat f'din oit-Taqsima;

(f) jikkunsidra u jiddetermina applikazzjonijiet għal ċertifikati ta' Prattika godda skond l-artikolu 33;

(g) jirredigi kodiċi ta' etika u linji gwida gwida ta' Prattika għal detenturi ta' *warrant*, li għandu jiġi ppubblikat permezz ta' regolamenti magħmulin taht dan l-Att;

(h) jittratta każijiet ta' mġiba professjonali hażina u proċeduri dixxiplinari oħra fir-rigward ta' detenturi ta' *warrant*, detenturi ta' ċertifikat ta' Prattika, jew ta' provditur ta' servizz temporanju, inklużi każijiet li jwasslu għas-sospensjoni jew l-irtirar ta' xi *warrant* jew ċertifikat ta' Prattika maħruġ taht dan l-Att;

(i) jagħti parir lill-Ministru f'dak li għandu x'jaqsam ma' kwistjonijiet għar-rigward tal-professjoni ta' konservatur-restawratur.

(2) Fl-eżerċizzju tal-funzjonijiet tiegħu l-Bord jista' wkoll jikkonsulta lil dawk il-persuni li jistgħu jitqiesu xierqa u jista' wkoll jahtar kumitati, li l-President tal-Bord ikun membru tagħhom, għat-twettiq ta' dawk id-dmirijiet jew xogħol ieħor li l-Bord jista' jassenjalhom.

(3) Il-Bord għandu jżomm reġistru ta' detenturi ta' *warrant*, u jindika fejn kull wieħed ix-xogħol li għalih għandhom ċertifikat ta' Prattika, u għandu, mhux aktar tard minn tliet xhur wara tmiem kull sena jippubblika fil-Gazzetta lista ta' persuni li, fil-31 ta' Diċembru ta' dik is-sena kienu reġistrati bħala detenturi ta' *warrant* maħruġ taħt dan l-Att, u liema ċertifikati ta' Prattika għandhom.

(4) Il-Bord għandu jżomm reġistru ta' persuni li għandhom sengħa ta' konservazzjoni tal-patrimonju.

(5) Il-Bord għandu jżomm ukoll direttorju, u jirregola l-proċeduri tiegħu f'dan ir-rigward, ta' dawk il-persuni l-oħra li x-xogħol tagħhom huwa marbut mal-patrimonju kulturali u li jaħdmu fil-qrib ma' konservaturi-restawraturi, liema persuni huma hawn imsejha "persuni elenkati".

Sostituzzjoni tal-artikolu 36 tal-Att prinċipali.

10. L-artikolu 36 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Sospensjoni jew revoka ta' *warrant*."

36. Il-Ministru jista', bil-parir tal-Bord, b'ordni bil-miktub, jissospendi, jirrevoka jew iħassar *warrant* jekk id-detentur tal-*warrant*:

(a) ikun instab hati, wara inkjesta mill-Bord skont l-artikolu 34, ta' xi wieħed mill-atti jew omissjonijiet li ġejjin:

(i) diżonestà, mġiba hażina jew negligenza gravi fl-eżerċizzju tal-professjoni tiegħu;

(ii) nuqqas milli jħares ir-regolamenti jew direttivi li jirrigwardaw *standards*, prattiċi jew integrità professjonali;

(iii) mġiba li tmur kontra l-kodiċi ta' etika u linji gwida ta' Prattika kif previsti f'dan l-Att;

(iv) nuqqas milli jħares xi kondizzjoni marbuta ma' *warrant* jew ċertifikat ta' Prattika maħruġ taħt dan l-Att, meta dan nuqqas ikun ta' natura materjali;

(v) mġiba gravi li tnaqqas mill-kreditu tal-professjoni;

(vi) jikseb *warrant* b'mod qarrieqi jew bi frodi; jew

(b) ikun instab ħati minn qorti tal-gustizzja -

(i) ta' xi reat skont id-dispożizzjonijiet ta' dan l-Att jew skont regolamenti magħmulin taħtu; jew

(ii) ta' xi delitt li għalih hemm piena ta' prigunerija ta' iżjed minn sena:

Izda l-Bord jista', f'kull każ imsemmi fil-paragrafi (a) jew (b) -

(i) jirrevoka jew jirtira ċ-ċertifikat ta' Prattika;

(ii) ineħhi persuna minn kull reġistru jew lista li jinżammu mill-Bord:

Izda ukoll il-Bord jista', f'kull każ imsemmi f'dan l-artikolu, jagħti parir lill-Ministru biex jirrevoka jew jirtira l-*warrant*."

11. Minnufih wara l-artikolu 36 tal-Att prinċipali, għandhom jizdiedu l-artikoli ġodda li ġejjin:

Zieda ta' artikoli ġodda mal-Att prinċipali.

"Ilmenti u azzjoni dixxiplinari.

36A. (1) Kull ilment rigward professjonista regolat b'dan l-Att għandu jasal quddiem il-Bord, mingħand kull min jixtieq jagħmel dak l-ilment, permezz ta' affidavit maħluf.

(2) Azzjoni dixxiplinari tista' tiegħu l-forma ta' ċanfiriet, multi amministrattivi, jew xi miżuri oħra bħall-irtirar ta' ċertifikat ta' Prattika, jew sospensjoni, revoka jew tħassir ta' *warrant* jew ta' elenkar fil-lista.

(3) Fl-eżerċizzju tal-funzjonijiet tiegħu taħt dan l-artikolu, il-Bord għandu jagixxi skond dawk ir-regoli u proċeduri li jistgħu jiġu pubblikati permezz ta' regoli jew regolament magħmulin taħt dan l-Att.

(4) Meta *warrant* ikun ġie sospiż jew assoġġettat għal xi kundizzjonijiet, is-sospensjoni jew dawk il-kundizzjonijiet jistgħu jitneħhew mill-Bord f'kull waqt wara li tkun għaddiet sena; u meta l-*warrant* jew ċertifikat ta' Prattika jkun ġie irtirat jew kancellat, jistgħu jinħarġu *warrant* jew ċertifikat ta' Prattika ġodda jekk ikunu sodisfatti l-kundizzjonijiet għal dak il-ħruġ.

Kap. 490. (5) Id-dispożizzjonijiet tal-Att dwar il-Gustizzja Amministrativa jgħoddu għal kull proċedura tal-Bord kif eżerċitata taht is-segħat mogħtija skont dan l-artikolu.

Appelli minn deċiżjonijiet tal-Bord tal-*Warrants*. 36B. Ikun hemm dritt ta' appell lill-Bord tal-Appelli tal-Patrimonju Kulturali minn deċiżjonijiet skond l-artikolu 36 għal kull min iħoss ruħu aggravat bid-deċiżjoni."

Sostituzzjoni tal-artikolu 37 tal-Att prinċipali.

12. L-artikolu 37 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Effetti ta' revoka jew ta' sospensjoni ta' *warrant*. 37. Meta *warrant* skont dan l-Att jiġi irtirat, sospiż jew revokat, il-persuna li lilha kien inħareġ il-*warrant* tieqaf milli tkun detentriċi tal-*warrant*, kif ukoll ta' kull ċertifikat ta' Prattika, u tiġi sospiża milli teżerċita l-professjoni skont il-każ, u tiflew id-dritt li tuża t-tismija Konservatur-Restawratur."

Sostituzzjoni tal-artikolu 38 tal-Att prinċipali.

13. L-artikolu 38 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Għarfien ta' korpi approvati. 38. (1) Il-Ministru jista', wara r-rakkomandazzjoni tal-Bord, jagħraf kull assoċjazzjoni lokali ta' konservaturi-restawraturi bħala korp approvat għall-finijiet ta' dan l-Att, jekk il-Bord ikun sodisfatt, fost dawk il-ħwejjegħ l-oħra li jistgħu jiġu preskritti, li l-kwalifiki edukattivi u professjonali mitluba minn dik l-assoċjazzjoni sabiex wiehed isir membru assoċjat tagħha jkunu jaqblu mal-livelli aċċettati għal dak iż-żmien u li l-persuni kollha li jkollhom dawk il-kwalifiki jkunu jistgħu jidhlu membri.

(2) Dak l-għarfien ikun soġġett għal dawk il-kondizzjonijiet li l-Ministru jista', fuq ir-rakkomandazzjoni tal-Bord, jimponi fl-għoti ta' dak l-għarfien jew kif jista' jiġi preskritt minn żmien għal żmien; u jekk f'xi żmien xi waħda mill-imsemmija kondizzjonijiet jew xi waħda mid-dispożizzjonijiet li jinsabu fi jew li jiġu preskritti taht is-subartikolu (3), ma tiġix imħarsa jew sodisfatta, jew ikun hemm tibdil materjali fiċ-ċirkostanzi li taħthom ikun inġhata l-għarfien, il-Ministru jista', fuq ir-rakkomandazzjoni tal-Bord, jissospendi jew jirtira dak l-għarfien.

(3) Korp approvat għandu jżomm regjistru tal-membri assoċjati tiegħu u għandu jirreġistra fih l-ismijiet tal-persuni kollha li jikkwalifikaw bħala membri tiegħu. L-imsemmi regjistru għandu jinżamm b'dak il-mod hekk kif jista' jiġi preskritt."

14. L-artikolu 39 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 39 tal-Att prinċipali.

"Obbligu dwar il-patrimonju.

39. (1) Għall-finijiet ta' dan l-Att -

(a) persuni elenkati u persuni li għandhom sengħa ta' konservazzjoni tal-patrimonju ma jitqisux bħala prattikanti tal-professjoni ta' konservatur-restawratur, u ma jitqisux bħala detenturi tal-*warrant* ta' konservatur-restawratur;

(b) persuni elenkati jistgħu jagħmlu jew joffru dak ix-xogħol, servizzi, atti jew funzjonijiet fil-kamp tal-konservazzjoni-restawr biss jekk dak ix-xogħol li qegħdin personalment jagħmlu isir taħt is-superviżjoni, jew bl-assistenza, ta' detentur ta' *warrant*, hekk kif ikun il-każ:

Izda dan ma japplikaz għal Periti detenturi ta' *warrant* li għandhom kwalifika speċifikament fl-arkitettura li għandha x'taqsam mal-konservazzjoni-restawr, u li jkunu hekk elenkati skont id-dispożizzjonijiet ta' dan l-Att;

(ċ) persuni li għandhom sengħa ta' konservazzjoni tal-patrimonju ma jistgħux jagħmlu xogħol ta' konservazzjoni-restawr barra mill-qasam tal-ispeċjalizzazzjoni tagħhom; u

(d) persuni elenkati bħala persuni li għandhom sengħa ta' konservazzjoni tal-patrimonju għandhom jipprattikaw taħt is-superviżjoni kostanti ta' konservatur-restawratur li jkun detentur ta' *warrant*.

(2) Il-Ministru jista' jippreskrivi dawk ir-regoli u regolamenti li jistgħu jkunu meħtieġa biex jirregola aktar il-qadi ta' dak ix-xogħol, servizzi, atti u funzjonijiet imsemmija f'din it-Taqsima.

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(3) Id-disposizzjonijiet ta' dan l-artikolu m'għandhomx effett fuq dawk il-kuntratti, proġetti u xogħolijiet li huma fis-sehħ jew għaddejjin meta id-dispożizzjonijiet ta' din it-Taqsima jiġu fis-sehħ; iżda d-dispożizzjonijiet ta' dan l-artikolu jgħoddu għal dawk il-kuntratti kollha, kif ukoll ix-xogħol u l-proġetti kollha li jsiru u li jkollhom effett wara l-bidu fis-sehħ ta' din it-Taqsima."

Għanijiet u Raġunijiet

L-għanijiet prinċipali ta' dan l-Abbozz ta' Liġi huma huma biex iwessgħu l-kamp ta' applikazzjoni tat-Taqsima VI tal-Att dwar il-Patrimonju Kulturali, bl-introduzzjoni ta' emendi li jirrigwardaw persuni oħra, minbarra dawk diġà regolati bl-Att, li jistgħu jiġu reġistrati u mġarrfa bħala li jipprovdu servizzi fil-kamp tal-konservazzjoni u r-restawr tal-patrimonju kulturali.

**A Bill
entitled**

AN ACT to amend the Cultural Heritage Act, Cap. 445.

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:-

1. (1) The short title of this Act is the Cultural Heritage (Amendment) Act, 2011, and this Act shall be read and construed as one with the Cultural Heritage Act, hereinafter referred to as "the principal Act".

Short title and commencement.
Cap. 445.

(2) The provisions of this Act shall come into force on such date as the Minister responsible for cultural heritage may, by notice in the Gazette, establish, and different dates may be so established for different provisions and for different purposes of this Act.

2. In article 2 of the principal Act, immediately after the definition " "guardianship" and "guardianship deed" ", there shall be added the following new definition:

Amendment of article 2 of the principal Act.

" "heritage conservation skills" include, but are not limited to, those skills, aptitudes and competences appropriate for a particular job as applicable to cultural heritage; this includes applying a trade or craft, knowledge, customs, art, technique or occupation which are the fruit of knowledge and skill as have been developed and safeguarded, whether through tradition or instruction, and having a conservation context. Heritage skills represent an invaluable testimony to the lifestyle, customs, needs, views and traditions of a society in various epochs and in various disciplines;"

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Substitution of
article 31 of the
principal Act.

3. Article 31 of the principal Act shall be substituted by the following new article:

"Qualifications
for warrant.

31. (1) No person shall exercise the profession of conservator-restorer unless he is the holder of a warrant under article 33.

(2) A person shall not qualify for the award of the warrant unless -

(a) he is a citizen of Malta, an EU citizen, or is otherwise permitted to work in Malta under any law;

(b) he is of good conduct and repute;

(c) he is of full legal capacity; and

(d) he satisfies the Board that -

(i) he is in possession of academic qualifications obtained after successful completion of a course of study at tertiary level, at European Qualifications Framework level 7 of at least three years full-time duration or level 6 of at least four years full-time duration, or equivalent part-time duration at such university or academic institution as may be recognised by the Board referred to in article 34, being a course which contains those minimum core subjects in the field of conservation and restoration as the Board may prescribe:

Provided that in the case of individuals trained in other jurisdictions wherein the training offered does not lead to the academic qualifications referred to in this sub-paragraph, the individual concerned must present this information to the Board, together with all evidence of any training or apprenticeships undertaken by the individual to the Board, and it shall be the Board's discretion to assess whether the individual has reached an adequate level of training; and

(ii) for a period of not less than two years after obtaining the academic qualifications referred to in sub-paragraph (i), he has carried out conservation-restoration practice under the supervision of a warranted conservator-restorer, in accordance with such guidelines as the Board may prescribe, or with an institution recognised by the Board:

Provided that for the first five years following the coming into force of this Part, the conservation-restoration practice may be carried out under the supervision of a person being himself eligible for being a warrant holder in conservation-restoration; and

(iii) he has been duly assessed by the Board in an appraisal for the purpose, after submitting evidence of academic training and a portfolio of his work to the Board, as the Board may prescribe in its own procedures:

Provided that where the academic qualifications referred to in sub-paragraph (i) are obtained after full-time academic courses in conservation-restoration of a duration in the aggregate of at least five years, up to European Qualifications Framework level 7 or above and which contain such level of practical training as may be approved by the Board, the condition for supervised training shall be deemed to have been fulfilled."

4. Article 32 of the principal Act shall be substituted by the following new article:

Substitution of article 32 of the principal Act.

"Special circumstances.

32. Notwithstanding the provisions of article 31, a person may be granted a warrant if he:

(a) possesses the qualifications listed in article 31(2)(a), (b) and (c); and

(b) has, prior to the coming into force of this article, practised as a conservator-restorer in Malta or outside Malta for a period of not less than five years; and

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(c) based on an examination of his portfolio as the Board may prescribe, is in the opinion of the Board of the required competence and academic ability."

Substitution of article 33 of the principal Act.

5. Article 33 of the principal Act shall be substituted by the following new article:

"Warrant to practise as a conservation professional.

33. (1) The warrant to practise the profession of conservator-restorer shall be granted by the Minister on the recommendation of the Board, and signed by the Minister, to any person who satisfies the requirements of articles 31 or 32:

Provided that where no decision has been notified to the applicant within a reasonable time, such applicant may appeal before the Cultural Heritage Appeals Board:

Provided further that an application for a warrant shall not be deemed to have been filed by an applicant unless it is duly filled in and accompanied with all required information and documentation.

(2) Only a warrant holder may use the designation Conservator-Restorer with his name.

(3) A person holding a warrant issued in terms of this article shall, in addition, hold one or more certificates issued by the Board (hereinafter in this Act also referred to as "a practising certificate") to practice in named fields of conservation-restoration as may be listed by the Board from time to time, and may not practice in such fields unless he holds the relative practising certificate.

(4) The warrant granted by virtue of this Part shall be valid for a period of five years, and may be renewed thereafter.

(5) The renewal of the warrant of conservator-restorer may be made subject to certain professional requirements established by the Board, such as the requirement to follow an established number of continued professional development hours."

Substitution of article 33A of the principal Act.

6. Article 33A of the principal Act shall be substituted by the

following new article:

"Other persons working together with conservator-restorer.
Cap. 390.

33A. (1) In the case of built heritage, nothing in this Act shall exempt the Perit in charge of a site from the responsibilities which by reason of the Periti Act, or relevant regulations made thereunder, pertain solely to the Perit in charge of the site or project.

Cap. 390.

(2) Nothing contained in this Act shall be interpreted or construed to attribute to the holder of a warrant of conservator-restorer any of the responsibilities which would pertain to a Perit in terms of the Periti Act.

(3) The Board may collaborate with other warranting boards, associations or organisations of professionals working in close proximity to conservator-restorers in order to share recognised lists of respective professionals, hereinafter referred to as "listed persons".

(4) Suitably trained or experienced persons may apply to the Board to be listed as a person having one or more, as the case may be, heritage conservation skills:

Provided that it shall be in the Board's discretion to lay down rules and procedures as to who is eligible to qualify as a person having a recognised heritage conservation skills."

7. Immediately after article 33A of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Temporary provision of services.
Cap. 451.

33B. (1) Without prejudice to the Mutual Recognition of Qualifications Act and notwithstanding the provisions of articles 31 and 32 of this Act, any person established in another Member State may practise the profession of a conservator-restorer in Malta on a temporary and occasional basis provided that such person is legally established in another Member State for the purpose of pursuing the Conservator-Restorer's profession in that Member State.

(2) Persons referred to in subarticle (1) shall inform the Board by means of a written declaration to be made in advance, which declaration shall include the following:

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(a) the details of an insurance cover or other means of personal or collective protection relative to professional liability; this declaration shall be made once a year if the service provider intends to provide temporary or occasional services during the year;

(b) proof of the nationality of the service provider;

(c) an attestation certifying that the professional is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited from practising the profession of a conservator-restorer even temporarily, at the moment of delivering the attestations; and

(d) evidence of professional qualifications and experience.

(3) Where the Board, in exercising its authority under this article, deems that there is a substantial difference between the professional qualifications of the service provider and the academic qualifications required under article 31, to the extent that the difference is such as to be harmful to public health, safety and security, or deems that there is such a substantial lacuna in the person's professional experience as demonstrated, so as to render the professional unprepared to undertake the profession in Malta due to the reality of conservation-restoration work therein, the Board may give the service provider the opportunity to show, in particular by means of an aptitude test, that he has acquired the knowledge or competence which he lacks.

(4) The Board shall assess the temporary and occasional nature of the provision of the services on a case by case basis.

(5) The Board shall, within one month from the date of receipt of the declaration referred to in subarticle (2), inform the service provider either of its decision not to check his qualifications or of the outcome of such check. Whenever a decision cannot be given during the established time, the Board shall notify this information to the service provider within the period established in this subarticle. The Board may extend this period only once for another period of one month.

(6) Any person aggrieved by the decision of the Board may appeal to the Cultural Heritage Appeals Board.

(7) A person exercising the profession under this article shall have the provisions of this Act, especially of this Part, and of any other applicable law apply to him in the same manner and to the same extent as with any other warrant holder."

8. Article 34 of the principal Act shall be substituted by the following new article:

Substitution of article 34 of the principal Act.

"Warranting Board for Conservation-Restoration.

34. (1) There shall be a Board, to be known as the Warranting Board for Conservation-Restoration (hereinafter referred to as the Board) which shall consist of:

(a) a Chairman to be appointed from among persons who are or have been qualified to be appointed judges in Malta;

(b) three members appointed from among persons who in the Minister's opinion have the necessary knowledge and experience and of whom one shall be from among the academic staff of the University of Malta;

(c) the Superintendent or his representative *ex officio*; and

(d) two warranted conservator-restorers, nominated by a professional body recognised in terms of article 38, from amongst a list of not less than four members nominated by the said body:

Provided that the provisions of paragraph (d) shall come into force and have effect one year after the coming into force of this provision, and when a professional body is so recognised in terms of article 38.

(2) All members of the Board shall be appointed by the Minister and shall hold office for such term, not exceeding three years, and under such conditions as may be set out in their respective letters of appointment:

Provided that on the expiration of the term for which a person is appointed under this subarticle, that person shall be eligible for re-appointment.

(3) Save as aforesaid, the Board may make its own rules and otherwise regulate its own procedures.

(4) In order to carry out its functions, the Board shall make use of such funds as the Minister may from time to time make available to it, as well as such funds as it may collect as fees, under regulations made under this Act, or otherwise.

(5) Where any vacancy in the Board occurs, the Minister shall as soon as practicable appoint another person to fill the vacancy.

(6) The number of members necessary to form a quorum shall be three, but, subject to the presence of a quorum, the Board may act notwithstanding any vacancy amongst its members.

(7) The Minister shall also delegate a public officer to act as secretary to the Board, and such secretary shall not have a vote.

(8) The existing Bord tal-Warrant tar-Restawraturi shall be abolished and replaced by the Board as established in this article."

Substitution of article 35 of the principal Act.

9. Article 35 of the principal Act shall be substituted by the following new article:

"Functions of the Board.

35. (1) The functions of the Board are to:
(a) consider applications for the issue of a warrant, and make its recommendations thereon to the Minister;

(b) organise, regulate, and determine requests made under special circumstances in accordance with article 32 and under other circumstances such as those referred to in article 33B;

(c) keep a list of universities and academic institutions in accordance with article 31;

(d) establish the minimum core subjects in the field of conservation-restoration which an applicant for a warrant and an applicant for accreditation must be knowledgeable in;

(e) organise and regulate the appropriate assessments and periods of practical training, as provided for in this Part;

(f) consider and determine applications for new practising certificates, and in terms of article 33;

(g) draw up a code of ethics and guidelines of practice for warrant holders to be published by regulations made under this Act;

(h) deal with cases of professional misconduct and other disciplinary proceedings in respect of warrant holders, professional certificates, and temporary provision of services, including cases leading to the suspension or withdrawal of any warrant, or practising certificate issued under this Act;

(i) advise the Minister in connection with any matter relating to the profession of conservator-restorers.

(2) In the exercise of its functions the Board may also consult with such persons as it may deem appropriate and may also appoint committees, of which the Chairman of the Board shall be a member, for the carrying out of such duties or other work as the Board may assign to them.

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(3) The Board shall keep a register of warrant holders, indicating with respect to each person registered therein the work for which they hold a practising certificate, and shall, not later than three months after the end of each year, publish in the Gazette a list of persons who, on the 31st December of the said year, were registered as holders of a warrant issued under this Act, and what practising certificates they hold.

(4) The Board shall keep a register of persons having a heritage conservation skill.

(5) The Board shall also keep a directory, and regulate its procedure in this regard, of those other persons whose work is linked to cultural heritage and who work closely with conservator-restorers, hereinafter referred to as "listed persons".

Substitution of article 36 of the principal Act.

10. Article 36 of the principal Act shall be substituted by the following new article:

"Suspension or revocation of warrant.

36. The Minister, upon advice of the Board may, by order in writing, suspend, revoke or cancel a warrant if the holder of the warrant:

(a) has, following an enquiry by the Board in accordance with article 34, been found guilty of any of the following acts or omissions:

(i) dishonesty, serious misconduct or gross negligence in the exercise of his profession;

(ii) failure to comply with regulations or directives with respect to professional standards, practices or integrity;

(iii) conduct that goes against the code of ethics and guidelines for practice as provided for in this Act;

(iv) failure to comply with any condition attached to a warrant, or practising certificate, issued under this Act when such failure is of a material nature;

(v) grievous conduct discreditable to the profession;

(vi) obtaining a warrant in a deceitful or fraudulent manner; or

(b) has been found guilty by a court of law -

(i) of an offence under the provisions of this Act or any regulations made thereunder; or

(ii) of a crime punishable by a term of imprisonment exceeding one year:

Provided that the Board may, in any of the cases referred to in (a) or (b) -

(i) revoke or withdraw a practising certificate;

(ii) strike off a person from any register or list kept by the Board:

Provided further that the Board may, in any of the cases referred to in this article, advise the Minister to revoke or withdraw the warrant."

11. Immediately after article 36 of the principal Act, there shall be added the following new articles:

Addition of new articles to the principal Act.

"Complaints and disciplinary action.

36A. (1) Complaints regarding a professional regulated by this Act shall be submitted to the Board, by whosoever wishes to make such complaint, in the form of a sworn affidavit.

(2) Disciplinary action may take the form of reprimands, administrative fines, or other measures such as the removal of a practising certificate, or the suspension, revocation or cancellation of a warrant or listing.

(3) In exercising its functions under this article, the Board shall act in accordance with such rules and procedures as may be published by means of rules or regulations made under this Act.

(4) Where a warrant has been suspended or subjected to conditions, the suspension or the conditions may be lifted by the Board at any time after the expiration of one year; and where the warrant or practising certificate has been withdrawn or cancelled, a new warrant or practising certificate may be issued if the conditions for such issue are satisfied.

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Cap. 490. (5) The provisions of the Administrative Justice Act shall apply to any proceedings of the Board as exercised under the powers granted by this article.

Appeals from decisions of the Warrants Board. 36B. A right of appeal to the Cultural Heritage Appeals Board from the decisions referred to in article 36, shall be competent to any person aggrieved by the decision."

Substitution of article 37 of the principal Act. **12.** Article 37 of the principal Act shall be substituted by the following new article:

"Effects of revocation or suspension of warrant. 37. Where a warrant under this Act is withdrawn, suspended or revoked, the person to whom the warrant was issued shall cease to be a holder of such warrant, and of any practising certificates, and shall be suspended from the exercise of his profession, as the case may be, and he shall cease to use the designation Conservator-Restorer."

Substitution of article 38 of the principal Act. **13.** Article 38 of the principal Act shall be substituted by the following new article:

"Recognition of approved bodies. 38. (1) The Minister may, on the recommendation of the Board, recognise any local association of conservator-restorers as an approved body for the purposes of this Act if the Board is satisfied, among such other matters as may be prescribed, that the educational and professional qualifications demanded by such association for membership thereof conform to currently accepted standards and that such membership is open to all persons having such qualifications.

(2) Such recognition shall be subject to any such conditions as the Minister may, on the recommendation of the Board, in granting recognition, impose or as may from time to time be prescribed; and if at any time any of the conditions aforesaid, or any of the provisions contained in or prescribed under subarticle (3), is not observed or fulfilled, or there is a material change in the circumstances under which the recognition was granted, the Minister may, on the recommendation of the Board, suspend or withdraw the recognition.

(3) An approved body shall keep a register of its members and shall enter therein the names of all persons who qualify for such membership. The said register shall be kept in such manner as may be prescribed."

14. Article 39 of the principal Act shall be substituted by the following new article:

Substitution of article 39 of the principal Act.

"Heritage obligation.

39. (1) For the purposes of this Act -

(a) listed persons and persons having a heritage conservation skill shall not be deemed to practise the profession of conservator-restorer and shall not be considered a warranted conservator-restorer;

(b) listed persons may hold or perform such work, services, acts or functions in the field of conservation-restoration as long as the conservation-restoration work they are personally carrying out is done under the supervision, or with the assistance, of a warranted individual, as the case may be:

Provided that this shall not apply to duly warranted Periti qualified specifically in conservation-restoration architecture and whose name is listed as such in terms of this Act;

(c) persons having a heritage conservation skill may not carry out conservation-restoration work outside of their field of expertise; and

(d) persons listed as having a heritage conservation skill shall be obliged to practice under the constant supervision of a warranted conservator-restorer.

(2) The Minister may prescribe such rules and regulations as may be necessary to further regulate the performance of such work, services, acts or functions as referred to in this Part.

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(3) The provisions of this article shall not affect contracts, projects and works which are in force or on-going, as the case may be, when the provisions of this Part come into force; but the provisions of this article shall apply to all contracts drawn up or works and projects contracted to commence after the coming into force of this Part."

Objects and Reasons

The main objects of this Bill are widen the scope of Part VI of the Cultural Heritage Act, by the introduction of amendments relating to other persons, besides the ones already regulated by the Act, who may be registered and recognised as providing services in the field of conservation and resoration of the cultural heritage.