

**ABBOZZ TA' LIĠI
msejjah**

ATT biex jemenda l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, Kap.55.

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

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2011 li jemenda l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, u dan l-Att għandu jinqara u jiftiehem haġa waħda mal-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali". Titolu fil-qosor.

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

2. It-Tabella bit-titolu "Taqsim tal-Att" li tinsab minnufih qabel l-artikolu 1 tal-Att prinċipali għandha tiġi emendata kif ġej: Emenda tat-Taqsim tal-Att tal-Att prinċipali.

(a) minnufih wara Titolu IV ta' Taqsima II għandu jiżdied dan li ġej:

"Titolu V Dwar Kontijiet ta' *Trust* Nutarili 24A"

(b) il-kliem "Kopji u Estratti" fit-Titolu III tat-Taqsima III għandhom jiġu sostitwiti bil-kliem "Kopji, Estratti u Dikjarazzjonijiet";

(c) minnufih wara t-*Titolu V* ta' *Taqsim*a III għandhom jizdiedu dawn li ġejjin:

"*Taqsim*a IIIA Dwar Atti Nutarili ta' *Trust* u
Fondazzjonijiet Privati 84A-84B

*Taqsim*a III Dwar l-*Eżami* tat-*Titolu* 84Ċ"; u

(d) minnufih wara t-*Taqsim*a IV għandu jizdied dan li ġej:

"*Taqsim*a IVA Dwar ir-*Revizjoni* ta' Atti
Nutarili 94A-94B"

Emenda tal-
artikolu 2 tal-
Att prinċipali.

3. Artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafi (i) u (j) tas-subartikolu (2) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

(i) li jagħmluha ta' medjaturi;
(j) *ex officio* li jagħmluha ta'
Kap. 79. Kummissjonarji b'setgħa li jagħtu għurament
għall-finijiet tal-*Ordinanza* dwar il-
Kummissjonarji b'setgħa li jagħtu Għurament;
(k) b'mod ġenerali, li jeżerċitaw dawk is-
setgħat l-oħra mogħtija lilhom mil-liġi."

(b) minnufih wara s-subartikolu (2) tiegħu, għandhom jizdiedu s-subartikoli ġodda li ġejjin:

"(3) Nutara għandhom is-setgħa li jabbozzaw skritturi privati illi jkun fihom ftehim illi joħolqu drittijiet u obbligi legali bejn terzi persuni.

(4) Nutara għandhom is-setgħa illi jeżaminaw titolu ta' proprjetà immobbli skont l-artikolu 84Ċ."

Emenda tal-
artikolu 3 tal-
Att prinċipali.

4. Is-subartikolu (1), inklużi l-*proviso* tiegħu, tal-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(1) L-ebda persuna ma tista' tipprattika ta' nutar jekk:

(a) għandha *warrant* ta' avukat jew prokuratur legali;

(b) tkun *manager* ta' bank;

(ċ) tkun aġent tal-proprjetà jew sensar simili;

(d) tkun soċju f'soċjetà kummerċjali jew direttur jew azzjonist f'kumpanija b'responsabbiltà limitata -

(i) li n-negozju prinċipali tagħha jikkonsisti fl-akkwist u t-trasferiment ta' proprjetà immobbli, jew il-kostruzzjoni, ir-rikostruzzjoni jew żvilupp tagħha, jew

(ii) is-servizz prinċipali tagħha huwa dak ta' aġenzija tal-proprjetà;

(e) tkun direttur f'kumpanija pubblika li n-negozju jew is-servizz prinċipali tagħha huwa xi wiehed minn dawk imsemmijin fil-paragrafu (d);

(f) tkun negozjant li l-atti tal-kummerċ prinċipali tagħha huma xi wiehed minn dawk imsemmijin fil-paragrafu (d):

Izda l-President ta' Malta jista' jawtorizza lil dik il-persuna biex tipprattika bħala nutar jekk dik il-persuna ċċedi l-imsemmija *warrant* jew meta dan ma tibqax *manager*, sensar, aġent tal-proprjetà, soċju, direttur, azzjonist jew kummerċjant."

5. L-artikolu 4 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

"4. (1) In-Nutar Prinċipali tal-Gvern għandu f'Jannar ta' kull sena jqiegħed f'waħda mis-siti eletronici tal-Gvern l-elenki hawn taħt msemmija, liema elenki għandhom jiġu aġġornati minnu minn żmien għall-żmien kif ikun meħtieġ:

(a) bl-ismijiet tan-nutara li jeżerċitaw il-professjoni tagħhom f'Malta u Ghawdex;

(b) bl-ismijiet tan-nutara li huma l-konservaturi tal-atti tan-nutara li mietu jew ta' nutara li ma baqgħux jeżerċitaw il-professjoni tagħhom, flimkien mal-ismijiet tan-nutara li l-atti tagħhom ikunu hekk ikkonservati.

(2) Il-Ministru responsabbli għall-affarijiet nutarili jista' jagħmel regolamenti biex jippreskrivi l-mod ta' kif dawn l-elenki u l-aġġornamenti tagħhom għandhom isiru."

6. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 5 tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3);

(b) minnufih wara s-subartikolu (1) tiegħu, għandu jizdied is-subartikolu ġdid li ġej:

Kap. 249. "(2) Għall-finijiet tas-subartikolu (1), "Malta" għandu jkollha t-tifsira mogħtija lilha skont l-Att dwar l-Interpretazzjoni, u għandha tfisser ukoll il-postijiet li fihom hemm il-kummissjonijiet għolja, l-ambaxxati u konsolati ta' Malta, u vapuri u ingeni tal-ajru registrati f'Malta.";

(ċ) minnufih wara s-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandhom jizdiedu s-subartikoli godda li ġejjin:

"(4) Kull persuna li, waqt li ma tkunx waħda li isimha deher fil-Gazzetta skont is-subartikolu (1), tassumi l-kariga ta' nutar jew b'xi mod tagħmilha li hi intitolata li tipprattika l-professjoni ta' nutar pubbliku f'Malta, tkun ħatja ta' reat taħt dan l-Att u, meta tinsab ħatja, tehel multa ta' mhux inqas minn elf euro (€1,000) iżda mhux iżjed minn ħamest elef euro (€5,000), u meta tinstab ħatja għat-tieni darba jew aktar, tehel il-piena ta' prigunerija għal mhux iżjed minn tliet xhur, jew kemm il-multa kif ukoll il-prigunerija flimkien.

(5) Id-disposizzjonijiet tas-subartikolu (4) għandhom japplikaw ukoll għal persuna illi waqfet milli tipprattika l-professjoni tagħha skont l-artikolu 14(1)."

Sostituzzjoni tal-artikolu 6 tal-Att prinċipali.

7. L-artikolu 6 tal-Att prinċipali għandu jiġi sostitwit b'li ġej:

"6. (1) Biex wiehed jiġi maħtur nutar jinħtieġ -

(a) li jkun ċittadin ta' Malta jew ta' Stat Membru tal-Unjoni Ewropea jew ta' Stat taż-Żona Ekonomika Ewropea: iżda Stat taż-Żona Ekonomika Ewropea tfisser l-Iżlanda, il-Prinċipat ta' Liechtenstein u r-Renju tan-Norveġja;

(b) li jkun ta' kondotta u karattru tajba;

(ċ) li jkun kiseb id-Dottorat fil-Liġi mill-Universita' ta' Malta wara li jkun għamel kors illi jinkludi t-taqsimiet ta' studju xierqa fl-istudju nutarili kif preskritti fl-istatuti, regolamenti u *bye-laws* rilevanti tal-Universita' ta' Malta;

(d) li huwa kien *trainee* f'uffiċċju ta' nutar għal

perjodu kontinwu ta' mhux inqas minn sentejn qabel id-data ta' meta jsir l-eżami ta' kwalifika skont l-artikolu 7, iżda, jekk huwa kien *trainee* ma' nutar u kompla t-taħriġ ma' nutar ieħor jew aktar, jittiehed kont tal-perjodi kollha flimkien:

Iżda wkoll in-nutar jew nutara li magħhom ikun sar il-perjodu ta' taħriġ irid ikun Prattika l-professjoni f'Malta għal mhux inqas minn għaxar snin;

(e) li jkun jaf jikteb u jitkellem sew bil-Malti u bl-Ingliż;

(f) li jkun għadda mill-eżami ta' kwalifika li jkun sar skont l-artikolu 7.

(2) Il-Ministru għandu, wara li jkun ikkonsulta mal-Kunsill Nutarili u l-Bord imsemmi fl-artikolu 7, jagħmel regolamenti li jiddeterminaw il-mod ta' kif ir-rekwiżiti msemmija fis-subartikolu 1(a) sa (e) jiġu ppruvati."

8. Artikolu 7 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 7 tal-Att prinċipali.

"7. (1) Il-Ministru responsabbli għall-affarijiet nutarili għandu f'Novembru ta' kull sena jahtar għal perjodu ta' tnaħ-il xhar Bord ta' Eżaminaturi li jkun magħmul minn Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat illi issoltu jkun jippresjedi fil-Qorti ta' Revizjoni tal-Atti Nutarili, in-Nutar Prinċipali tal-Gvern, nutar prattikant li jkun ġie propost mill-Kunsill Nutarili u żewġ nutara prattikanti oħra:

Iżda l-ebda nutar ma jista' jkun parti mill-Bord sakemm ma jkunx ipprattika l-professjoni tiegħu għal mill-inqas għaxar snin.

(2) Il-Bord għandu jagħmel l-eżami ta' kwalifika msemmi fl-artikolu 6(1)(f) wara li jkun aċċerta ruħu li r-rekwiżiti tal-paragrafi (a) sa (e) tiegħu jkun għew sodisfatti, u għandu jwettaq kull funzjoni oħra assenjata lilu minn dan l-Att jew minn xi liġi oħra.

(3) Bla ħsara għad-dispozzjonijiet ta' dan l-Att u għal kull regolament applikabbli, il-Bord għandu jirregola il-proċeduri tiegħu.

(4) In-nutar li fl-uffiċċju tiegħu l-kandidat ikun issodisfa l-ħtiġiet tal-artikolu 6(1)(d), kull soċju ta' dak in-nutar jew kull

nutar li jipprovdi s-servizzi tiegħu mill-istess uffiċċju ma jistax jiffirma parti mill-Bord. Jekk il-kandidat ikun għamel it-taħriġ tiegħu ma' iktar minn nutar wieħed, id-disposizzjonijiet ta' dan is-subartikolu għandhom japplikaw għal dawk in-nutara kollha li magħhom ikun sar it-taħriġ, is-soċji tagħhom u n-nutara oħra li jipprovdu servizzi mill-istess uffiċċju.

(5) L-ebda persuna ma' tista' tagħmel parti mill-Bord jekk tkun l-konjuġi ta' jew jekk tiġi minn wieħed mill-kandidati mid-demm jew bi żwieġ, fil-linja dritta f'kull grad jew fil-linja kollaterali sat-tielet grad inklużivament, jew jekk jidher ċar li hemm kunflitt ta' interess.

(6) Fil-każ meta l-Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat illi jkun soltu jippresjedi fil-Qorti ta' Reviżjoni tal-Atti Nutarili jew in-Nutar Principali tal-Gvern huwa skwalifikat milli jkun parti mill-Bord, jew jekk huwa ma jkunx jista' jew ma jkunx irid jagħmel dan, il-Ministru għandu jappunta, skont il-każ, Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat ieħor jew wieħed min-nutara li jaħdmu mal-Gvern.

(7) Meta l-Kunsill Nutarili jonqos milli jipproponi nutar għall-hatra ta' membru fil-Bord fi żmien hmistax-il gurnata minn meta jkun irċieva t-talba biex jagħmel dan, il-Ministru għandu jipproċedi billi jappunta nutar prattikant li jkun għażel huwa.

(8) Meta membru tal-Bord jirtira jew jiġi skwalifikat milli jkompli jkun membru tal-Bord, il-Ministru għandu jissostitwixxi dak il-membru fl-inqas hin possibli, hekk li l-persuna li tkun giet hekk maħtura għandha tibqa' fil-kariga għall-bqija taż-żmien li kien ikun fadal għall-membru li jkun irtira jew li jkun gie skwalifikat, u fejn huwa applikabbli d-disposizzjonijiet tas-subartikoli (6) u (7) għandhom japplikaw *mutatis mutandis*.

(9) Membri tal-Bord għandhom jithallsu onorarju li għandu jiġi ffissat b'regolamenti magħmula mill-Ministru responsabbli għall-affarijiet nutarili taht dan l-artikolu."

9. L-artikolu 8 tal-Att prinċipali għandu jiġi sostitwit b'dan li

gej:

"L-eżami ta' kwalifika.

8. (1) L-eżami ta' kwalifika għandu jsir f'Marzu ta' kull sena.

(2) Persuna li tissodisfa jew, sa meta jkun ser isir l-eżami ta' kwalifika, tkun issodisfat r-rekwiżiti tal-artikolu 6(1)(a) sa (e), tista' tapplika biex tagħmel l-eżami meta thallas id-dritt preskritt.

(3) L-eżami ta' kwalifika għandu jikkonsisti f'eżami wiehed jew iktar bil-miktub, u għandu jsir f'data waħda jew aktar. Il-Bord għandu wkoll jagħmel eżami orali fi żmien xagħrejn mid-data tal-aħhar eżami bil-miktub.

(4) Kandidati għandhom jiġu eżaminati fuq il-formalitajiet tal-atti nutarili, liġijiet fiskali marbuta mat-trasferiment ta' proprjetà immobbli, liġijiet ta' registrazzjoni, liġi u prattika rigward l-eżami tat-titolu ta' proprjetà immobbli, rikorsi lill-Qorti ta' Ġurisdizzjoni Volontarja, etika professjonali, u kull aspett ieħor ta' liġi proċedurali u sostantiva relatat mal-professjoni nutarili, skont is-sillabu li jiġi ppubblikat minn żmien għal żmien permezz ta' regolamenti magħmula mill-Ministru responsabbli għall-affarijiet nutarili wara li jkun ikkonsulta mal-Kunsill Nutarili u l-Bord.

(5) Il-maġġoranza tal-voti tal-eżaminaturi hija neċessarja sabiex il-kandidat jgħaddi mill-eżami.

(6) Ir-riżultat tal-eżami ta' kwalifika għandu jibqa' validu għal perjodu ta' hames snin mid-data tar-rapport sottomess skont l-artikolu 9(1).

(7) Minkejja d-disposizzjonijiet tas-subartikolu ta' qabel dan, f'każ li l-kandidat ma jgħaddix, huwa jkollu dritt li jiġi ammess għal darba għal eżami ieħor gdid li jsir is-sena ta' wara jew xi sena sussegwenti oħra."

10. L-artikolu 9 tal-Att prinċipali għandu jiġi sostitwit b'dan li
gej:

Sostituzzjoni tal-artikolu 9 tal-Att prinċipali.

"9. (1) Meta kandidat jgħaddi mill-eżami ta' kwalifika, il-Bord tal-eżaminaturi għandu jirrapporta dan lill-Ministru

responsabbli għall-affarijiet nutarili li għandu, bla ħsara li l-kandidat ikun ħares id-disposizzjonijiet tal-artikolu 10, jissottometti ismu lill-President ta' Malta sabiex jiġi maħtur bħala nutar pubbliku.

(2) Meta kandidat li jkun għadda mill-eżami ta' kwalika ma jkunx ħares id-disposizzjonijiet tal-artikolu 10, huwa jista', meta huwa jkun ħares daww id-disposizzjonijiet u sakemm iż-żmien imsemmi fl-artikolu 8(6) ma jkunx għadda, japplika u jitlob lill-Ministru jissottometti ismu lill-President sabiex jiġi maħtur bħala nutar pubbliku."

Emenda tal-artikolu 10 tal-Att prinċipali.

gej:

11. L-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif

(a) id-disposizzjoni preżenti għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu;

(b) minnufih wara l-paragrafu (c) tas-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu l-paragrafi godda li ġejjin:

"(d) jissottomenti lill-Kunsill Nutarili prova illi huwa għandu assigurazzjoni adegwata biex tkopri responsabbiltà professjonali;

(e) jissottomenti lill-Kunsill Nutarili d-dettalji personali u kull informazzjoni oħra meħtieġa skont regolamenti magħmula mill-Ministru bi ftehim mal-Kunsill Nutarili."; u

(c) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Nutar ma jistax jibda jeżerċità l-professjoni tiegħu qabel ma jiġi ppublikat avviz tal-ħatra tiegħu fil-Gazzetta skont l-artikolu 5(1)."

Żieda ta' artikoli godda fl-Att prinċipali.

12. Minnufih wara l-artikolu 10 tal-Att prinċipali għandhom

jizziedu l-artikoli godda li ġejjin:

"Assigurazzjoni.

10A. (1) Għandha tkun ir-responsabbiltà ta' kull nutar, hliet daww imsemmija fl-artikolu 22, li jkun assigurat b'mod adegwat kontra kull riskju ta' responsabbiltà professjonali waqt li jkun qed jeżerċità l-professjoni tiegħu. Il-kumpannija tal-assigurazzjoni li tkun qiegħda tipprovdi l-assigurazzjoni għandha kull sena toħroġ ċertifikat lin-nutar li huwa kopert skont dan is-subartikolu.

(2) Nutar jista' jippreżenta rikors fil-Qorti ta' Revizjoni tal-Atti Nutarili biex teżentah mid-disposizzjonijiet tas-subartikolu (1) għal xi sena kalendarja partikolari.

(3) Il-Ministru jista', wara li jikkonsulta mal-Kunsill Nutarili, jagħmel regolamenti -

(a) biex jispeċifika l-kriterji li kumpanniji tal-assigurazzjoni għandhom jqisu meta jipprovdu l-assigurazzjoni msemmija fis-subartikolu (1), u

(b) biex jindikaw il-kazijiet meta u taħt liema kundizzjonijiet il-Qorti ta' Revizjoni tal-Atti Nutarili tista' teżenta nutara mid-disposizzjonijiet tas-subartikolu (1).

Tibdil fl-isem/kunjom.

10B. (1) Nutar li jkun inbidillu ismu jew kunjomu permezz ta' ordni mill-qorti, li tkun finali, jew permezz ta' żwieġ għandu, mhux aktar tard minn xahrejn mid-data ta' dik l-ordni tal-qorti jew ċelebrazzjoni taż-żwieġ, jippreżenta nota fil-Qorti ta' Revizjoni tal-Atti Nutarili li fiha jinforma l-qorti b'dan it-tibdil u għandu jikteb ukoll kampjun tal-firma tiegħu fil-ktieb fl-uffiċċju tal-Avukat Ġenerali msemmi fl-artikolu 10(1)(b). Din in-nota għandha tiġi notifikata lin-Nutar Prinċipali tal-Gvern u lill-President tal-Kunsill Nutarili.

(2) In-Nutar Prinċipali tal-Gvern għandu minnufih jara li tiġi ppublikata din in-nota fil-Gazzetta u għandu jagġorna l-lista elettronika msemmija fl-artikolu 4(1)(a).

(3) Nutar li jipubblika att nutarili qabel ma tidher in-nota fil-Gazzetta skont dan l-artikolu jehel ammenda ta' hames mitt euro (€500) ta' kull att li jkun hekkgie ippubblikat.

(4) Il-Kunsill Nutarili għandu jara li d-disposizzjonijiet ta' dan l-artikolu jiġu mharsa u jista' jipprezenta rikors fil-Qorti ta' Revizjoni tal-Atti Nutarili sabiex tordna lin-nutar iħares u/jew biex twahhal piena dixxiplinari xierqa."

Sostituzzjoni tal-artikolu 12 tal-Att prinċipali.

13. L-artikolu 12 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"12. Nutar ma jistax jirċievi atti -

(a) jekk huma espressament ipprojbiti mil-liġi jew manifestament imorru kontra l-morali jew l-ordni pubbliku;

(b) jekk waħda mill-partijiet fl-att hija mart jew żewġ in-nutar jew hija mhallta man-nutar mid-demmi jew bi żwieġ fil-linja dritta f'kull grad jew fil-linja kollaterali sat-tielet grad inklużivament;

(c) (i) jekk, f'każ ta' testament, ikun fihom disposizzjonijiet favur in-nutar riċevitur, jew xi persuna oħra msemmija fil-paragrafu (b), sakemm dik id-disposizzjoni ma tkunx permessa mil-liġi jew tkun tinsab f'testament sigriet li ma jkunx ġie miktub min-nutar jew minn xi persuna msemmija f'dak il-paragrafu u kkunsinnat lilu ssiġillat mit-testatur;

(ii) jekk, f'każ li jkun att *inter vivos*, ikun fihom xi disposizzjoni li tirrigwarda lin-nutar riċevitur jew xi persuna oħra msemmija fil-paragrafu (b), sakemm dik id-disposizzjoni ma tkunx meħtieġa jew permessa mil-liġi;

(d) jekk xi waħda mill-partijiet tkun inibita mill-awtorità kompetenti milli tidhol f'kuntratti jew tiddisponi minn hwejjigħa, kemm-il darba dan l-att ikun jaqa' taħt l-inibizzjoni u jiġi notifikat lin-nutar skont l-artikolu 527 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili;

(e) jekk waħda mill-partijiet fl-att tkun rappreżentata minn aġent jew rappreżentant li jkunu xi waħda mill-persuni msemmija fil-paragrafu (b);

(f) jekk waħda mill-partijiet fl-att tkun soċjetà kummerċjali, ħlief kumpannija pubblika -

(i) li jkollha f'dak iż-żmien, direttur, soċju jew azzjonist illi jkun nutar jew xi waħda mill-persuni msemmija fil-paragrafu (b), jew

(ii) li r-rappreżentanza legali jew ġudizzjarja tagħha hija vestita fin-nutar jew xi waħda mill-persuni msemmija;

(g) jekk xi waħda mill-partijiet hija soċjetà ċivili, fondazzjoni, assoċjazzjoni jew entità legali ħlief soċjetà kummerċjali li f'dak iż-żmien ikollha soċju, fundatur, assoċjat, jew membru tal-korp amministrattiv jew governattiv tagħha, jew persuna li għandha r-rappreżentanza legali jew ġudizzjarja tagħha li jkun in-nutar jew waħda mill-persuni msemmija fil-paragrafu (b);

(h) jekk, f'każ ta' att nutarili dwar *trust* jew att nutarili illi jirreferi għal *trust*, *is-settlor*, *it-trustee* jew il-protettur tat-*trust* huwa n-nutar jew waħda mill-persuni msemmija fil-paragrafu (b);

(i) jekk, f'każ ta' att nutarili dwar *trust* b'benefiċarji li huma determinati jew determinabbli, xi wieħed minnhom ikun n-nutar jew waħda mill-persuni msemmija fil-paragrafu (b); jew

(j) jekk, f'każ ta' att dwar *trust* li jkun diskrezzjonali, is-setgħa ta' ħatra jew xi diskrezzjoni tista' tiġi eżerċitata favur in-nutar jew waħda mill-persuni msemmija fil-paragrafu (b).".

14. Fil-paragrafu (g) tas-subartikolu (1) tal-artikolu 14 tal-Att prinċipali, il-kelma "permanenti" għandha tithassar.

Emenda tal-artikolu 14 tal-Att prinċipali.

15. L-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 15 tal-Att prinċipali.

(a) il-kliem "Sospensjoni u inabilitazzjoni temporanja" fin-nota marginali tiegħu għandhom jiġu sostitwiti bil-kliem "Sospensjoni jew inabilitazzjoni";

(b) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu; u

(c) minnufih wara s-subartikolu (1) tiegħu, kif enumerat

mill-ġdid, għandu jizdied is-subartikolu ġdid li ġej:

"(2) Jista' jkun inabilitat parzjalment milli jagħmel dan fil-każijiet imsemmija fl-artikoli 94A u 94B."

Emenda tal-artikolu 17 tal-Att prinċipali.

16. Fl-artikolu 17 tal-Att prinċipali, il-kliem "kif jingħad f'dan l-Att," għandhom jiġu sostitwiti bil-kliem "kif jingħad f'dan l-Att, jew joħroġ id-dikjarazzjoni skont il-*proviso* mal-artikolu 68(2),".

Emenda tal-artikolu 20 tal-Att prinċipali.

17. Is-subartikolu (1) tal-artikolu 20 tal-Att prinċipali għandu jiġi emendat b'dan li ġej:

(a) il-kliem "ta' dawk l-atti," għandhom jiġu sostitwiti bil-kliem "ta' dawk l-atti, jew joħroġ id-dikjarazzjoni skont il-*proviso* mal-artikolu 68(2),";

(b) il-kliem "ta' nutar," għandhom jiġu sostitwiti bil-kliem "jew joħroġ l-imsemmija dikjarazzjoni"; u

(ċ) il-kliem "dawk il-kopji jew estratti" għandhom jiġu sostitwiti bil-kliem "dawk il-kopji jew estratti jew joħroġ l-imsemmija dikjarazzjonijiet".

Emenda tal-artikolu 21 tal-Att prinċipali.

18. Fl-artikolu 21 tal-Att prinċipali, il-kliem "jew estratti", għandhom jiġu sostitwiti bil-kliem "jew estratti jew joħroġ dikjarazzjoni skont il-*proviso* mal-artikolu 68(2)".

Żieda ta' Titolu u artikolu ġdid mal-Att prinċipali.

19. Minnufih wara l-artikolu 24, għandu jizdied it-Titolu u l-artikolu ġdid li ġejjin:

"TITOLU V

DWAR KONTIJIET TA' *TRUST* NUTARILI

Kont ta' *Trust* Nutarili.

24A. (1) Kull nutar, hliet dawk imsemmija fl-artikolu 22, għandu jiftaħ kont ma' bank kummerċjali lokali, li għandu jingħata l-isem ta' "Kont ta' *Trust* Nutarili", li fih għandu jiddepożita l-flus kollha depożitati miegħu fil-kapaċità professjonali tiegħu, u għandu jinforma lill-Kunsill Nutarili bil-ftuħ u l-għeluq ta' dan il-kont bil-mod u fiż-żmien preskritt:

Iżda meta n-nutar jagħlaq dan il-kont hu għandu, sakemm ma jkunx diġà għamilha, jiftaħ kont ieħor mal-istess bank jew ma' bank lokali differenti b'tali mod li dejjem ikollu wieħed minn dawn il-kontijiet miftuħa.

(2) In-nutar jista' jiftaħ, jopera u jaghlaq kontijiet oħra bħal dawn, u f'dan il-każ huwa għandu jinforma lill-Kunsill Nutarili bil-mod u fiż-żmien preskritt.

(3) In-nutar għandu jzomm reġistru bil-mod preskritt li fih huwa għandu jelenka l-flus kollha depożitati u li jkunu ingibdu mill-kontijiet imsemmija fis-subartikoli (1) u (2), u fih għandu jnizzel ukoll l-informazzjoni kollha kif tista' tiġi preskritta.

(4) Flus depożitati f'dawn il-kontijiet għandhom jikkostitwixxu għall-kull kont fond ta' *trust* li jkun tan-nutar għall-benefiċċju tal-persuni li jkunu ddepożitaw il-flus miegħu, u dak il-fond għandu jkun differenti u separat mill-proprjetà personali tiegħu.

(5) L-eżistenza ta' dawn il-kontijiet, debitament reġistrati mal-Kunsill Nutarili, għandu jkollha l-effetti legali li ġejjin, jiġifieri:

(a) il-kredituri personali tan-nutar ma jistgħux jirrikorru għall-flejjes miżmuma f'dawn il-kontijiet;

(b) dawn il-flejjes ma jiffurmawx parti mill-beni personali tan-nutar f'każ l-insolvenza tiegħu; u

(ċ) dawn il-flejjes ma jiffurmawx parti mill-beni matrimonjali tan-nutar jew tal-konjuġi tiegħu u lanqas ma jiffurmaw parti mill-beni tan-nutar wara mewtu.

(6) Meta nutar jonqos mill-jirreġistra l-ftuħ ta' dawn il-kontijiet mal-Kunsill Nutarili, il-flejjes depożitati fihom m'għandhomx jiġu meqjusa, għall-finijiet tas-subartikolu (4), bħala distinti u separati mill-proprjetà personali tan-nutar, u d-disposizzjonijiet tas-subartikolu (5) ma japplikawx.

(7) Meta, għal xi raġuni, jiġi mahtur konservatur tal-atti ta' nutar, *ipso jure* u mingħajr il-htieġa ta' ebda proċedura oħra, dan il-kont jew dawn il-kontijiet jiġu vestiti u jsiru proprjetà tal-konservatur u d-dispożizzjonijiet kollha ta' dan l-artikolu għandhom japplikaw *mutatis mutandis* għannutar konservatur:

Iżda meta r-raġuni għalfejn ġie mahtur konservatur ma tibqax hemm u din ġiet ippubblikata fil-Gazzetta, dak il-kont jew dawk il-kontijiet għandhom, mingħajr il-bżonn ta' ebda proċeduri oħra, jergħu jkunu vestiti fl-ewwel nutar:

Iżda ukoll meta n-Nutar Prinċipali tal-Gvern jiġi mahtur bħala konservatur tal-atti ta' nutar li kellu prattika privata, dak il-kont jew kontijiet ikun vestit fil-Gvern iżda jkun amministrat min-Nutar Prinċipali u għandu japplika ukoll l-ewwel *proviso* ma' dan is-subartikolu.

(8) Il-Kunsill Nutarili għandu jżomm *record* tal-Kontijiet ta' *Trust* Nutarili fil-mod preskritt u għandu, fiċ-ċirkostanzi u l-mod preskritt, jikkonferma l-eżistenza ta' dawn il-kontijiet lil kull bank lokali, lill-eredi tan-nutar il-mejjet jew lil kull persuna oħra kif jista' jiġi preskritt.

(9) In-nutara għandhom kull sena jikkonfermaw mal-Kunsill Nutarili d-dettalji ta' dawn il-kontijiet illi dak iż-żmien ikunu miżmuma minnhom.

(10) Il-Ministru responsabbli għall-affarijiet nutarili jista', minn żmien għal żmien, wara li jkun ikkonsulta mal-Kunsill Nutarili, jagħmel regolamenti biex b'mod ġenerali jitwettqu d-dispożizzjonijiet ta' dan l-artikolu u għal dawk l-affarijiet li huma awtorizzati minn dan l-artikolu li għandhom jiġu preskritti."

Sostituzzjoni tal-artikolu 25 tal-Att prinċipali.

20. L-artikolu 25 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"25. (1) F'din it-Taqsima, u fit-Taqsimiet IIIA u IIIB, "parti" tirreferi għal dik il-persuna li tkun parti fin-*negotium* li

huwa inkorporat fl-att u, f'każ ta' testament, għal testatur; u "komparenti" tfisser il-persuna li tidher quddiem nutar jew bhala parti jew bhala rappreżentant jew aġent ta' parti.

(2) In-nutar ma jistax jirċievi att nutarili ħlief fil-preżenza tal-persuni li qed jidhru fuq l-att.

(3) Il-preżenza ta' żewġ xhieda hija meħtieġa biss fil-każijiet li ġejjin:

(a) kull meta titlob hekk xi waħda mill-persuni li qed jidhru fuq l-att;

(b) kull meta xi waħda mill-persuni li qed jidhru fuq l-att ma tafx kif jew ma tkunx tista' tiffirma isimha;

(ċ) f'każ ta' testamenti pubbliċi; u

(d) f'każ ta' att nutarili ta' kunsinna ta' testamenti sigrieti.

(4) Hu dmir tan-nutar li jiddirigi l-kompilazzjoni tal-att mill-bidu sat-tmiem, ukoll fil-każ li jagħtih biex tiktbu persuna ta' fiduċja tiegħu.

(5) Lin-nutar waħdu jmiss li jara x'inhi l-volontà ta' persuni li qed jidhru fuq l-att u li jistaqsi, wara li jkun qralhom u fisserilhom l-att, jekk dan hux skont il-volontà tagħhom.

(6) Minkejja d-dispożizzjonijiet ta' dan l-att u ta' kull liġi oħra, sakemm l-ebda xhieda ma jkun meħtieġa skont is-subartikolu (3), u lanqas ma jkun japplika l-*proviso* tal-artikolu 34(1) jew l-artikoli 36, 37, 38, meta l-persuni kollha li qed jidhru fuq l-att jiddikjaraw illi huma fehmu kompletament il-kontenut tal-att u l-annessi tiegħu, huma jistgħu b'dikjarazzjoni espressa jeżentaw lin-nutar mill-jaqrahom l-att kollu u f'dak il-każ dawn il-formalitajiet ikunu meħtieġa:

(a) fl-aħħar tal-att jew qabel il-firma finali, in-nutar jikteb iż-żewġ dikjarazzjonijiet bil-kitba tiegħu u jiffirma dak li jkun kiteb,

(b) minnufih wara l-firma tan-nutar, kull komporenti jikteb separatament bil-kitba tiegħu "Jiena nikkonferma din l-eżenzjoni" u tiffirma fuqha; u

(ċ) kull komporenti għandu jiffirma kull karta tal-att fil-ġenb ta' barra u kull anness, sakemm l-annessi

ma jkunux ġew diġà ffirmati skont l-artikolu 28(1)(k)."

Sostituzzjoni tal-artikolu 26 tal-Att prinċipali.

21. L-artikolu 26 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"In-nutar għandu jiżgura ruħu mill-identità tal-persuni li qed jidhru fuq l-att, tal-*fidem facientes*, tax-xhieda u interpreti.

26. In-nutar għandu personalment jiżgura ruħu mill-identità tal-persuni li qed jidhru fuq l-att, tal-*fidem facientes*, tax-xhieda u interpreti. Din l-identità għandha tiġi żgurata u interpreti. Din l-identità għandha tiġi żgurata bil-produzzjoni tal-karta ta' identità uffiċjali, tal-passaport jew ta' xi dokument uffiċjali ieħor u, meta dokument bhal dan ma jistax jiġi prodott mingħand xi waħda mill-persuni li qed jidhru fuq l-att, bix-xiehda ta' żewġ *fidem facientes*, u dawn jistgħu wkoll ikunu x-xhieda tal-att."

Emenda tal-artikolu 27 tal-Att prinċipali.

22. Fil-paragrafi (b) u (ċ) tas-subartikolu (2) tal-artikolu 27 tal-Att prinċipali, il-kelma "partijiet" għandha tiġi sostitwita bil-kliem "partijiet, l-aġenti jew rappreżentanti tagħhom" rispettivament.

Emenda tal-artikolu 28 tal-Att prinċipali.

23. Is-subartikolu (1) tal-artikolu 28 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subparagrafu (i) tal-paragrafu (ċ) tiegħu:

(i) fil-verżjoni bl-Ingliż tiegħu l-kliem "the maiden name of the mother" għandhom jiġu sostitwiti bil-kliem "the maiden surname of the mother";

(ii) il-kliem "il-post fejn joqogħdu u l-kondizzjoni jew sengħa ta' kull waħda mill-partijiet, tax-xhieda u tal-*fidem facientes*, u rigward il-partijiet u l-*fidem facientes*, il-post tat-twelid ukoll" għandhom jiġu sostitwiti bil-kliem "il-post fejn joqogħdu, il-post u d-data tat-twelid (li jistgħu jinkitbu b'ċifri biss) tal-partijiet";

(b) is-subparagrafu (iii) tal-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(iii) meta persuna qed tidher bħala aġent jew rappreżentant ta' xi waħda mill-partijiet jew meta xhieda, *fidem facientes* jew interpreti qed jidhru fuq l-att, l-isem u l-kunjom, il-post u d-data tat-twelid (li jistgħu jinkitbu b'ċifri biss), u l-post fejn joqogħod dak l-aġent, rappreżentant, *fidem facientes* jew interpretu;"

(ċ) fil-verżjoni bl-Ingliż tas-subparagrafu (iv) tal-

paragrafu (ċ) tiegħu l-kelma "Act" għandha tiġi sostitwita bil-kelma "act";

(d) il-paragrafu (d) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(d) in-numru (li jista' jinkiteb b'ċifri biss) tad-dokument uffiċjali preżentat biex tiġi aċċertata l-identità tal-persuni li qed jidhru fuq il-kuntratt jew dikjarazzjoni illi n-nutar aċċerta ruħu minn dik l-identità permezz ta' *fidem facientes*. Meta xhieda jew interpreti qed jidhru fuq att, jew meta l-identità ta' xi waħda mill-persuni li qed jidhru fuq il-kuntratt giet aċċertata bit-testimonjanza tal-*fidem facientes*, in-numru (li jista' jinkiteb b'ċifri biss) tad-dokument uffiċjali preżentat minn dak ix-xhud, *fidem facietes* jew interpretu biex jiġu identifikati;"

(e) fil-paragrafu (e) tiegħu, il-kliem "id-dati" għandhom jiġu sostitwiti bil-kliem "id-dati, somma ta' flus,";

(f) minnufih wara l-*proviso* tas-subparagrafu (ii) tal-paragrafu (f) tiegħu, għandu jiżdied il-*proviso* ġdid li ġej:

"Iżda wkoll għall-finijiet ta' dan il-paragrafu, kull art għandha titqies bħala waħda rurali sakemm ma tkunx il-bejt sħiħ jew l-arja fuq proprjetà urbana;"

(g) il-*proviso* mal-paragrafu (g) tiegħu, għandu jiġi sostitwit b'dan li ġej:

kap. 364. "Iżda, f'każ fejn, skont l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u l-Atti dwar it-Taxxi fuq l-*Income* jew kull legiżlazzjoni oħra li tissostwixxi l-istess, id-dritt u t-taxxa imposti skont il-liġijiet rispettivi rigward in-*negotium* tal-att nutarili għandhom jiġihalsu fl-uffiċċju tal-Kummissarju tat-Taxxi Interni, nutar jista' jannetti mal-att wara l-pubblikazzjoni tiegħu l-kopja mogħtija lill-mill-imsemmi Kummissarju tal-avviż illi n-nutar ippreżenta f'dak l-uffiċċju, u l-kopja annessa titqies bħala parti mill-att minkejja illi mhiex imsemmija fl-att u mhiex iffirmata mill-persuni li qed jidhru fuq l-att, ix-xhieda, il-*fidem facientes*, l-interpreti, meta jkun hemm, u n-nutar;"

(h) fil-paragrafu (h) tiegħu, il-kelma "partijiet" għandha tiġi sostitwita bil-kliem "persuni li qed jidhru fuq l-att";

(i) il-paragrafu (i) tiegħu, wara l-kliem "ta' xi waħda mill-partijiet" għandhom jiżdied l-kliem "jew il-persuni li qed jidhru fuq l-att";

(j) fil-paragrafu (j) tiegħu, il-kelma "ippublikat" għandha tiġi sostitwita bil-kliem "ippublikat u, meta jkun pajjiż jew post li ma jkunx Malta, l-isem ta' dak il-pajjiż jew post"; u

(k) fil-paragrafu (k) tiegħu:

(i) fis-subparagrafu (i) tiegħu, il-kliem "il-partijiet" għandhom jiġu sostitwiti bil-kliem "persuni li qed jidhru fuq l-att", u l-kliem "ta' dan is-subartikolu" għandhom jiġu sostitwiti bil-kliem "ta' dan is-subartikolu; u, sakemm ma japplikax l-artikolu 25(6), in-nutar għandu jikteb l-inizjali tiegħu fuq kull karta tal-att u f'kull anness tiegħu";

(ii) fis-subparagrafu (ii) tiegħu, il-kliem "b'timbru b'sigill" għandhom jiġu sostitwiti bil-kliem "b'timbru jew b'timbru b'sigill"; u

(iii) is-subparagrafu (iii) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(iii) meta d-dokumenti annessi mal-att ikunu iktar minn ħamsa, mingħajr ma titqies għal dan il-għan il-kopja ta' avviż ipprezentata fl-uffiċċju tal-Kummissarju tat-Taxxi Interni sussegwentement wara li jitlesta l-att skont l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u l-Atti dwar it-Taxxi jew kull leġislazzjoni li tissostitwixxi l-istess, in-nutar jista' jagħmel elenku tagħhom, separat mill-att, u jehmzu mal-att, u għandu jagħmel referenza espressa għal dan l-eleku fl-att; f'kull każ bħal dan l-eleku għandu jiġi iffirmit bl-istess mod ta' kif jiġi iffirmit l-att, u d-dokumenti annessi jistgħu ma jiġux iffirmati,".

Kap. 364.

Zieda ta' artikolu ġdid mal-Att prinċipali.

24. Minnufih wara l-artikolu 28 tal-Att prinċipali għandu

jizzied l-artikolu ġdid li ġej:

"Regolamenti
li jippreskrivu
d-dokumenti
li għandhom
jiġu annessi.

28A. Bla hsara għad-dritt tan-nutar li jehmeż mal-att nutarili d-dokumenti li huwa jqis neċessarji jew utli, u bla hsara għad-dmir tiegħu li jagħmel hekk skont dan l-Att jew kull liġi oħra, il-Ministru responsabbli għall-professjoni nutarili jista' jagħmel regolamenti li jippresrivu d-dokumenti li nutar huwa obbligat jehmeż ma' att nutarili."

25. Fis-subartikolu (3) tal-artikolu 29 tal-Att prinċipali il-kelma "partijiet" għandha tiġi sostitwita bil-kliem "persuni li qed jidhru fuq l-att".

Emenda tal-artikolu 29 tal-Att prinċipali.

26. L-artikolu 30 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 30 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, il-kelma "partijiet" għandha tiġi sostitwita bil-kliem "persuni li qed jidhru fuq l-att"; u

(b) fis-subartikolu (3) tiegħu, il-kliem "l-kelmiet "kliem miżjud" " għandhom jiġu sostitwiti bil-kliem "l-kelmiet "kliem miżjud", "adde" jew espressjoni simili oħra".

27. L-artikolu 31 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 31 tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jithassar; u

(b) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bħala l-artikolu 31 sħiħ.

28. L-artikolu 32 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 32 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "att pubbliku" għandhom jiġu sostitwiti bil-kliem "att *inter vivos*";

(b) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (d) tiegħu, il-kliem "ir-registratur u żewġ xhieda" għandhom jiġu sostitwiti bil-kliem "u r-registratur"; u

(ii) il-paragrafu (e) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(e) l-isem, il-kunjom, l-isem tal-missier, il-post ta' twelid u l-mewt tat-testatur kif ukoll, meta xi dettalji minn dawn li ġejjin joħorġu mit-testment sigriet jew l-att ta' kunsinna tiegħu, l-isem u l-kunjom tal-omm xebba, id-data tat-twelid tat-testatur u d-dokument uffiċjali tal-identifikazzjoni;"

Emenda tal-artikolu 33 tal-Att prinċipali.

29. Fl-artikolu 33 tal-Att prinċipali, il-kliem "att pubbliku" għandhom jiġu sostitwiti bil-kliem "att *inter vivos*".

Emenda tal-artikolu 34 tal-Att prinċipali.

30. L-artikolu 34 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "parti" u "partijiet" kull fejn jidhru, għandhom jiġu sostitwiti bil-kliem "komparenti" u "komparenti" rispettivament;

(b) fis-subartikolu (1) tiegħu, il-kliem minn "(fosthom ukoll l-atti li n-nutara" sal-kliem "u (h)" għandhom jiġi ttrasformati; u

(ċ) minnufih wara s-subartikolu (6) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(7) L-atti li nutar għandu s-setgħa li jirċievi, jagħmel jew joħroġ taħt id-disposizzjonijiet tal-artikolu 2(2)(b), (ċ), (d), (e), (g), (h) u (j) għandhom jinkitbu bil-Malti jew bl-Ingliż kif jippreferu l-persuni li jkunu qed jiffrimaw, japprovaw, jiddikkjaraw jew li jeħtieġu dawn id-dokumenti, u fil-każ tal-att li jkun sar skont il-paragrafu (f) bl-Ingliż jew bil-Malti kif jippreferi n-nutar, u d-dispożizzjonijiet l-oħra kollha ta' dan l-artikolu għandhom japplikaw *mutatis mutandis*."

Emenda tal-artikolu 36 tal-Att prinċipali.

31. Is-subartikolu (1) tal-artikolu 36 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kelma "partijiet", kull fejn tinsab, għandha tiġi sostitwita bil-kliem "persuni li qed jidhru fuq l-att";

(b) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (4); u

(ċ) minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(3) L-interpretu għandu jiffirma l-att kif previst fl-artikolu 28(1) (k) u (l)."

32. L-artikolu 37 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 37 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "parti" jew "partijiet" għandhom jiġu sostitwiti bil-kliem "komparenti" jew "komparenti" rispettivament;

(b) fis-subartikolu (2) tiegħu:

(i) il-kelma "parti" għandha tiġi sostitwita bil-kliem "komparenti";

(ii) il-kliem "'Sekond' Awla tal-Qorti Ċivili" għandhom jiġu sostitwiti bil-kliem "Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja)";

(ċ) fis-subartikolu (3) tiegħu ċ-ċifra "36(3)" għandha tiġi sostitwita biċ-ċifra "36(4)"; u

(d) is-subartikolu (5) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(5) Id-dispożizzjonijiet tal-artikolu 36(3) u (4) għandhom japplikaw għal dak l-interpretu."

33. Fl-artikolu 38 tal-Att prinċipali l-kelma "partijiet", kull fejn tidger, għandha tiġi sostitwita bil-kliem "persuni li qed jidhru". Emenda tal-artikolu 38 tal-Att prinċipali.

34. L-artikolu 39 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 39 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) il-kelma "partijiet" għandha tiġi sostitwita bil-kliem "persuni li qed jidhru";

(ii) il-kliem "Sekond' Awla tal-Qorti Ċivili" għandhom jiġu sostitwiti bil-kliem "Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja)"; u

(b) fis-subartikoli (2) u (3) tiegħu l-kelma "parti" għandha tiġi sostitwita bil-kelma "persuna".

35. L-artikolu 40 tal-Att prinċipali għandu jiġi sostitwit b'dan Sostituzzjoni tal-artikolu 40 tal-Att prinċipali.

li ġej:

"Atti nutarili
nulli u
annullabbli.

40. (1) Att nutarili hu null:

(a) jekk isir min-nutar qabel ma' ismu jidher fil-Gazzetta skont l-artikolu 5(1);

(b) jekk jirċevih nutar li ma kienx seta jibqa' jeżerċita l-professjoni tiegħu għal xi waħda mir-raġunijiet imsemmija fl-artikolu 14, li jkun ġie sospiż jew inabilitat minhabba f'xi wieħed mill-każijiet imsemmija fl-artikolu 15(1) u wara li l-fatt ta' dan il-waqfien, sospensjoni jew inabilitazzjoni jkun ġie mxandar fil-Gazzetta;

(ċ) jekk ma jgħibx id-data;

(d) jekk ikun magħmul bi ksur tad-dispożizzjonijiet tal-artikolu 12(a), (ċ)(i), (ċ)(ii), u (d):

Izda, jekk il-ksur jirreferi biss għal parti waħda jew iktar tal-att, dik il-parti jew partijiet biss ikunu nulli:

Izda wkoll, il-ksur tal-artikolu 12(ċ)(i) jew (ii) għandu jimplika biss in-nullità tad-dispożizzjoni jew l-artikolu msemmija f'dawk is-subparagrafi;

(e) jekk il-htigiet tal-artikoli 25(1), (2), (3), (4) u (5), 27, 28(1)(k) u 34 ma jkunux ġew imħarsa:

Izda jekk l-ebda xhieda ma jkunu meħtieġa skont l-artikolu 25(3), u l-*proviso* tal-artikolu 34(1) jew l-artikoli 36, 37, 38 ma japplikawx, l-assenza temporanja ta' komparenti fuq l-att waqt il-pubblikazzjoni tal-att m'għandhiex tinvalida l-att jekk, minnufih wara li jkun deher, huwa jitlob lin-nutar biex jerga' jaqralu dak illi l-komparenti ma kienx preżenti għalih, u n-nutar ikun irrifjuta dan:

Iżda wkoll l-ommissjoni tal-firem fl-anness jew lista, kif meħtieġa fl-artikolu 28(1)(k), m'għandhiex tagħmel l-att null iżda dak l-anness jew dik il-lista mhux iffirmati ma jitqisux li jiformaw parti mill-att sakemm il-veridicità tal-kontenut tagħhom jirriżultaw mill-att innifsu jew mil-lista msemmija fl-imsemmi paragrafu (k):

Iżda wkoll l-ommissjoni tad-dikjarazzjoni msemmija fl-artikolu 28(1)(k)(ii) m'għandhiex tagħmel l-att null.

(2) Att nutarili hu annullabbli:

(a) jekk ikun sar bi ksur ta' waħda mid-dispożizzjonijiet tal-artikolu 12(b), (e), (f), (g), (h), (i) u (j);

(b) jekk il-ħtigiet tal-artikoli 36, 37 u 38 ma jkunux ġew imħarsa;

(ċ) jekk il-ħtigiet tal-artikolu 25(6) ma jkunux ġew imħarsa;

(d) jekk in-nutar ma jkunx qara l-att lill-persuni li qed jidhru fuq l-att, salv id-dispożizzjonijiet tal-artikolu 25(6);

(e) jekk in-nutar ma jkunx spjega l-att lill-persuni li qed jidhru fuq l-att;

(f) jekk in-nutar ma jkunx qara u spjega l-att lill-persuni li qed jidhru fuq l-att fil-preżenza tax-xhieda, meta l-preżenza tax-xhieda tkun meħtieġa skont l-artikolu 25(3).

(3) Ma tista' tittiehed l-ebda azzjoni biex att illi għandu wiehed mid-difetti msemmija fis-subartikolu (1)(ċ), (d) u (e) jiġi ddikjarat null ħlief fuq talba ta' waħda mill-partijiet fl-att:

Iżda meta d-difett ikun dak imsemmi fis-subartikolu (1)(ċ), id-data tal-att għandha titqies li tkun dik imsemmija fil-*proviso* tas-subartikolu (12).

(4) Ma tista' tittiehed l-ebda azzjoni biex jiġi ddikjarat null att li għandu wiehed mid-difetti msemmija fis-subartikolu (2) ħlief fuq talba ta' waħda mill-partijiet tal-att li turi li hi tkun sofriet danni materjali b'konsegwenza ta' dak id-difett jew difetti.

(5) Bla ħsara għad-dispożizzjonijiet li japplikaw f'dan l-artikolu, ma tista' tittiehed l-ebda azzjoni msemmija fis-subartikoli (3) u (4) ħlief fit-termini perentorji ta' għaxar u ħames snin rispettivament, b'dawn it-termini jibdeu għaddejjin mid-data tal-pubblikazzjoni tal-att jew, meta l-att huwa rreġistrat fir-Registru Pubbliku jew giet preżentata applikazzjoni fir-Registru tal-Artijiet għall-ewwel reġistrazzjoni ta', jew biex wiehed jittratta dwar il-proprjetà immobbli li jkun is-suġġett, tal-att, mid-data tar-reġistrazzjoni tiegħu fir-Registru Pubbliku jew tal-applikazzjoni fir-Registru tal-Artijiet, liema tkun l-ewwel.

(6) Bla ħsara għad-drittijiet diġa akkwistati minn terzi persuni, att li jkun null skont is-subartikolu (1) jista' jiġi meqjus validu permezz ta' att sussegwenti u bl-effett tiegħu, hawn iktar 'il quddiem imsemmi "att ta' validazzjoni".

(7) Att li huwa annullabli minħabba f'xi difetti elenkati fis-subartikolu (2) jista', permezz ta' att sussegwenti, hawn iktar 'il quddiem imsejjaħ "att ta' konvalidazzjoni", ikollu l-validità tiegħu kkonfermata *ab initio*.

(8) Fejn att ta' validità jiġi ppubblikat skont it-termini tas-subartikolu (6), in-nutar għandu jehmeż ma' dak l-att -

(a) l-att oriġinali li jkun fih difett bid-dokumenti disponibbli mehmuża miegħu, jekk l-att oriġinali li jkun fih difett mhuwiex miżmum fl-arkivji tan-nutar li ppublikah, jew

(b) kopja awtentikata tal-att li jkun fih difett inkluża kopja tad-dokumenti mehmuża disponibbli jekk din tkun giet hekk miżmuma;

Kap. 364.

u, minkejja kull liġi oħra, kull taxxa li diġà thallset għall-finijiet tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u kull taxxa li diġà tkun thallset għall-finijiet ta' Atti dwar it-Taxxi fir-rigward tal-att li jkun fih difett, għandha titqies li għet imħallsa kollha jew akkont ta' kull imposta jew taxxa li tista' tkun dovuta fuq l-att ta' validazzjoni.

(9) Meta xi parti fl-att li jkun fih difett jew is-suċċessuri tiegħu fit-titolu ma tistax jew ma tridx tidher fuq l-att biex jivvalida jew jikkonvalidazzjoni kif ikun il-każ att li jkun fih difett, u dik il-parti għadha ma bdiex jew mhijix intitolata li tiegħu azzjoni skont is-subartikoli (3) jew (4), kull parti oħra tal-att li jkun fih difett jew is-suċċessuri tagħha fit-titolu għandhom id-dritt jipprezentaw rikors fil-Qorti ta' Revizjoni tal-Atti Nutarili biex jitolbuha biex tordna li jiġi ppublikat l-att li jivvalida jew jikkonvalida, skont il-każ, l-att li jkun fih difett skont it-termini u l-kondizzjonijiet li l-Qorti tikkonsidra xierqa, u li jiġu nominati kuraturi biex jidhru f'isem dawk il-partijiet jew is-suċċessuri tagħhom fit-titolu li jonqsu milli jidhru fuq dak l-att ta' validità jew konvalidazzjoni.

(10) Il-partijiet tal-att l-oħra jew is-suċċessuri tagħhom fit-titolu jew l-aġenti tagħhom għandhom jingħataw ukoll kopja tar-rikors.

(11) Meta jkun gie pprezentat rikors skont is-subartikolu (9) għall-validazzjoni jew konvalidazzjoni ta' att, id-dritt li kull parti oħra fl-att s'issa kellha biex tiftaħ kawża skont is-subartikoli (3) jew (4) għandu minnufih jiskadi.

(12) Meta tkun sodisfatta li l-firem fuq l-att li jkun fih difett huma awtentiċi u li l-persuni li qed jidhru fuq l-att taw il-kunsens tagħhom għal dak l-att, il-Qorti għandha tordna l-publikazzjoni tal-att ta' validazzjoni jew konvalidazzjoni, skont il-każ, tal-att li jkun fih difett:

Iżda meta l-att ikun fih difett skont is-subartikolu (1)(ċ), iżda l-att ikun ġie rreġistrat fir-Registru Pubbliku jew ġiet ipprezentata applikazzjoni fir-Registru tal-Artijiet għall-ewwel reġistrazzjoni ta', jew ġiet preżentata applikazzjoni fir-Registru tal-Artijiet għall-ewwel reġistrazzjoni ta', jew biex wiehed jittratta dwar il-proprjetà immobli li tkun is-suġġett tal-att, id-data tal-att għandha titqies li tkun fin-nota ta' reġistrazzjoni jew dik imsemmija fl-applikazzjoni.

(13) In-nutar li jippubblika l-att ta' validazzjoni jew konvalidazzjoni ordnat skont is-subartikolu (12) għandu jannetti mal-att id-dikjarazzjoni tar-reġistratur illi d-deċiżjoni tal-Qorti ta' Reviżjoni saret *res judicata*.

(14) Bla ħsara għal kull dispozizzjoni oħra ta' dan l-artikolu u bla ħsara għad-drittijiet diġà akkwistati minn terzi persuni, il-Ministru responsabbli għall-affarijiet nutarili jista' b'regolamenti jipprovdi li att nutarili illi jkun fih difett wiehed jew iktar minn dawk imsemmija fil-paragrafi tas-subartikoli (1) u li jkun ġie rreġistrat fir-Registru Pubbliku jew fir-rigward tiegħu ġiet preżentata applikazzjoni fir-Registru tal-Artijiet għall-ewwel reġistrazzjoni ta' jew biex wiehed jittratta dwar il-proprjetà immobli li tkun is-suġġett tal-att, u li jkun sar jew min-nutar illi m'għadux ħaj jew minn wiehed illi jkun waqaf jeżerċità l-funzjonijiet tiegħu skont l-artikolu 14, għandu jkun meqjus validu minkejja li jkun fih difett jew difetti bħal dawk, u fl-għemil ta' dawk ir-regolamenti il-Ministru jista' ukoll jassogġetta l-imsemmija validità għal dawk it-termini u kundizzjonijiet li huwa jqis xierqa.

(15) Bla ħsara għal kull dispożizzjoni oħra ta' dan l-artikolu, il-Ministru responsabbli għall-affarijiet nutarili jista' b'regolamenti jipprovdi li ma tista' tittiehed l-ebda azzjoni skont is-subartikolu (4) biex jiġi annullat att nutarili li jkun fih difett jew difetti tal-att imsemmija fis-subartikolu (2), u li jkun sar jew minn nutar illi m'għadux ħaj jew minn wiehed li ma baqax jeżerçità l-funzjonijiet tiegħu skont l-artikolu 14 u fl-għemil ta' dawn ir-regolamenti l-Ministru jista' jassoġgetta l-imsemmija validità għal dawk it-termini u kundizzjonijiet li huwa jqis xierqa.

(16) (a) L-applikabilità ta' dan l-artikolu għal testmenti pubblici hija limitata għas-subartikoli (1) u (2) u għad-dispożizzjonijiet ta' dan is-subartikolu.

(16) (b) Testment li jkun ġie affettwat minn xi difett tal-att imsemmi fis-subartikolu (1)(d) u (e) f'xi paragrafu tas-subartikolu (2) m'għandux jiġi ddikjarat null jew ikun annullabbli, kif ikun il-każ, għar-raġuni biss illi xi formalitajiet li jkunu mehtieġa fih ma jkunux ġew imħarsa jekk, wara l-mewt tat-testatur, il-persuna li għandha interess fis-suċċessjoni tiegħu u li tkun fethet kawża biex jiġi iddikjarat null it-testment jew biex jiġi annullat, għalkemm kienet taf bil-kawża ta' nullità jew l-annullabilità tat-testment, jew ikkonfermat t-testment jew volontarjament eżegwitu.

(16) (ċ) Ma tista' tittiehed l-ebda azzjoni skont il-paragrafu (b) sakemm ma ssirx fit-terminu perentorju ta' għaxar snin f'każ li jkun hemm xi wiehed mid-difetti fl-att imsemmija fis-subartikolu (1)(d) u (e) u ħames snin f'każ li jkun hemm wiehed minn dawk imsemmija fis-subartikolu (2), u l-imsemmija termini jibdew jgħoddu mid-data li tkun infethet is-suċċessjoni tat-testatur, sakemm it-testment ma jkunx *unica charta* li jkun ġie ppubblikat qabel l-ewwel ta' Marzu 2005, f'liema każ it-termini msemmija qabel jibdew jgħoddu mid-data li tkun infethet is-suċċessjoni tat-testatur li jibqa' ħaj."

Emenda tal-artikolu 41 tal-Att prinċipali.

36. Fl-artikolu 41 tal-Att prinċipali, il-kelma "null" għandha tiġi sostitwita bil-kliem "null jew annullabli, kif ikun il-każ".

Emenda tal-artikolu 42 tal-Att prinċipali.

37. L-artikolu 42 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu, wara l-kelma "null" għandhom jiżdiedu l-kliem "jew annullat";

(b) il-kelma "null" għandha tiġi sostitwita bil-kliem "null jew annullat"; u

(ċ) fl-aħħar tiegħu għandu jiżdied il-*proviso* li ġej:

"Izda meta l-att oriġinali jitqiegħed fl-Arkivji, il-komunikazzjoni għandha ssir ukoll mal-Arkivist li, fir-rigward ta' dak l-att, għandu l-istess dmir impost fuq in-nutar b'dan l-artikolu."

Emenda tal-artikolu 43 tal-Att prinċipali.

38. L-artikolu 43 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "il-*proviso* li hemm ma'" għandhom jiġu sostitwiti bil-kliem "is-subartikoli (14) u (15) ta'"; u

(b) il-kelma "partijiet" għandha tiġi sostitwita bil-kliem "persuni li qed jidhru fuq l-att".

Żieda ta' artikolu ġdid fl-Att prinċipali.

39. Minnufih wara l-artikolu 45 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Att korrettiv nutarili.

45A.(1) Bla ħsara għad-drittijiet diġà akkwistati minn terzi u bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, nutar għandu, fir-rigward ta' atti *inter vivos* fir-records tiegħu, f'dan l-artikolub msemmi "l-att oriġinali", id-dritt biex jagħmel f'kull hin, att ta' dikjaratorju li jirrettifika kull żball jew ommissjoni li jkun fih. L-att deklaratorju, f'dan l-artikolu msemmi "att korrettiv nutarili", għandu jiġi preservat u rreġistrat fir-records tan-nutar.

(2) Att korrettiv nutarili m'għandux jaffettwa l-intenzjoni tal-partijiet, il-kunsens tagħhom mogħti fl-att oriġinali jew il-jeddijiet personali u reali tagħhom li joħorġu minn dak l-att.

(3) Parti li taċċetta l-kontenut tal-att korrettiv nutarili tista' tidher fuq dan l-att biex turi l-qbil tagħha kemm shih kemm għal parti minnu, u f'dak il-każ id-dispożizzjonijiet tas-subartikolu (9) m'għandhomx japplikaw għal dik il-parti.

(4) Parti li ma tkunx dehret għall-att korrettiv nutarili tista' tidher f'att sussegwenti ppubblikat mill-istess nutar u turi l-qbil tagħha tal-kontenut tal-att korrettiv nutarili.

(5) L-iżbalji u l-ommissjonijiet li jistgħu jkunu s-sugġett tal-att korrettiv nutarili huma dawn li ġejjin:

(a) żbalji ta' tajpjar jew ortografiċi;

(b) dettalji relatati mal-konfini ta' immobbli;

(ċ) diskrepanzi bejn kliem u ċifri;

(d) żball meta tiġi konvertita valuta differenti;

(e) żbalji meta tiġi kkalkulata t-taxxa;

(f) żbalji fl-origini ta' titolu; u

(g) kull haġa oħra li l-Ministru responsabbli għall-affarijiet nutarili jiddetermina permezz ta' regolamenti.

(6) Nota ta' registrazzjoni ta' att korrettiv nutarili għandha tiġi pprezentata fir-Registru Pubbliku skont l-artikolu 50 li jkun fiha l-iżballji u l-ommissjonijiet irrangati u jekk il-partijiet dehrux fuq l-att.

(7) Id-Direttur tar-Registru Pubbliku għandu jaċċetta nota hekk prezentata minkejja d-dispożizzjonijiet ta' dan l-att jew ta' xi liġi oħra.

(8) L-att korrettiv nutarili ma jkollux effett kontra terzi persuni sakemm in-nota relattiva ma tkunx giet ipprezentata fir-Registru Pubbliku.

(9) In-nutar għandu jibgħat kopja tal-att korrettiv nutarili permezz ta' ittra reġistrata lill-indirizz preżenti jew lill-ahħar indirizz maruf tal-partijiet tal-att oriġinali jew tal-aġenti jew rappreżentanti jew suċċessuri tagħhom fit-titolu, imma din id-dispożizzjoni m'għandhiex tapplika għal dawk il-partijiet li deheru fuq l-att korrettiv nutarili skont subartikolu (3) jew fuq att sussegwenti skont is-subartikolu (4).

(10) Għajr għal dik il-parti illi tkun uriet il-qbil tagħha skont is-subartikolu (3) jew (4), u sakemm hija tkun għamlet dan, id-dikjarazzjonijiet magħmula fl-att korrettiv tan-nutar jistgħu jiġu konfutati mill-partijiet tal-att oriġinali jew mill-aġenti tagħhom jew mir-rappreżentanti tagħhom jew mis-suċċessuri tagħhom fit-titolu matul it-terminu perentorju ta' sentejn li jibdew jgħoddu mid-data ta' meta jkunu rċevew il-kopja msemmija fis-subartikolu (9), wara liema żmien id-dikjarazzjonijiet tal-att korrettiv nutarili għandhom jiffurmaw parti integrali mal-kontenut tal-att oriġinali.

(11) Din il-konfutazzjoni għandha ssir permezz ta' att dikjaratorju, debitament reġistrat fir-Registru Pubbliku skont l-artikolu 50, li jindika dik il-konfutazzjoni, bis-sħiħ jew in parti, tar-rettifika tan-nutar tal-izbalji jew ommissjonijiet, u dik in-nota ta' registrazzjoni għandu jkollha l-effett li tannulla d-dikjarazzjonijiet magħmula min-nutar fl-att korrettiv nutarili, fir-rigward tal-partijiet kollha fl-att oriġinali inkuża kull parti li tkun dehret fuq l-att korrettiv nutarili jew att korrettiv sussegwenti skont is-subartikoli (3) jew (4).

(12) Meta nutar ikun miet jew waqaf iwettaq il-funzjonijiet tiegħu skont l-artikoli 14 jew 15(1), l-att korrettiv nutarili jista' jsir minn kull nutar.

(13) Kull att korrettiv nutarili li jista' jżid, inaqqas, jimmodifika jew jikkancella xi jeddijiet reali jew personali jew li jista' jaffettwa t-tip ta' prijorità jew il-gradazzjoni ta' privileġġ jew ipoteka ta' xi kreditur ikun null, u jista' jiġi konfutat skont is-subartikolu (11).

(14) Kull nutar li bi traskuraġni jippublika att korrettiv nutarili jew att korrettiv sussegwenti kif imsemmi fis-subartikolu (13) ikun responsabbli għal danni lejn il-partijiet jew is-suċċessuri fit-titolu tiegħu li ġew affettwati b'mod negattiv b'dak l-att."

40. Is-subartikolu (2) tal-artikolu 46 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 46 tal-Att prinċipali.

"(2) In-nutar għandu jagħmel annotazzjonijiet relatati mar-reġistrazzjonijiet li jkunu saru f'kull reġistru, għar-rexissjoni, it-tibdil, it-ħassir, il-validazzjoni jew il-konvalidazzjoni li jkunu saru minn att nutarili, għal atti korrettivi nutarili u atti korrettivi sussegwenti, għad-dikjarazzjoni ta' nullità ta' att jew l-annulament tiegħu li jkun ser permezz ta' sentenza tal-awtorità ġudizzjarja kompetenti, u għal kull dikjarazzjoni oħra relatata mal-att innifsu u li n-nutar hu marbut li jagħmel skont il-liġi."

41. L-artikolu 47 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 47 tal-Att prinċipali.

"47. (1) Jekk in-nutar li jagħmel l-att ta' rexissjoni, ta' ħassir, ta' varjazzjoni, ta' validazzjoni, ta' konvalidazzjoni, jew att korrettiv nutarili jew att korrettiv sussegwenti huwa l-istess nutar li għamel l-att oriġinali, huwa għandu fi żmien hmistax-il ġurnata jagħmel referenza għal dak l-att fil-ġenb jew fl-aħħar tal-att oriġinali u tar-reġistrazzjoni tiegħu fir-reġistru.

(2) Meta l-att oriġinali msemmi fis-subartikolu (1) jitqiegħed fl-Arkivji, in-nutar għandu, minbarra li jdaħħal ir-referenza fir-reġistru skont is-subartikolu (1), jissottometti lill-Arkivist fi żmien xahar minn meta jkun irċieva l-att kopja tan-nota pprezentata skont l-artikolu 50 jew, jekk l-att m'huwiex reġistrabbli, kopja tal-att tar-rexissjoni, ta' ħassir, ta' tibdil, ta' validazzjoni, ta' konvalidazzjoni, jew ta' att korrettiv nutarili jew att korrettiv sussegwenti.

(3) Jekk in-nutar li jirċievi l-att ta' rexissjoni, ta' ħassir,

ta' tibdil, ta' validazzjoni, ta' konvalidazzjoni, jew l-att korrettiv nutarili jew att korrettiv sussegwenti ma jkunx l-istess wiehed li rċieva l-att hekk rexiss, imħassar, imbidde, validat, konvalidat jew ikkoreġut, huwa għandu fi żmien xahar minn meta jirċievi l-att jippreżenta lil dak in-nutar, jew lill-konservatur ta' dak l-att, u lill-Arkivist kopja tan-nota jew tal-att kif previst fis-subartikolu (2).

(4) In-nutar li jkun irċieva l-att hekk rexiss, imħassar, imbidde, validat, konvalidat jew ikkoreġut, jew kif ikun il-każ, il-konservatur ta' dak l-att, għandu fi żmien hmistax-il ġurnata mid-data li kien irċieva n-nota jew kopja jdahhal referenza għall-att ta' rexissjoni, ta' thassir, ta' tibdil, ta' validazzjoni, ta' konvalidazzjoni, jew ta' att korrettiv nutarili jew ta' att korrettiv sussegwenti fil-ġenb jew fl-aħħar tal-att originali u tar-registrazzjoni tiegħu fir-registru u, meta l-originali jitqiegħed fl-Arkivji, id-dispożizzjonijiet ta' dan is-subartikolu għandhom japplikaw *mutatis mutandis* għall-Arkivist.

(5) In-nutar li jkun irċieva l-att hekk rexiss, imħassar, imbidde, validat, konvalidat jew ikkoreġut, jew il-konservatur ta' dak l-att, u l-Arkivist għandu johroġ irċevuta lin-nutar li qed jippreżenta in-nota jew il-kopja, kif ikun il-każ, u l-Arkivist għandu jannetti in-nota u l-kopja mal-att originali.

(6) Meta l-Arkivist jirċievi in-nota jew il-kopja skont is-subartikolu (3) iżda l-att originali ma jkunx ġie depożitat fl-Arkivji, l-Arkivist għandu jibgħat lura id-dokument lin-nutar jew lill-konservatur tal-att tiegħu u jinfurmah li l-originali għadu ma ġiex depożitat."

Thassir tal-artikoli 48 u 49 tal-Att prinċipali.

42. L-artikoli 48 u 49 tal-Att prinċipali għandhom jiġu mħassra.

Emenda tal-artikolu 50 tal-Att prinċipali.

43. L-artikolu 50 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (5) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(5) Żewġ noti jew iktar ma jistgħux jinkitbu f'karta waħda."; u

(b) fis-subartikolu (6) tiegħu il-kliem "fi ktieb miżmum għal dak il-għan" għandhom jithassru.

44. L-artikolu 51 tal-Att prinċipali għandu jithassar. Thassir tal-artikolu 51 tal-Att prinċipali.
45. L-artikolu 52 tal-Att prinċipali għandu jiġi emendat kif
 ġej: Emenda tal-artikolu 52 tal-Att prinċipali.
- (a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:
- "(1) Minkejja li jkun hemm ftehim kuntrajru, kull nutar għandu jiskrivi fir-Registru Pubbliku, fi żmien xahar mid-data tal-att relattiv, kemm-il darba ma jkunux diġa ġew iskritti fuq talba ta' persuni oħra kull ċessjoni, surroga, tnaqqis jew tħassir ta' ipoteka jew privileġġ, iżda f'każ ta' dejn privileġġjat li għadu ma ġiex irregistrat it-terminu speċifikat f'dan is-subartikolu jibda jgħodd mid-data tar-registrazzjoni ta' dak l-att."; u
- (b) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:
- "(3) In-nutar għandu, flimkien man-nota li permezz tagħha ċessjoni, surroga, tnaqqis jew tħassir ta' kull ipoteka jew privileġġ jiġi rreġistrat, jipprezenta lid-Direttur tar-Registru Pubbliku kopja tagħha liema kopja għandha tiġi kontrofirmata mill-imsemmi Direttur li għandu jehmeż magħha d-data u l-firma tiegħu bħala prova tal-prezentata."
46. L-artikoli 53 u 54 tal-Att prinċipali għandhom jitthassru. Thassir tal-artikoli 53 u 54 tal-Att prinċipali.
47. L-artikolu 55 tal-Att prinċipali għandu jiġi emendat kif
 ġej: Emenda tal-artikolu 55 tal-Att prinċipali.
- (a) fis-subartikolu (3) tiegħu, il-kliem "għandha ġġib ukoll numru progressiv." għandhom jiġu sostitwiti bil-kliem "għandha ġġib ukoll numru progressiv:" u minnufih wara għandu jizdied il-proviso ġdid li ġej:
- "Izda meta paġna miktuba jew anness ikollu numru progressiv simili, in-nutar għandu jew jirraġa l-iżball u jikteb l-inizjali tiegħu fejn ġie kkoreġut jew iżid man-numru tal-paġna ittra tal-alfabett li biha jingħaraf u jagħmel l-inizjali tiegħu. Imbagħad fl-aħħar każ, huwa għandu fl-aħħar tal-volum jagħmel dikkjarazzjoni ffirmata fejn jirreferi għall-paġni li fihom ikunu żdiedu l-

imsemmija ittri u jiddikjara illu huwa għamel hekk biex jevita duplikazzjoni fl-ippaġnar tal-volums done so to avoid duplication in the volume's pagination.";

(b) fis-subartikolu (4) tiegħu:

(i) il-kliem "u l-atti ta' kunsinna ta' testmenti sigrieti" għandhom jithassru;

(ii) minnufih wara l-kliem "paġna miktuba" għandhom jiżdiedu l-kliem "u annessi";

(ċ) fis-subartikolu (5) tiegħu l-kliem "u l-atti ta' kunsinna ta' testmenti sigrieti" għandhom jithassru;

(d) fis-subartikolu (6) tiegħu l-kliem "jew att ta' kunsinna" għandhom jithassru;

(e) is-subartikolu (7) tiegħu (inkluż il-proviso tiegħu) għandu jiġi sostitwit b'dan li ġej:

"(7) (a) Iż-żewġ testmenti u atti *inter vivos* għandhom jiġu enumerati fi żmien erbgħa u għoxrin siegħa minn meta jiġu ppublikati.

(b) L-enumerazzjoni tal-paġni miktuba u l-annessi, jekk ikun hemm, għandha ssir fi żmien erbgħa u għoxrin siegħa minn meta jiġi ppublikat it-testment, u fi żmien tletin ġurnata f'każ li jkun att ieħor."; u

(f) minnufih wara s-subartikolu (7) tiegħu, kif sostitwit, għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(8) Minkejja kull dispożizzjoni oħra ta' dan l-att u kull liġi oħra, in-nutar jista', għall-finijiet tas-subartikolu (2), jgħaddi lil-legatur l-atti originali u t-testmenti, l-annessi, l-indiċijiet u r-registri tagħhom biex jiġu illegati kif meħtieġ f'dan l-Att:

Iżda n-nutar ma jistax f'ebda mument jirrilaxxa kontemporanjament mill-pussess tiegħu l-originali u r-registri rispettivi tagħhom.

(9) Il-Ministru responsabbli għall-affarijiet nutarili għandu b'regolamenti magħmula bl-approvazzjoni tal-Kunsill Nutarili jippreskrivi l-kundizzjonijiet li taħthom nutar jista' jgħaddi d-dokumenti msemmija fis-subartikolu (8).".

48. Fis-subartikolu (3) tal-artikolu 59 tal-Att prinċipali il-kelma "għoxrin" għandha tiġi sostitwita bil-kelma "ħamsin".

Emenda tal-artikolu 59 tal-Att prinċipali.

49. Fl-artikolu 60 tal-Att prinċipali l-kliem "u l-atti ta' kunsinna ta' testmetni sigriet" għandhom jiħassru.

Emenda tal-artikolu 60 tal-Att prinċipali.

50. Minnufih wara s-subartikolu (2) tal-artikolu 61 tal-Att prinċipali, għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 61 tal-Att prinċipali.

"(3) Il-proviso tas-subartikolu (3) tal-artikolu 55 għandu japplika *mutatis mutandis*."

51. L-artikolu 62 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 62 tal-Att prinċipali.

"62. No volume of the original acts or of the registers shall contain more than five hundred pages:

Iżda meta att wieħed ikun ta' iktar minn ħames mitt paġna, l-original jew ir-registru ta' dak l-att jista' jitqiegħed f'volum separat li jkun fih dak l-att biss, u f'dak il-każ dak il-volum jista' jkun jikkonsisti minn aktar minn ħames mitt paġna."

52. L-artikolu 64 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 64 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "u tal-atti ta' kunsinna ta' testmenti sigrieti" għandhom jiħassru; u

(b) (b) fis-subartikolu (3) tiegħu il-kliem "u n-numru ta' l-ewwel paġna ta' l-att innifsu" għandhom jiħassru.

53. L-artikolu 66 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 66 tal-Att prinċipali.

(a) id-dispożizzjoni preżenti għandha tiġi enumerata mill-ġdid b'ħala s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(2) Għall-finijiet tas-subartikolu (1), il-legatur li skont l-artikolu 55(8) ikollu fil-pussess tiegħu l-originali, l-annessi, l-indiċijiet u r-registri tagħhom għandu, matul dak iż-żmien ikun suġġetti għall-istess responsabbiltà ċivili u kriminali tan-nutar.

(3) Għall-finijiet ta' dan l-Att u ta' kull liġi oħra, ir-responsabbiltà ċivili u kriminali ta' nutar f'każ ta' żvelar

lil terzi persuni ta' informazzjoni kunfidenzjali li tirriżultà mill-orġinali, l-annessi, l-indiċijiet u r-registri tagħhom testendi ukoll għal-legatur."

Emenda tal-artikolu 68 tal-Att prinċipali.

54. L-artikolu 68 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem "l-artikolu 81(4), it-testmenti pubbliċi, l-atti ta' kunsinna ta' testmenti sigrieti, u" għandhom jiġu sostitwiti bil-kliem "l-artikolu 81(5), testmenti pubbliċi u";

(ii) il-kliem "it-testment, l-att jew" għandhom jiġu sostitwiti bil-kliem "it-testment jew"; u

(b) fis-subartikolu (2) tiegħu, il-kliem "dispożizzjonijiet testamentarji kollha tat-testatur li jkun miet." għandhom jiġu sostitwiti bil-kliem "dispożizzjonijiet testamentarji kollha tat-testatur li jkun miet:" u minnufih wara għandu jizdied il-proviso ġdid li ġej:

"Izda fir-rigward ta' testmenti ppubblikati qabel l-1 ta' Marzu 2005, in-nutar għandu, minflok estratt, joħroġ dikjarazzjoni li jkun fiha s-sustanza ta' dispożizzjonijiet testamentarji tat-testatur il-mejjet b'dak il-mod li d-dispożizzjonijiet tat-testatur li għadu ħaj ma jinkixfux. Meta n-nutar jiltaqa' ma' diffikultajiet waqt li jkun qed jhejji d-dikjarazzjoni, huwa għandu dritt li jagħmel rikors fil-Qorti tal-Ġurisdizzjoni Volontarja fejn jitlobha biex tidderiġih għall-mod ta' kif għandha ssir id-dikjarazzjoni; u l-Qorti għandha tagħtih dawk id-direzzjonijiet li hija tqis xierqa."

Emenda tal-artikolu 69 tal-Att prinċipali.

55. Is-subartikolu (1) tal-artikolu 69 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "In-nutar" għandhom jiġu sostitwiti bil-kliem "Bla ħsara għad-dispożizzjonijiet tal-Att dwar id-Dispożizzjonijiet Temporanji tal-Atti Nutarili u għall-artikolu 55(8) ta' dan l-Att, in-nutar"; u

(b) fil-verżjoni bl-Ingliz il-kelma "court" għandha tiġi sostitwita bil-kliem "a court".

Emenda tal-artikolu 70 tal-Att prinċipali.

56. Fis-subartikoli (1) u (2) tal-artikolu 70 tal-Att prinċipali ċ-ċifra "15" għandha tiġi sostitwita biċ-ċifra "15(1)".

57. L-artikolu 71 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 71 tal-Att prinċipali.

(a) in-nota marginali tiegħu għandha tiġi sostitwita b'dan li ġej: "In-nutar hu s-sid tar-registri tiegħu.";

(b) fis-subartikolu (1) tiegħu l-kliem minn "Hu jkun" sal-kliem "ta' dan l-Att." għandhom jiġihassru; u

(ċ) fis-subartikolu (3) tiegħu l-kliem "Dawn l-atti" għandhom jiġu sostitwiti bil-kliem "L-atti oriġinali".

58. Minnufih wara l-artikolu 73 u qabel l-artikolu 74 tal-Att prinċipali l-kliem "KOPJI U ESTRATTI" tat-Titolu III tat-Taqsima III għandhom jiġu sostitwiti bil-kliem "KOPJI, ESTRATTI U DIKJARAZZJONIJIET". Sostituzzjoni tal-intestatura tat-Titolu III tat-Taqsima III tal-Att prinċipali.

59. L-artikolu 74 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 74 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "dawn l-atti" għandhom jiżdiedu l-kliem "jew jorog id-dikjarazzjoni msemmija fil-proviso għall-artikolu 68(2)";

(b) fis-subartikolu (2) tiegħu u fil-proviso tiegħu l-kliem "kopji u estratti" għandhom jiġu sostitwiti bil-kliem "kopji, estratti jew dikjarazzjonijiet";

(ċ) fis-subartikolu (3) tiegħu ċ-ċifra "81(4)" għandha tiġi sostitwita biċ-ċifra "81(5)";

(d) fis-subartikolu (4) tiegħu:

(i) il-kliem "kopja ta' testment" għandhom jiġu sostitwiti bil-kliem "kopja ta' testment, estratt tiegħu jew dikjarazzjoni";

(ii) fil-verżjoni bl-Ingliż il-kelma "abstract" kull fejn tinsab għandha tiġi sostitwita bil-kelma "extract";

(e) is-subartikolu (6) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (7); u

(f) minnufih wara s-subartikolu (5) tiegħu għandu jidhol is-subartikolu ġdid li ġej:

"(6) Meta jinhareg estratt skont l-artikolu 68(2) jew dikjarazzjoni mahruġa skont il-proviso ta' dak is-subartikolu, in-nutar għandu jiddikjara bil-kitba fl-aħħar

tal-estratt jew tad-dikrazzjoni għal min inħareġ dak l-estratt jew dikjarazzjoni wara li debitament jaċċerta ruħu li id-dispożizzjonijiet ta' dak is-subartikolu jew proviso japplikaw."

Emenda tal-artikolu 75 tal-Att prinċipali.

60. Fis-subartikolu (3) tal-artikolu 75 tal-Att prinċipali l-kelma "wkoll" għandha tiġi sostitwita bil-kelma "ħlief".

Emenda tal-artikolu 76 tal-Att prinċipali.

61. L-artikolu 76 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandha tiġi sostitwita b'dan li ġej: "Kontenut ta' kopji, estratti u dikjarazzjonijiet.";

(b) fis-subartikolu (1) tiegħu il-kelma "oriġinal" għandha tiġi sostitwita bil-kliem "oriġinal jew ir-registru";

(ċ) fis-subartikolu (2) tiegħu il-kelma "oriġinal" għandha tiġi sostitwita bil-kliem "oriġinal jew ir-registru"; u

(d) minnufih wara is-subartikolu (2) tiegħu, kif emendat, għandu jidhol is-subartikolu ġdid li ġej:

"(3) Minbarra l-informazzjoni msemmija fil-proviso tal-artikolu 68(2), dikjarazzjoni magħmula skont dak il-proviso għandu jkollha d-data u l-ħin ta' meta ġie ppublikat it-testment, l-isem tan-nutar li irċevieh, u d-dettalji kollha tat-testatur il-mejjet u tax-xhieda, tal-*fidem facientes* u tal-interpreti, jekk ikun hemm, u traskrizzjoni jew is-sustanza ta' kull anness mat-testment iżda safejn jirreferi għat-testatur il-mejjet biss:

Izda meta l-kontenut tal-anness jirreferi biss għat-testatur il-mejjet, in-nutar jista' johroġ fotokopja ta' dak l-anness."

Sostituzzjoni tal-artikolu 77 tal-Att prinċipali.

62. L-artikolu 77 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Hruġ ta' kopji, estratti u dikjarazzjonijiet..

77. (1) Kull kopja u estratt għandu jkollhom fl-aħħar id-data ta' meta ingħataw u għandhom ikunu awtentikati min-nutar billi jehmeż il-firma tiegħu u l-kelmiet "jaqbel mal-oriġinal" jew "b'konformita mar-registru" jew espressjoni simili oħra.

(2) Kull dikjarazzjoni skont il-proviso tal-artikolu 68(2) għandu jkollha fl-aħħar id-data ta' meta inghatat, u n-nutar għandu jagħmel il-firma tiegħu u l-kelmiet "dikjarazzjoni magħmula skont il-proviso mal-artikolu 68(2) tal-Kapitolu 55" jew espressjoni simili oħra.

(3) Jekk il-kopja, l-estratt jew dikjarazzjoni jikkonsistu f'iktar minn folja waħda, in-nutar jew l-Arkivist għandu jiffirma f'kull folja jew fil-ġenb jew fl-aħħar.

(4) In-nutar għandu jittraskrivi jew jagħmel fotokopja ta' xi anness jew l-annessi kollha li jkunu mal-att jew registru jekk jiġi mitlub biex jagħmel hekk mill-persuna li teħtieġ il-kopja jew l-estratt.

(5) In-nutar għandu jittraskrivi fl-aħħar ta' kull kopja, jew fil-ġenb ta' kull folja, ir-referenzi tal-atti l-oħra mdaħħla fl-att oriġinali jew fir-registru kif ikun il-każ."

63. Fil-verżjoni bl-Ingliż tal-paragrafu (a) tal-artikolu 79 tal-Att prinċipali, il-kliem "procès-firebox" għandhom jiġu sostitwiti bil-kliem "*procès-verbaux*".

Emenda tal-artikolu 79 tal-Att prinċipali.

64. L-artikolu 81 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 81 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu l-kliem "kopja jew estratt" għandhom jiġu sostitwiti bil-kliem "kopja, estratt jew dikjarazzjoni";

(b) fis-subartikolu (2) tiegħu l-kelma "null" għandha tiġi sostitwita bil-kliem "null jew annullabli";

(ċ) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5); u

(d) minnufih wara s-subartikolu (3) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(4) In-nutar għandu, fir-rigward tas-servizzi provduti skont l-artikolu 84Ċ, ikun intitolat li jirċievi mingħand l-akkwiredent l-mizati ffissati fit-Tariffa u, meta jkun hemm kuntratt ta' ingaġġ, il-mizati miftehma f'dak il-kuntratt. Huwa jkun intitolat ukoll li jiġi rimborżat għal kull spiza u hlasijiet aċċessorji."

Thassir tal-artikolu 83 tal-Att prinċipali.

Żieda ta' Taqsima u artikolu godda mal-Att prinċipali.

65. L-artikolu 83 tal-Att prinċipali għandu jithassar.

66. Minnufih wara t-Taqsima III A u minnufih qabel il-bidu ta' Taqsima IV tal-Att prinċipali, għandhom jiżdedu t-Taqsima u l-artikolu godda li ġejjin:

"TAQSIMA IIIB

DWAR L-EŻAMI TAT-TITOLU

Nutar jista' jeżamina t-titolu.

84Ċ. (1) Nutar għandu s-setgħa li jiġbor dokumenti li jwasslu biex jiġu stabbiliti kemm it-titolu għal proprjeta' immobbli kif ukoll il-kawzi ta' preferenza fost il-kredituri li jaffettwaw dak it-titolu. Huwa għandu d-dritt li jinterpreta d-dokumenti miġbura u jagħti parir fuqhom. F'dan l-att, dan il-proċess ta' għbir, interpretazzjoni u parir jissejjaħ "l-eżami tat-titolu" jew espressjonijiet li għandhom l-istess tifsira.

(2) Bla ħsara għar-responsabbiltà skont dan l-artikolu, in-nutar għandu dritt jiddelega dawn is-setgħat lil persuni li huwa jqis li huma affidabbli.

Eżami tat-titolu.

(3) L-eżami tat-titolu għandu jsir skont ir-regolamenti magħmula taħt dan l-artikolu.

Meta nutar jeżamina t-titolu.

(4) Nutar jista' jeżamina t-titolu kull meta jiġi mitlub biex jagħmel hekk permezz ta' kuntratt ta' ingaġġ bil-miktub li r-rekwiziti tiegħu għandhom jiġu stabbiliti b'regolamenti.

(5) Nutar li jippublika att nutarili ta' trasferiment ta' proprjeta' immobbli jew jeddijiet reali oħra fuq l-imsemmi immobbli għandu jitqies li ġie mitlub mingħand l-akkwired biex jeżamina t-titolu tiegħu:

Iżda l-akkwired jista', permezz ta' dikjarazzjoni espressa mnizzla fl-att nutarili, jeżenta lin-nutar mill-obbligu impost fuqu skont dan is-subartikolu jew inaqqas il-limitu ta' dak l-obbligu b'kull mod li l-akkwired iqis xieraq:

Iżda wkoll ir-regolamenti jistgħu jelenkaw dawk l-istanzi meta nutar ikun eżentat milli jeżamina t-titolu.

(6) Meta nutar jippublika att li jkun fih operazzjoni hlief it-trasferiment ta' proprjeta' ta' immobbli jew jeddijiet reali oħra fuq l-imsemmi immobbli, jew meta huwa jawtentika skrittura privata li jkun fiha operazzjoni li tirreferi għal dak l-immobbli, l-obbligu tiegħu biex jeżamina t-titolu jeżisti biss, u safejn, isiru regolamenti speċifiċi f'dak ir-rigward.

Diliġenza u
responsab-
biltà.

(7) Minkejja d-dispożizzjonijiet ta' dan l-Att jew kull liġi oħra:

(a) ir-responsabbiltà ta' nutar għal eżami tat-titolu għandha tiġi regolata u interpretata b'mod strett skont dan l-artikolu u kull regolament li jsir taħt dan l-artikolu;

(b) meta nutar jeżamina titolu huwa għandu jeżerċita d-diliġenza meħtieġa mir-regolamenti msemmija fil-paragrafu (a);

(ċ) meta jeżamina t-titolu skont ir-regolamenti, huwa għandu jitqies li aġixxa bid-diliġenza dovuta;

(d) dawn il-persuni li ġejjin biss jistgħu jifthu kawża kontra nutar b'konnessjoni mal-eżami tat-titolu li huwa jkun wettaq:

(i) il-persuna ma' min huwa jkun għamel kuntratt ta' ingaġġ skont it-termini tas-subartikolu (4),

(ii) l-akkwiredent kif imsemmi fis-subartikolu (5), jew

(iii) il-persuni imsemmija fir-regolamenti magħmula skont is-subartikolu (6).

Rapport.

(8) Meta nutar jirċievi istruzzjonijiet skont is-subartikolu (4) jew meta huwa jkun marbut li jeżamina t-titolu skont dan l-artikolu, huwa għandu, meta jispiċċa dan, jagħmel rapport bil-miktub u jinkludi fih dak kollu li jista' jkun meħtieġ b'regolamenti magħmula taħt dan l-artikolu.

Konservazzjoni ta' dokumenti.

(9) Nutar għandu jikkonserva għal perjodu ta' ħames snin id-dokumenti illi huwa jiġbor għall-eżami tat-titolu. Dan il-perjodu għandu jibda jgħodd mid-data ta' meta huwa jkun ħareġ ir-rapport fejn ikun sar l-eżami skont is-subartikolu (4), u mid-data tal-pubblikazzjoni tal-att meta l-eżami jkun sar skont is-subartikoli (5) jew (6), u fil-każ tal-iskrittura privata msemmija fis-subartikolu (6), mid-data li tiġi awtentikata min-nutar.

Azzjonijiet.

(10) Kull azzjoni li tista' tingieb kontra nutar minn persuna msemmija fis-subartikolu (7)(d) li tallega xi att jew ommissjoni tan-nutar fir-rigward tal-eżami tat-titolu tista' ssir biss qabel ma jispicċa t-terminu perentorju ta' ħames snin li jibda jgħodd mid-dati msemmija fis-subartikolu (9).

Servizzi oħra.

(11) Ebda haġa f'dan l-artikolu m'għandha tipprekludi nutar milli jkun ingaġġat biss għal għbir tad-dokumenti msemmija fis-subartikolu (1), jew biex jinterpreta jew jagħti parir fuq dawk id-dokumenti li huwa jew terza persuna jkunu għabru, iżda dan m'għandux ikun meqjus bhala l-eżami tat-titolu kif imfisser f'dan l-artikolu. Dan is-servizz għandu jiġi regolat b'kuntratt ta' ingaġġ *ad hoc* magħmul skont ir-regolamenti magħmula taht dan l-artikolu.

Regolamenti.

(12) Il-Ministru responsabbli għall-affarijiet nutarili għandu minn żmien għal żmien jagħmel regolamenti wara li jkun ikkonsulta mal-Kunsill Nutarili, biex jippreskrivi kull haġa msemmija f'dan l-artikolu inkluż, iżda mhux limitat għal:

(a) il-mod ta' kif u safejn in-nutar jeżamina t-titolu;

(b) l-eżenzjonijiet mill-obbligu tal-eżami tat-titolu;

(ċ) l-applikabbiltà jew le ta' dan l-artikolu kemm għal atti nutarili li jkun fihom operazzjonijiet ħlief it-trasferiment tal-proprjetà ta' immobbli jew ta' jeddijiet reali fuq l-imsemmija proprjetà immobbli, u għall-operazzjonijiet li jirreferu għall-imsemmija proprjetà immobbli magħmula permezz ta' skrittura privata awtentikata minn nutar;

(d) servizzi analogi għal, iżda ma jaslux sal-eżami tat-titolu skont dan l-artikolu;

(e) il-grad ta' diligenza meħtieġa min-nutar;

(f) il-formalitajiet ta' kuntratt ta' ingaġġ; u

(g) il-kontenut tar-rapport u affarijiet relatati."

67. L-artikolu 88 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 88 tal-Att prinċipali.

(a) id-dispożizzjoni preżenti għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Bla ħsara għall-generalità tas-subartikolu (1), il-Kodiċi ta' Etika magħmul skont l-artikolu 92(2) jista' jfisser kull haġa msemmija fis-subartikolu (1) bħala ksur ta' etika."

68. L-artikolu 89 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 89 tal-Att prinċipali.

(a) id-dispożizzjoni preżenti għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2) Meta matul il-perjodu ta' ħames snin il-Kunsill ikun widdeb lin-nutar tliet darbiet għal kondotta, abbuż, jew ksur ta' etika, huwa jista' jiġi sospiż mill-kariga mill-Qorti ta' Revizjoni għal perjodu bejn xahar u sitt xhur

meta jiġi preżentat rikors lill-Qorti mill-President tal-Kunsill.".

Emenda tal-artikolu 92 tal-Att prinċipali.

69. L-artikolu 92 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) id-dispożizzjoni preżenti għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Il-Kunsill Nutarili għandu s-setgħa li jagħmel u jemenda, bl-approvazzjoni tal-Kulleġġ Nutarili, ir-regolamenti li jirrigwardaw il-Kodiċi tal-Etika għan-Nutara.".

Żieda ta' artikolu ġdid fl-Att prinċipali.

70. Minnufih wara l-artikolu 93 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Mizata annwali dovuta lill-Kunsill.

93A. Sakemm ma tiġix preskritta mizata oġġla fir-regolamenti magħmula skont l-artikolu 92(1), il-mizata annwali dovuta minn kull nutar lill-Kunsill Nutarili għandha tiġi kkalkulata abbażi ta' euro (€1) għal kull kuntratt ippubblikat min-nutar matul sena kalendarja (bl-esklużjoni ta' testmenti u atti skont it-Taqsima IIIA), u dik il-mizata tkun dovuta fl-aħħar ta' kull sena kalendarja u pagabbli mal-preżentata tal-atti skont l-artikolu 94A(12)(iv). Il-mizata annwali għandha tiġi riveduta skont l-indiċi għall-għoli tal-ħajja kull għaxar snin mis-sena bażi 2011 u, fin-nuqqas ta' dan l-indiċi, skont ir-regolamenti magħmula taħt dan l-Att.".

Żieda ta' Taqsima u artikoli ġodda mal-Att prinċipali.

71. Minnufih wara t-Taqsima IV u minnufih qabel il-bidu ta' Taqsima V tal-Att prinċipali, għandhom jiżdiedu t-Taqsima u l-artikoli ġodda li ġejjin:

"TAQSIMA IVA

DWAR IR-REVIŻJONI TAL-ATTI

Reviżjoni ta' atti nutarili.

94A. (1) Għall-finijiet ta' din it-Taqsima u t-Taqsima VI, sakemm il-kuntest tal-kliem ma jeħtiġx xort'oħra għandhom japplikaw it-tifsiriet li ġejjin:

"atti" tfisser l-atti oriġinali *inter vivos* hlief dawk ippubblikati skont it-Taqsima IIIA;

"inabilitazzjoni parzjali" għandha t-tifsira mogħtija lilha fis-subartikolu (19);

"Kunsill" tfisser il-Kunsill Nutarili;

"Ministru" tfisser il-Ministru responsabbli għall-affarijiet nutarili;

"nutar" tinkludi n-nutar konservatur;

"Nutar Prinċipali" tfisser in-Nutar Prinċipali tal-Gvern, u tinkludi Nutar tal-Gvern, delegat debitament minnu u approvat mill-Qorti;

"perjodu ta' preżentazzjoni" tfisser ix-xhur minn April sa Settembru t-tnejn inklużi minnufih wara t-tmiem ta' kull sena bażi;

"perjodu ta' reviżjoni" tfisser perjodu kontinwu ta' tnax il-xahar li jibda mill-ewwel ta' Lulju li jiġi eżatt wara sena bażi, matul liema perjodu jiġu riveduti l-atti nutarili;

"President tal-Kunsill" tfisser il-President tal-Kunsill li qed jaġixxi f'dik il-kariga f'isem il-Kunsill, jew id-delegat tiegħu;

"Qorti" tfisser il-Qorti ta' Reviżjoni tal-Atti Nutarili stabbilita bl-artikolu 110;

"reviżjoni" għandha t-tifsira mogħtija lilha fl-artikolu 94B

"sena bażi" tfisser kull sena kalendarja li tibda mill-ewwel ta' Jannar u tispicċa fil-wiehed u tletin ta' Dicembru ta' dik is-sena;

"sena bażi preċedenti" tfisser is-sena bażi li tiġi minnufih qabel il-perjodu ta' preżentazzjoni, u għandha tinkludi kull parti minnha;

"spezzjon" għandha t-tifsira mogħtija lilha fit-Taqsima VI;

"testmenti" fisser it-testmenti oriġinali; u

"uffiċjali revizuri" tfisser il-persuni li għandhom dik il-kariga skont is-subartikolu (4).

Dmir tal-Kunsill.

(2) Il-Kunsill għandu jiżgura li l-atti kollha ppubblikati f'xi sena bażi jiġu preżentati lil uffiċjal revizur matul il-perjodu ta' preżentazzjoni sabiex dan tal-aħħar jista' jirrevedihom waqt il-perjodu ta' revizjoni, u li mhux aktar tard mill-aħħar tas-sena kalendarja wara li jkun kompletat il-perjodu ta' revizjoni, l-atti jiġu spezzjonati mill-Qorti skont dan l-Att.

Hatra ta' uffiċjali revizuri.

(3) Għall-finijiet tas-subartikolu (2), il-President tal-Kunsill għandu minn żmien għal żmien permezz ta' rikors fil-Qorti jissottometti l-ismijiet ta' dawk il-persuni kwalifikati kif il-Kunsill jidhirlu xierqa biex jiġu maħtura bħala uffiċjali revizuri, u l-Qorti għandha fi żmien ħmistax-il ġurnata tapprova jew tiċhad il-ħatra proposta tagħhom.

(4) Il-Kunsill għandu jahtar bħala uffiċjali revizuri l-kandidati hekk approvati għal dawk il-perjodi ta' żmien, li ma jistgħux ikunu ta' inqas minn sena, kif il-Kunsill jista' jiddeċiedi.

Kwalifiki.

(5) (a) L-ebda persuna ma tikkwalifika biex tinħatar bħala uffiċjal revizur jekk ma jkollhiex jew ma kellhiex il-*warrant* ta' nutar, avukat jew prokuratur legali għal mill-inqas sentejn:

Iżda l-ħatra ta' nutar bħala uffiċjal revizur għandha tkun bil-kondizzjoni li hu jirreżenja mill-kariga tiegħu bħala nutar kif previst fl-artikolu 14(1)(d); hekk iżda li, jekk ma jiġix maħtur mill-ġdid bħala uffiċjal revizur jew jekk jirriżenja mill-ħatra ta' uffiċjal revizur, hu jista' fi żmien tliet xhur mid-data meta hu seta' jerga' jinħatar bħala uffiċjal revizur jew mid-data tar-riżenja tiegħu bħala uffiċjal revizur, jirikorri għand il-Ministru responsabbli għall-affarijiet nutarili biex jerga' jingħata il-*warrant* biex jeżerċita il-professjoni tiegħu bħala nutar u, f'dan il-każ, minkejja kull dispożizzjoni oħra ta' dan l-Att jew ta' xi liġi oħra, u bil-kondizzjoni li l-President tal-Kunsill jikkonferma lill-Ministru li l-Kunsill hu fil-pussess tad-dokumenti meħtieġa bis-subartikolu (12)(a), (b) u (ċ), il-Ministru għandu jissottometti ismu lill-President ta' Malta li għandu minnufih jappuntah mill-ġdid bħala nutar, u din il-ħatra mill-ġdid għandha tiġi pubblikata fil-Gazzetta skont l-artikolu 5(1).

(b) Jekk uffiċjal revizur ma jiġix hekk appuntat mill-ġdid wara l-perjodu tiegħu bħala uffiċjal revizur jew jekk jirriżenja, hu għandu fi żmien sebat ijiem minn meta jintemm il-perjodu tiegħu bħala uffiċjal revizur jew wara r-riżenja tiegħu jagħti lil uffiċjal revizur ieħor, kif ordnat mill-President tal-Kunsill, l-atti, ir-registri, l-indiċijiet, innoti u d-dokumenti l-oħra kollha li jkunu fil-pussess tiegħu bħala riżultat tal-ħatra tiegħu ta' qabel u, jekk jonqos mill jagħmel dan, minbarra kull responsabbiltà oħra skont din il-liġi jew xi liġi oħra, hu jeħel penali, imposta mill-Qorti fuq istanza tal-President tal-Kunsill, ta' mitejn u ħamsin euro (€250) dovuta bħala dejn ċivili għal kull ġimgħa jew parti minnha li matulha hu ma josservax dak id-dmir.

Ġurament tal-kariga.

(6) Uffiċjal revizur m'għandux jibda jaqdi d-dmirijiet tiegħu qabel ma jieħu quddiem il-Qorti l-ġurament tal-kariga kif ġej: "Jien, nahlef li neżerċita bla-ahjar mod li nista' l-kariga ta' uffiċjal revizur stabbilita bl-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, il-Kapitolu 55 tal-Liġijiet ta' Malta. Hekk Alla jgħini.":

Izda uffiċjal revizur li, minnufih wara perjodu ta' żmien f'dik il-kariga, jerga' jinħatar għal perjodu ieħor jew perjodi oħra, m'għandux jerga' jieħu l-ġurament tal-kariga.

Dmirijiet u setgħat ta' uffiċjali revizuri.

(7) Uffiċjal revizur ikollu d-dmir u s-setgħa -

(a) li jaċċetta f'isem il-Kunsill il-prezentazzjoni ta' atti pubblikati min-nutara;

(b) li jirrevedi f'isem il-Qorti l-atti ta' nutara għall-finijiet tad-disposizzjonijiet rilevanti ta' din il-liġi u liġijiet oħra;

(ċ) li jiġbor minn nutara l-mizati dovuti għar-revizjoni u l-mizata annwali dovuta lill-Kunsill, u jgħaddihom lill-Kunsill minnufih kif jirċevihom; u

(d) li jwettaq dak il-funzjonijiet oħra li jistgħu jkunu assenjati lilu b'din il-liġi jew xi liġi oħra.

Uffiċjali revizuri huma soġġetti għall-Kunsill fil-materji amministrattivi kollha.

(8) (a) Fil-materji amministrattivi kollha li għandhom x'jaqsmu mal-proċess ta' aċċettazzjoni ta' atti li n-nutara jipprezentaw matul il-perjodu ta' prezentazzjoni, l-uffiċjali revizuri għandhom jaġixxu taħt id-direzzjoni tal-Kunsill li għandhom ikunu soġġetti għalih; fil-materji l-oħra kollha inklużi deċiżjonijiet li jittieħdu meta l-atti jiġu pprezentati u waqt ir-revizjoni tagħhom, l-uffiċjali revizuri għandhom jaġixxu indipendentement mill-Kunsill iżda jkunu soġġetti għal kull direttiva tal-Qorti li għaliha jkunu soġġetti.

(b) Uffiċjal revizur jista' jitlob lill-Qorti għal direttiva dwar il-mod li bih jista' jew għandu jaġixxi fir-rigward ta' xi materja li għandha x'taqsam mal-preżentazzjoni ta' atti u r-revizjoni tagħhom; u l-Qorti tista' tagħti dawk id-direttivi, jekk ikun hemm bżonn, li jidhrilha xierqa.

Deriitijiet.

(9) Nutara għandhom iħallsu għal dik ir-revizjoni dritt ta' tliet euro (€3) għal kull att, liema dritt ikun dovut lill-Kunsill fl-aħħar tas-sena bażi meta gie ppubblikat l-att, u d-dritt għandu jingabar mill-uffiċjal revizur filwaqt tal-preżentazzjoni tal-atti min-naħa tan-nutar kif previst fis-subartikolu (12). Dan id-dritt għandu jiġi rivedut kull għaxar snin mis-sena bażi 2011 skont l-indiċi tal-għoli tal-ħajja u, fin-nuqqas ta' dak l-indiċi, skont regolamenti magħmula mill-Ministru wara konsultazzjoni mal-Kunsill.

Preżentazzjoni tal-atti.

(10) (a) Matul il-perjodu ta' preżentazzjoni n-nutara kollha għandhom jipprezentaw lil uffiċjal revizur f'dawk id-dati u postijiet imsemmija fl-avviż imsemmi fil-paragrafu (d), f'volumi illegati kif meħtieġ b'dan l-Att, l-atti kollha li huma ppubblikaw matul is-sena bażi preċedenti, inklużi l-indiċijiet rispettivi tagħhom. Huma għandhom ukoll jipprezentaw kopja tan-noti ta' insinwa u r-referenza mogħtija lin-nutar mid-Direttur tar-Reġistru Pubbliku skont l-artikoli 50(6) u 52(3):

Iżda l-preżentazzjoni ta' atti ppubblikati min-nutara kif imsemmi fl-artikolu 22 għandha ssir fl-Arkivji u r-revizjoni għandha ssir f'dak il-post.

(b) Il-Kunsill għandu jiżgura li l-preżentazzjoni ta' dawk l-atti ssir b'mod trasparenti u ordnat.

(ċ) (i) Għall-finijiet tal-paragrafi (a) u (b), il-Kunsill għandu jiżgura li f'Jannar ta' kull sena jiġi ppubblikat fil-Gazzetta avviż li jkun fih dan li ġej:

(i) lista tal-ismijiet tan-nutara kollha li fis-sena bażi preċedenti kien magħruf li kienu qed jeżerċitaw il-professjoni tagħhom;

(ii) lista tal-ismijiet tal-konservaturi kollha tal-atti tan-nutara li pprattikaw il-professjoni tagħhom fis-sena bażi preċedenti;

(iii) lista tal-ismijiet tal-uffiċjali revizuri assenjati għal kull wieħed min-nutara msemmija fis-subparagrafu (i);

(iv) lista tal-ismijiet tal-uffiċjali revizuri assenjati lil kull wieħed min-nutara konservaturi msemmija fis-subparagrafu (ii); u

(v) skeda bid-dati meta u l-post fejn l-atti ppubblikati matul is-sena bażi preċedenti, flimkien mal-indicijiet tagħhom, għandhom jiġu preżentati lill-uffiċjal revizur rispettiv għar-revizjoni tiegħu.

(ii) Għall-finijiet tas-subartikolu (16), l-istess avviż għandu jkun fih skeda bid-dati meta u l-post fejn in-nutara u n-nutara konservaturi għandhom jipprezentaw lin-Nutar Principali, għar-revizjoni tiegħu, it-testmenti ppubblikati matul is-sena bażi preċedenti, inklużi l-indicijiet tagħhom.

(d) Minkejja kull disposizzjoni oħra ta' din il-liġi jew ta' xi liġi oħra, il-pubblikazzjoni tal-avviż imsemmi fil-paragrafu (ċ)(i) u (ii) għandha titqies għal kull fini tal-liġi bħala avviż suffiċjenti lin-nutara hemm imsemmija dwar l-obbligu tagħhom biex jipprezentaw fid-dati u fil-postijiet imsemmija fl-avviż l-atti u t-testmenti flimkien mal-indicijiet tagħhom, u d-dokumenti l-oħra kollha u biex jagħmlu l-ħlasijiet meħtieġa b'dan l-artikolu jew b'xi artikolu ieħor ta' din il-liġi.

(e) Il-Kunsill għandu jara li tiġi publikat fil-Gazzetta kull emenda li jagħmel għall-avviż imsemmi fil-paragrafu (ċ)(i) u (ii), iżda dik l-emenda ma jkollhiex effett fir-rigward ta' nutar jew nutar konservatur qabel ma jgħaddi għallinqas xahar mid-data li jiġi hekk infurmat b'ittra registrata.

Dikjarazzjoni.

(11) (a) Flimkien mal-prezentazzjoni tal-atti, in-nutar għandu jissottometti dikjarazzjoni bil-miktub li fiha jiddikjara:

(i) in-numru ta' volumi pprezentati,

(ii) in-numru ta' atti f'kull volum, u

(iii) in-numru ta' paġni ta' atti f'kull volum.

(b) L-uffiċjal revizur għandu minnufih jikkonferma jekk in-numru ta' volumi, in-numru ta' atti u n-numru ta' paġni jaqbilx mad-dikjarazzjoni u, jekk ikun hemm xi diskrepanza, in-nutar ikollu l-għażla li jew jerga' jipprezenta l-atti fi żmien dak il-perjodu li jiddeċiedi l-uffiċjal revizur li f'kull każ m'għandux ikun iżjed minn sebat ijiem, flimkien ma' dikjarazzjoni li taqbel mad-dettalji msemmija qabel dwar in-numru ta' volumi, atti u paġni, jew jagħti l-kunsens tiegħu biex l-uffiċjal revizur jirreġistra fuq id-dikjarazzjoni x'inhuma d-diskrepanzi u n-nutar għandu fl-istess ġurnata jagħmel il-korrezzjonijiet meħtieġa fir-rigward tan-numru ta' volumi, atti u paġni u jagħmel dawk il-korrezzjonijiet skont dan l-Att fin-numru progresiv tal-atti u fl-impaginar tagħhom.

(ċ) L-uffiċjal revizur għandu jagħmel żewġ fotokopji tal-original flimkien mal-kummenti tiegħu, jekk ikun hemm, li kopja waħda minnhom tiġi awtentikata mill-uffiċjal revizur u mogħtija lin-nutar bħala rċevuta tal-atti li jkunu hekk ġew ipprezentati, u l-oħra għandha tiġi awtentikata min-nutar u tinzamm mill-uffiċjal revizur.

(d) In-nutar għandu jidher quddiem l-uffiċjal revizur jew personalment jew permezz ta' prokuratur speċjali, appuntat permezz ta' prokura bil-miktub.

Dokumenti
oħra.

(12) Flimkien mad-dikjarazzjoni meħtieġa bis-subartikolu (11), in-nutar għandu jissottometti lill-uffiċjal revizur dan li ġej ukoll:

(a) iċ-ċertifikat tal-assigurazzjoni msemmi fl-artikolu 10A, sakemm ma jipprezentax kopja tad-digriet tal-Qorti li jeżentah milli josserva dik il-htieġa;

(b) id-dettalji personali tan-nutar u dik l-informazzjoni l-oħra, inklużi dettalji ta' kontijiet ta' *trust* nutarili, kif jista' jkun meħtieġ skont regolamenti magħmulin mill-Ministru wara konsultazzjoni mal-Kunsill Nutarili;

(ċ) kopja tal-estratt mill-Gazzetta msemmi fl-artikolu 10B(2) jekk kien hemm xi tibdil fl-isem jew fil-kunjom tan-nutar; u

(d) id-drittijiet dovuti għar-reviżjoni skont is-subartikolu (9), u l-miżata annwali dovuta lill-Kunsill għas-sena bażi preċedenti skont l-artikolu 93A.

Testmenti.

(13) In-Nutar Prinċipali għandu jiżgura li t-testmenti kollha ppubblikati f'xi sena bażi jiġu preżentati lilu fl-Arkivji matul il-perjodu ta' preżentazzjoni sabiex ikun jista' jirrevedihom fil-perjodu ta' reviżjoni, u li sa l-aħħar tas-sena kalendarja wara li jintemm il-perjodu ta' reviżjoni, dawk it-testmenti jiġu spezzjonati mill-Qorti skont dan l-Att.

(14) Għall-finijiet tas-subartikolu (13), in-nutara kollha għandhom jipprezentaw lin-Nutar Prinċipali f'volumi illegati kif meħtieġ b'dan l-Att it-testmenti li huma jkunu ppubblikaw matul is-sena baża preċedenti flimkien ma' dikjarazzjoni rigward dawn it-testmenti li jkun fiha informazzjoni simili għal dik meħtieġa bis-subartikolu (11)(a) kif ukoll id-dritt imsemmi fis-subartikolu (15), u d-disposizzjonijiet kollha dwar il-funzjonijiet u s-setgħat ta' uffiċjali revizuri fir-rigward tal-preżentazzjoni ta' atti għandhom *mutatis mutandis* jgħoddu għan-Nutar Prinċipali, u n-nutara jkollhom l-istess dmirijiet fir-rigward ta' dik il-preżentazzjoni.

(15) Nutara għandhom iħallsu għal dik ir-reviżjoni dritt ta' tliet euro (€3) għal kull testament, liema dritt ikun dovut lill-uffiċċju tan-Nutar tal-Gvern fl-aħħar tas-sena bażi li fiha jkun gie ppubblikat it-testment, u għandu jithallas mal-preżentazzjoni ta' dawk it-testmenti. Dan id-dritt għandu jiġi rivedut kull għaxar snin mis-sena bażi 2011 skont l-indiċi tal-għoli tal-ħajja u, fin-nuqqas ta' dak l-indiċi, skont regolamenti magħmula mill-Ministru wara konsultazzjoni mal-Kunsill

(16) Il-preżentazzjoni ta' testmenti għandha ssir lin-Nutar Prinċipali skont l-avviż imsemmji fis-subartikolu (10)(ċ)(ii) u d-disposizzjonijiet kollha tas-subartikoli (10), (11) u (12) għandhom japplikaw *mutatis mutandis*:

Iżda meta n-nutar jidher permezz ta' prokuratur speċjali, in-Nutar Prinċipali m'għandux jipproċedi biex jaċċetta l-preżentazzjoni tat-testmenti sakemm il-prokuratur speċjali ma jkunx ukoll nutar li jkun marbut li josserva l-istess dmir ta' segretezza professjonali u kunfidenzjalità kif imposti fuq in-nutar li jkun ippubblika t-testmenti.

Gurament tal-kariga ta' Nutar Prinċipali.

(17) In-Nutar Prinċipali m'għandux jibda jaqdi d-dmirijiet tiegħu skont dan l-artikolu qabel ma jieħu quddiem il-Qorti l-gurament li ġej: "Jien, nahlef li neżercita bl-aħjar mod li nista' l-kariga li naċċetta l-preżentazzjoni ta' testmenti u nirrevedihom skont l-Att dwar il-Professjoni Nutarili u l-Arkivji Nuarili, il-Kapitolu 55 tal-Liġijiet ta' Malta, u li nosserva l-istess dmirijiet ta' segretezza professjonali u kunfidenzjalità bħal dawk imposti fuq in-nurara li ppubblikaw dawk it-testmenti. Hekk Alla jgħini."

Nuqqas ta' osservanza.

(18) (a) Jekk nutar -

(i) jonqos milli jidher quddiem uffiċjal reviżur u jipprezentalu l-atti kif meħtieġ b'dan l-artikolu, jew

(ii) jonqos milli jagħmel dikjarazzjoni komplerta fir-rigward tal-atti skont is-subartikolu (11)(a), jew

(iii) jonqos milli jipprezenta ċ-ċertifikat tal-assigurazzjoni jew id-digriet tal-Qorti kif meħtieġ bis-subartikolu (12)(a), jew

(iv) jonqos milli jagħmel il-hlasijiet kollha kif meħtieġ bis-subartikolu (12)(d),

hu jehel, minghajr hsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, sa meta josserva dawk il-ħtiġiet, ammenda ta' ħamsin euro (€50) fil-ġimgħa jew parti minnha, li tibda għaddejja mid-data tal-prezentata tar-rikors imsemmi fil-proviso ta' dan il-paragrafu, u ikun inabilitat parzjalment milli jeżerċita l-funzjonijiet tiegħu sakemm josserva dawk il-ħtiġiet:

Iżda l-uffiċjal revizur għandu jagħti lin-nutar xahar sabiex jossreva dawk il-ħtiġiet u, jekk in-nutar jonqos milli jagħmel dan, l-uffiċjal revizur għandu, fi żmien tliet ijiem minn dak in-nuqqas, jipprezenta rikors fir-Registru tal-Qorti li bih jinforma lill-Qorti dwar in-nuqqas tan-nutar u jitlobha biex tordna lir-Registratur biex johroġ taħrika formali skont l-artikolu 120.

(b) Id-disposizzjonijiet tal-paragrafu (a) jgħoddu *mutatis mutandis* -

(i) għall-prezentazzjoni ta' testmenti lin-Nutar Principali skont is-subartikolu (14),

(ii) għas-sottomissjoni skont is-subartikolu (14) ta' dikjarazzjoni shiħa fir-rigward ta' dawk it-testmenti,

(iii) għas-sottomissjoni ta' kopja ta' ċ-ċertifikat ta' assigurazzjoni jew tad-digriet tal-Qorti, u

(iv) għall-hlas tad-dritt skont is-subartikolu (15).

(ċ) Jekk in-nutar jonqos milli jidher quddiem l-uffiċjal revizur jew quddiem in-Nutar Prinċipali fid-data u post stabbiliti fit-taħrika u jonqos milli jipproduċilhom l-oriġinali, l-indiċijiet u d-dokumenti msemmija fit-taħrika u jonqos milli jagħmel il-ħlasijiet hemm imsemmija, l-uffiċjal revizur jew in-Nutar Prinċipali, kif ikun il-każ, għandu permezz ta' rikors ipprezentat fi żmien tliet ijiem mid-data ta' meta n-nutar kellu jidher quddiem l-uffiċjal revizur jew in-Nutar Prinċipali jgħarraf lill-Qorti dwar l-allegat nuqqas min-naħa tan-nutar jitlobha biex tiegħu l-azzjoni xierqa.

(d) Il-Qorti, permezz ta' digriet notifikat lin-nutar u lill-Avukat Ġenerali, għandha tordna lin-nutar u lill-Avukat Ġenerali jagħmlu sottomissjonijiet bil-miktub dwar il-materja u għandha ukoll tiffissa gurnata għas-smiġħ tal-każ. Jekk jiġi ppruvat li l-fatti huma veri l-Qorti għandha jew -

(i) timponi l-piena dixxiplinarja msemmija fil-paragrafu (a), u parzjalment tinabilita lin-nutar sakemm josserva dawk il-ħtigiet, jew

(ii) tissospendih skont l-artikolu 132.

(e) Is-setgħat tal-Qorti skont dan is-subartikolu jkunu mingħajr preġudizzju għas-setgħat tagħha taħt l-artikolu 123.

Inabilitazzjoni parzjali.

(19) (a) Nutar li jkun ġie inabilitat parzjalment mill-eżerċizzju tal-funzjonijiet tiegħu ma jistax, waqt dik l-inabilitazzjoni, jeżerċita l-ebda funzjoni nutarili iżda jkollu d-dritt u d-dmir -

(i) li jiffirma u jissottometti avvizi għall-ħlas ta' taxxa fuq dokumenti u taxxi oħra skont il-legislazzjoni fiskali,

(ii) li jiffirma u jikkunsinna noti skont l-artikoli 50 u 52 ta' dan l-Att, u noti ta' privileġġi u ipoteki skont il-Kodiċi Ċivili,

(iii) li jiffirma u jissottometti applikazzjonijiet fir-Registru tal-Artijiet, u

(iv) li jagħti kopji, estratti u dikjarazzjonijiet kif meħtiegħ bl-artikolu 74(1).

(b) L-ordni dwar l-inabilitazzjoni parzjali għandu jkun eżegwibbli minkejja appell kontra d-dikjarazzjoni tal-Qorti dwar ir-responsabbiltà tan-nutar, jew l-għoti ta' piena dixxiplinarja jew l-ordni nnifsu ta' inabilitazzjoni parzjali.

(ċ) Sakemm il-Qorti ma tordnax il-qbid ta' dokumenti skont l-artikolu 123, id-disposizzjonijiet tal-artikoli 20, 70(1) u 126 m'għandhomx jgħoddu meta nutar ikun inabilitat parzjalment.

(d) (i) Meta, wara li jkun sar rikors minn uffiċjal revizur skont is-subartikolu (18)(ċ), il-Qorti tinabilita parzjalment lin-nutar, u in-Nutar Principali jippreżenta rikors fir-rigward tal-istess sena bażi, il-Qorti m'għandhiex tinabilita lin-nutar għat-tieni darba iżda l-inabilitazzjoni imposta wara r-rikors tal-uffiċjal revizur għandha titqies li tapplika bl-istess mod għan-nutar fir-rigward tar-rikors tan-Nutar Principali, iżda l-inabilitazzjoni m'għandhiex testendi għal aktar minn sitt xhur.

(ii) Id-disposizzjonijiet tas-subparagrafu (i) jgħoddu *mutatis mutandis* meta n-nutar jkun gie inabilitat parzjalment wara rikors min-Nutar Principali u l-uffiċjal revizur jippreżenta rikors simili fir-rigward tal-istess sena bażi.

(e) Nutar li jippubblika att nutarili waqt li jkun soġġett għal inabilitazzjoni parzjali jeħel il-piena tad-destituzzjoni, fuq talba tal-Avukat Ġenerali jew tal-President tal-Kunsill, u, b'żieda ma' dan, hu jeħel multa ta' mhux aktar minn hamest elef euro (€5,000) għal kull att nutarili li hu jippubblika waqt dik l-inabilitazzjoni.

(f) Minkejja kull disposizzjoni ta' din il-liġi jew ta' xi liġi oħra, l-ebda att nutarili ma jkun invalidu għar-raġuni biss li gie ppubblikat min-nutar waqt li dan kien soġġett għal inabilitazzjoni parzjali.

(g) Nutar li kien soġġett għal inabilitazzjoni parzjali għal perjodu kontinwu ta' sitt xhur għandu jehel il-piena mill-Qorti tad-destituzzjoni fuq talba tal-Avukat Ġenerali jew tal-President tal-Kunsill, u d-disposizzjonijiet kollha ta' dan l-Att rigward id-destituzzjoni mill-kariga ta' nutar għandhom jghoddu, u l-Qorti fl-istess digriet ta' destituzzjoni għandha tordna l-hatra ta' nutar konservatur.

Rijabilitazzjoni.

(20) (a) Meta nutar li jkun taht inabilitazzjoni parzjali josserva l-htigiet tas-subartikoli (10), (11), (12), (14) u (16), l-ufficjal revizur jew in-Nutar Principali, kif ikun il-każ, għandhom minnufih jinfurmaw lill-Qorti dwar din l-osservanza permezz ta' nota pprezentata fir-Registru tal-Qorti.

(b) Il-Qorti għandha minnufih tirrijabilita lin-nutar, permezz ta' digriet *in camera*, fl-eżercizzju totali tal-funzjonijiet tiegħu.

(c) Id-disposizzjonijiet tal-artikolu 14(2) ma jghoddux għal din irrijabilitazzjoni.

(d) Kemm in-nota kif ukoll id-digriet għandhom jigu notifikati lin-nutat, lill-Avukat Ġenerali u lill-President tal-Kunsill.

Pubblikazzjoni.

(21) Id-disposizzjonijiet tal-artikolu 16 jghoddu għal inabilitazzjoni parzjali u għal rijabilitazzjoni minnha.

Disposizzjonijiet oħra.

(22) (a) Jekk in-nutar li jonqos fl-obbligi tiegħu skont is-subartikoli (10), (11), (12), (14) jew (16) ikun il-President jew xi membru ieħor tal-Kunsill hu għandu, sakemm ma jkunx diġà rreżenja volontarjament, jitlef postu fil-Kunsill u, fil-każ tal-President tal-Kunsill, il-funzjonijiet u setgħat tiegħu għandhom jittieħdu mill-aktar nutar anzjan fuq il-Kunsill.

(b) Ir-regolamenti magħmulin taħt l-artikolu 92(1) għandhom jipprovdu għal eventwalitajiet bħal dawn u, fin-nuqqas, il-Ministru responsabbli għal affarijiet nutarili għandu jagħmel regolamenti biex tiġi żgurata t-trasparenza f'affarijiet bħal dawn.

Revizjoni.

94B.(1)(a) L-uffiċjali revizuri għandhom jirrevedu l-atti u n-Nutar Prinċipali għandu jirrevedi t-testmenti.

(b) Waqt ir-reviżjoni, għandu jiġi żgurat jekk l-obbligi kollha imposti fuq nutara b'din il-liġi jew b'xi liġi oħra ġewx osservati, speċjalment id-disposizzjonijiet tal-liġi li għandhom x'jaqsmu mal-formazzjoni u preservazzjoni ta' atti, reġistri u indicijiet nutarili, u l-ħlas tat-taxxa fuq dokumenti u taxxi oħra.

(2) Meta titlesta r-reviżjoni, l-uffiċjal revizur u n-Nutar Prinċipali, kif ikun il-każ, għandhom iħejju rapporti separati fil-mod preskritt b'regolamenti u għandhom jipprezentawhom fir-Registru tal-Qorti.

(3) Fir-rapporti tagħhom, l-uffiċjal revizur u n-Nutar Prinċipali għandhom jelenkaw kull ksur, min-naħa tan-nutar, ta' disposizzjonijiet ta' dan l-Att jew ta' xi liġi oħra li huma punibbli mill-Qorti, u għandhom jipproponu lill-Qorti il-pieni dixxiplinarji xierqa li l-Qorti tista tapplika u kull direttiva li hi tista' tagħti lin-nutar

(4) In-nutar ikollu d-dritt, permezz ta' rikors ipprezentat fi żmien tletin ġurnata minn meta jiġi notifikat b'rapport li jitlob li l-Qorti twarrab kompletament jew parzjalment ir-rapport tal-uffiċjal revizur jew tan-Nutar Prinċipali. Ir-rikors għandu jiġi notifikat lill-Avukat Ġenerali li jkollu tletin ġurnata sabiex iwieġeb.

(5) Meta n-nutar ikun kkontesta rapport jew parti minnu, il-Qorti għandha tikkonsidra s-sottomissjonijiet bil-miktub tan-nutar li jikkontestaw ir-rapport jew parti minnu u r-risposta tal-Avukat Ġenerali, jekk ikun hemm, u għandha tgħaddi sabiex b'digriet *in camera* tikkonferma jew ma tikkonfermax ir-rapporti tal-uffiċjal revizur u, jew, tan-Nutar Prinċipali u għandha timponi fuq in-nutar l-pieni dixxiplinarji ta' twiddiba u ċanfira jew ammenda u tista' tagħti kull direttiva oħra skont l-artikolu 124.

(6) (a) Meta n-nutar ma jkunx ikkontesta rapport, il-Qorti għandha tipproċedi biex tikkonfermah u timponi il-pieni dixxiplinarji ta' twiddiba u ċanfira jew ammenda, sakemm il-Qorti ma jkunx jidhrilha li r-rapport ikun fih żball manifest ta' liġi jew ta' fatt f'liema każ il-Qorti għandha permezz tar-Registratur tibgħat ir-rapport lura lill-uffiċjal revizur jew lin-Nutar Prinċipali għar-rikonsiderazzjoni tagħhom. Wara li ssir ir-rikonsiderazzjoni, il-Qorti għandha tiddeċiedi jekk għandhiex tilqa', tirrifjuta jew tibdel ir-rapport tal-uffiċjal revizur jew tan-Nutar Prinċipali u l-pieni dixxiplinarji jew direttivi li xi hadd minnhom ikun ippropona li jittieħdu.

(b) Id-disposizzjonijiet tas-subartikoli (2), (3), (4) u (5) għandhom *mutatis mutandis* jgħoddu fir-rigward tar-rapport, rikonsidrat mill-ġdid, tal-uffiċjal revizur jew tan-Nutar Prinċipali.

(7) (a) Meta jkun jidher mir-rapport tal-uffiċjal revizur jew tan-Nutar Prinċipali li n-nutar għandu jeħel is-sospensjoni jew id-destituzzjoni mill-kariga, ukoll jekk in-nutar ma jkunx kkontesta ir-rapport, il-Qorti għandha permezz ta' digriet notifikat lin-nutar u lill-Avukat Ġenerali tordna li n-nutar u l-Avukat Ġenerali jagħmlu sottomissjonijiet bil-miktub fuq dik il-parti tar-rapport li tista' tagħti lok għal xi waħda mill-pieni dixxiplinarji msemmija u għandha ukoll tiffissa ġurnata għas-smiġh tal-każ.

(b) Id-disposizzjonijiet tas-subartikoli (4) u (5) għandhom jgħoddu *mutatis mutandis*.

(8) Meta n-nutar jonqos milli jikkontesta r-rapport jew, wara li jkun għamel dan, il-fatti li hemm l-allegazzjoni dwarhom jiġu ppruvati veri waqt seduta tal-Qorti, il-Qorti għandha, minkejja kull disposizzjoni oħra ta' din il-liġi jew ta' xi liġi oħra, tagħżel jew li tapplika l-piena dixxiplinarja tas-sospensjoni jew id-destituzzjoni mill-kariga skont id-disposizzjonijiet rilevanti ta' dan l-Att jew tinabilità parzjalment lin-nutar għal perjodu li ma jkunx iżjed minn sitt xhur sakemm jirregolarizza l-posizzjoni tiegħu u għandha ukoll timponi ammenda ta' hamsin euro (€50) fil-ġimgħa jew parti minn ġimgħa sakemm jirregolarizza l-posizzjoni tiegħu.

(9) Meta nutar jirregolarizza l-posizzjoni tiegħu, għandhom jgħoddu *mutatis mutandis* id-disposizzjonijiet tal-artikolu 94A(20).

(10) (a) L-uffiċjal revizur jew in-Nutar Prinċipali jistgħu ukoll f'kull hin waqt il-perjodu ta' prezentazzjoni u, jew revizzjoni, jitolbu lin-nutar jipprezenta r-registri ta' atti jew testmenti flimkien mal-indiċijiet rispettivi tagħhom għas-sena bażi li tkun qed tiġi riveduta.

(b) L-uffiċjal revizur jew in-Nutar Prinċipali m'għandhomx iżommu r-registri u l-indiċijiet tagħhom għal aktar minn erbgħa u għoxrin siegħa, u għandhom ikunu responsabli għall-kustodja tagħhom sa meta jinghataw lura lin-nutar.

(ċ) Jekk in-nutar jonqos milli jipprezenta r-registri lill-uffiċjal revizur jew lin-Nutar Prinċipali meta jkun hekk mitlub, għandhom jgħoddu *mutatis mutandis* id-disposizzjonijiet tal-artikolu 94A(18).".

72. L-artikolu 97 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 97 tal-Att prinċipali.

(a) fil-paragrafu (d) tiegħu, il-kliem "f'dan l-Att;" għandhom jiġu sostitwiti bil-kliem "f'dan l-Att.;" u

(b) il-paragrafu (e) tiegħu għandu jithassar.

Emenda tal-artikolu 98 tal-Att prinċipali.

73. L-artikolu 98 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (d) tiegħu, il-kliem "f'dan l-Att;" għandhom jiġu sostitwiti bil-kliem "f'dan l-Att.;" u

(b) il-paragrafu (e) tiegħu għandu jithassar.

Emenda tal-artikolu 103 tal-Att prinċipali.

74. Minnufih wara s-subartikolu (4) tal-artikolu 103 tal-Att prinċipali, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) Id-disposizzjonijiet ta' dan l-artikolu għandhom jgħoddu għat atti u registri ta' atti ppubblikati sa u inkluż l-31 ta' Diċembru 2011 u depożitati fl-Arkivji f'kull żmien li jkun."

Żieda ta' artikolu ġdid mal-Att prinċipali.

75. Minnufih wara l-artikolu 103 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Indiċi ġenerali ta' nutara.

103A. (1) Kull arkivist għandu jżomm indiċi ġenerali ta' nutara li l-atti tagħhom jiġu ppubblikati fl-1 ta' Jannar 2012 jew wara u jiġu depożitati fl-Arkivji skont il-ligi.

(2) Id-disposizzjonijiet ta' dan l-artikolu jgħoddu ukoll għar-registri ta' dawk l-atti li jistgħu ikunu ġew depożitati fl-Arkivji.

(3) Il-Ministru responsabbli għal affarijiet nutarili għandu jippreskrivi l-mod li bih indiċi bħal dak għandu jinżamm u l-informazzjoni li għandu ikun hemm fih."

Emenda tal-artikolu 105 tal-Att prinċipali.

76. Fl-artikolu 105 tal-Att prinċipali l-kliem "L-atti, registri" għandhom jiġu sostitwiti bil-kliem "Mingħajr ħsara għall-Att dwar Atti Nutarili (Provvedimenti Temporani), l-atti, registri".

Sostituzzjoni tal-artikolu 110 tal-Att prinċipali.

77. L-artikolu 110 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"110. (1) Is-sorveljanza fuq in-nutara kollha, l-Arkivji Nutarili u r-Registru Pubbliku għandha tiġi eżerċitata mill-Qorti ta' Revizjoni tal-Atti Nutarili.

(2) Il-qorti għandha f'kull żmien tkun magħmula minn Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat li jkun ipprattika l-professjoni tiegħu għal aktar minn tnax-il sena.

(3) Fil-każ ta' astensjoni jew rikuża, imħallef irtirat ieħor jew maġistrat irtirat ieħor jew avukat irtirat ieħor li jkollu

l-istess kwalifiki msemmoiija fis-subartikolu (2) għandu jisma' l-każ.

(4) Il-qorti għandha tkun qorti ġudizzjarja li jkollha l-funzjonijiet stabbiliti b'dan l-Att u dawk il-funzjonijiet l-oħra li jistgħu jiġu assenjati lilha taħt xi liġi oħra."

78. L-artikolu 111 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 111 tal-Att prinċipali.

(a) in-nota marginali tiegħu għandha tiġi sostitwita b'din li ġejja: "Id-deċiżjonijiet għandhom jiġu nnotifikati lill-Avukat Ġenerali, lill-President tal-Kunsill Nutarili, lill-arkivist jew lin-nutar konċernat.";

(b) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu; u

(ċ) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Kopja ta' dik id-deċiżjoni, digriet, ordni jew avviż bil-miktub dwar dak li jkun gie deċiż għandha tiġi notifikata ukoll lill-President tal-Kunsill."

79. L-artikolu 112 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 112 tal-Att prinċipali.

(a) id-disposizzjoni preżenti għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu;

(b) il-kliem "jew minn wieħed mill-Viżitaturi waħdu" fis-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jiġi jithassru; u

(ċ) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(2) Appell mill-arkivist jew nutar skont is-subartikolu (1) għandu jsir biss kontra l-Avukat Ġenerali.

(3) Kopja tar-rikors magħmul skont is-subartikolu (1) u tal-atti kollha sussegwenti tal-każ għandha, hliet meta l-appellant jew l-intimat ikun l-arkivist, tiġi notifikata ukoll lill-President tal-Kunsill."

80. L-artikolu 114 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej: Sostituzzjoni tal-artikolu 114 tal-Att prinċipali.

"114. Ir-Registratur tal-Qorti tal-Maġistrati għandu jaġixxi bhala Registratur tal-Qorti u għandu jiehu sehem fis-seduti tagħha."

Emenda tal-artikolu 115 tal-Att prinċipali.

81. L-artikolu 115 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "tan-nutara." għandhom jiġu sostitwiti bil-kliem "tan-nutara u kull post fejn iżommu l-atti, ir-registri u l-indiċijiet nutarili:";

(b) il-proviso li ġej għandu jizjed mas-subartikolu (1), kif emendat, tiegħu:

"Izda għal dak li jirrigwarda nutar, is-setgħat li jiġu eżerċitati mill-Avukat Ġenerali skont dan is-subartikolu, għandhom *mutatis mutandis* jiġu eżerċitati indipendentement mill-President tal-Kunsill.";

(ċ) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "l-Avukat Ġenerali" għandhom jizjeddu l-kliem "jew, kif ikun il-każ, il-President tal-Kunsill"; u

(d) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Fil-każ ta' żjajjar u spezzjonijiet imsemmijin f'dan l-artikolu, id-disposizzjonijiet tal-artikoli 94B(1)(b), 111, 112, 116, 118, 119 u 124, u d-disposizzjonijiet tal-artikolu 19(4) tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti għandhom jgħoddu *mutatis mutandis*.".

Kap. 364.

Sostituzzjoni tal-artikolu 117 tal-Att prinċipali.

82. L-artikolu 114 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"117. (1) Għandha ssir spezzjon ġenerali tal-atti nutarili ta' kull nutar, l-indiċijiet u r-registri rispettivi tagħhom mill-Qorti darba fis-sena wara li ssir ir-reviżjoni li titwettaq skont l-artikolu 94B.

(2) Meta l-Qorti tkun ittrattat rapport skont l-artikolu 94B, l-atti nutarili jitqiesu li jkunu ġew spezzjonati b'mod regolari kif previst fis-subartikolu (1).

(3) L-atti oriġinali, flimkien mal-indiċijiet rispettivi

tagħhom, għandhom, meta tispicċa din l-ispezzjon u wara l-ordni tal-Qorti, jitqiegħdu fl-Arkivji permezz ta' uffiċjal revizur jew in-Nutar Prinċipali, kif ikun il-każ."

83. Fis-subartikolu (1) tal-artikolu 118 tal-Att prinċipali l-kliem "Il-qorti fuq imsemmija" għandhom jiġu sostitwiti bil-kliem "Wara li jkunu saru l-ispezzjonijiet skont l-artikoli 115 jew 116, il-qorti fuq imsemmija".

Emenda tal-artikolu 118 tal-Att prinċipali.

84. L-artikolu 119 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 119 tal-Att prinċipali.

"Kontrofirma tal-volumi. 119. Kull volum ta' atti, registri u indiċijiet nutarili oriġinali u kull ktieb u registru li n-nutara u l-arkivist huma obbligati jzommu, għandu jiġi kontrofirmat mill-uffiċjal revizur jew min-Nutar Prinċipali li jkunu rrevedew l-atti nutarili skont l-artikolu 94, u mill-qorti fil-każijiet l-oħra kollha."

85. L-artikolu 120 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 120 tal-Att prinċipali.

(a) in-nota marginali tiegħu għandha tiġi sostitwita b'din li ġejja: "Proċedura meta jiġi msejjaħ nutar."; u

(b) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Meta nutar jonqos li jidher quddiem uffiċjal revizur jew quddiem in-Nutar Prinċipali kif meħtieġ bl-artikolu 94A(18) jew meta hekk jidher iżda ma jipproduċix dak li hu meħtieġ bl-artikolu 94A(10), (11) and (12), hu għandu, wara li jkun sar rikors mill-uffiċjal revizur jew min-Nutar Prinċipali, kif ikun il-każ, jiġi mgieghel jagħmel dan permezz ta' taħrika formali maħruġa mir-Registratur f'isem l-imsemmija Qorti, li għandha tiġi notifikata lin-nutar għall-inqas sebat ijiem qabel id-data ġdida stabbilita għall-prezentazzjoni quddiem l-uffiċjal revizur jew in-Nutar Prinċipali kif ikun il-każ u għandha tispeċifika liema huma l-atti jew testmenti, registri u indiċijiet kif ukoll dokumenti oħra li n-nutar għandu jipproduċi u l-ħlasijiet li għandu jagħmel il-post fejn u l-ġurnata u l-ħin li fihom hu għandu jattendi."

86. L-artikolu 121 tal-Att prinċipali għandu jithassar.

Thassir tal-artikolu 121 tal-Att prinċipali.

Sostituzzjoni tal-artikolu 123 tal-Att prinċipali.

87. L-artikolu 123 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"123. Jekk persuna, mharrka kif jingħad fl-artikoli 120 jew 122, tonqos milli tidher quddiem il-qorti, l-uffiċjal revizur jew in-Nutar Prinċipali, kif ikun il-każ, u tipproduċi l-atti nutarili, ir-reġistri, il-kotba u l-indicijiet speċifikati fit-taħrika, il-qorti tista' toħroġ mandat ta' akkumpanjament kontra dik il-persuna u tista' tordna l-qbid tad-dokumenti msemmija fit-taħrika."

Emenda tal-artikolu 124 tal-Att prinċipali.

88. Is-subartikolu (2) tal-artikolu 124 tal-Att prinċipali għandu jiġi sostitwit bis-subartikoli ġodda li ġejjin:

"(2) Meta l-kontravvenzjoni tikkonsisti f'xi nuqqas mill-naħa tan-nutar jew tal-arkivist, il-qorti għandha tordna lil dan in-nutar jew lill-arkivist jagħmel dak li jkun naqas li jagħmel, fiż-żmien li l-qorti tiffissa fid-diskrezzjoni tagħha.

(3) Meta l-ordni jingħata lill-arkivist, il-qorti għandha tordna lir-reġistratur li jivverifika jekk dak l-ordni ġiex esegwit sewwa. Fin-nuqqas tal-eżekuzzjoni ta' dan l-ordni l-qorti tista' tissospendi lill-arkivist mill-kariga tiegħu għal dak iż-żmien li fih l-ordni ma jiġix eżegwit.

(4) Meta l-ordni jingħata lil nutar, il-qorti għandha tordna lil wieħed mill-uffiċjali revizuri jekk l-ordni jirreferi għal atti, jew lin-Nutar Prinċipali jekk l-ordni jirreferi għal testamenti li jivverifikaw jekk dak l-ordni ġiex esegwit sewwa. Fin-nuqqas tal-eżekuzzjoni ta' dan l-ordni l-qorti tista' fid-diskrezzjoni tagħha tordna l-inabilitazzjoni parzjali tan-nutar għal dak iż-żmien li fih l-ordni ma jiġix eżegwit, u d-disposizzjonijiet kollha dwar l-inabilitazzjoni parzjali għandhom jgħoddu *mutatis mutandis*."

Emenda tal-artikolu 125 tal-Att prinċipali.

89. Fis-subartikolu (1) tal-artikolu 125 tal-Att prinċipali l-kliem "mill-Avukat Ġenerali" għandhom jiġu sostitwiti bil-kliem "mill-Avukat Ġenerali, il-President tal-Kunsill Nutarli".

Emenda tal-artikolu 127 tal-Att prinċipali.

90. Fl-artikolu 127 tal-Att prinċipali, il-kliem "ħdax-il euro u ħamsa u sittin ċenteżmu (€11.65)" għandhom jiġu sostitwit bil-kliem "mitt euro (€100)".

Thassir tal-artikolu 130 tal-Att prinċipali.

91. L-artikolu 130 tal-Att prinċipali għandu jithassar.

Sostituzzjoni tal-artikoli 131 u 132 tal-Att prinċipali.

92. L-artikoli 131 u 132 tal-Att prinċipali għandhom jiġu sostitwit b'dawn li ġejjin:

"131. (1) Nutar li -

(a) jkun reċidiv f'xi kontravvenzjoni skont l-artikoli 68, 68A, 68B u 69; jew

(b) jikser xi waħda mid-disposizzjonijiet tal-artikoli 12(a), (ċ)(i), (ċ)(ii) u (d), l-artikolu 25(6) jew l-artikolu 26,

jehel ammenda ta' ħames mitt euro (€500).

(2) Nutar jew arkivist li jikser id-disposizzjonijiet tal-artikoli 11, 28(1)(a), (i) u (k), 34, 35, 36, 37, 38, 44, 55, 58, 60, 62, 64, 68, 68A, 68B, 69, 100, 103 u 105 jehlu, għal kull kontravvenzjoni, ammenda ta' ħamsin euro (€50).

(3) Nutar li waqt is-sospensjoni jew inabilitazzjoni (ħlief inabilitazzjoni parzjali) tiegħu johroġ kopja, estratt jew dikjarazzjoni jehel ammenda ta' tletin euro (€30).

(4) Bla ħsara għad-disposizzjonijiet tal-artikoli 88, 89 u 143, in-nutar li jikser xi disposizzjoni oħra ta' dan l-Att li għaliha m'hemmx speċifikat piena dixxiplinarja jehel għal kull kontravvenzjoni ammenda ta' għaxar euro (€10).

(5) Meta. b'riferenza għall-istess att nutarili, nutar jinstab hati ta' aktar minn kontravvenzjoni waħda li hi punibbli b'ammenda, hu għandu jingħata l-ogħla piena applikabbli jew, jekk il-kontravvenzjonijiet huma punibbli bl-istess piena, għandu jehel dik il-piena.

132. Nutar li -

(a) b'negligenza, jonqos milli jikkonserva l-atti riċevuti minnu kif previst f'dan l-Att; jew

(b) ma jhallix li ssir l-ispezzjon imsemmija fl-artikolu 115 jew xort'oħra jagħmilha impossibbli; jew

(ċ) ikun, għat-tieni darba, reċidiv rigward xi waħda mill-kontravvenzjonijiet imsemmija fl-artikolu 131(1)(a); jew

(d) ikun reċidiv rigward xi waħda mill-kontravvenzjonijiet imsemmija fl-artikolu 131(1)(b),

jehel sospensjoni għal perjodu minn xahar għal sitt xhur."

Emenda tal-artikolu 134 tal-Att prinċipali.

93. Fl-artikolu 134 tal-Att prinċipali l-kliem "fis-sentenza." għandhom jiġu sostitwiti bil-kliem "fis-sentenza, u fin-nuqqas ta' dan, f'ordni tal-Qorti ta' Revizjoni jew minn jeddha jew fuq talba tal-Avukat Ġenerali jew tal-President tal-Kunsill Nutarili."

Emenda tal-artikolu 135 tal-Att prinċipali.

94. Fl-artikolu 135 tal-Att prinċipali il-kliem "Qorti ta' Revizjoni" għandhom jiġu sostitwit bil-kliem "Qorti ta' Revizjoni fuq talba tal-Avukat Ġenerali jew tal-President tal-Kunsill Nutarili".

Sostituzzjoni tal-artikolu 138 tal-Att prinċipali.

95. L-artikolu 138 tal-Att prinċipali għandi jiġi sostitwit b'dan li ġej:

"138. Nutar jehel il-piena tad-destituzzjoni jekk -

(a) jibqa' jeżerċita waqt is-sospensjoni jew l-inabilitazzjoni temporanja tiegħu, bla ħsara għad-disposizzjonijiet tal-artikolu 131(3); jew

(b) jippubblika att nutarili waqt li jkun parzjalment inabilitat; jew

(ċ) dolożament ma jikkonservax l-atti riċevuti minnu jew ir-registri tagħhom jew atti oħra jew registri li tagħhom huwa l-konservatur, bla ħsara għal pieni akbar preskritti fil-Kodiċi Kriminali; jew

(d) ikun, għat-tieni darba, reċidiv f'xi waħda mil-kontravvenzjonijiet imsemmijin fl-artikolu 132(b)."

Thassir tal-artikoli 147 sa 151 tal-Att prinċipali.

96. L-artikoli 147 sa 151 tal-Att prinċipali għandhom jithassru.

Emenda tal-artikolu 152 tal-Att prinċipali.

97. Is-subartikolu (1) tal-artikolu 152 għandu jiġi emendat kif ġej:

(a) il-paragrafu (f) tiegħu għandu jiġi enumerat mill-ġdid b'ħala l-paragrafu (g); u

(b) il-paragrafu ġdid li ġej għandu jizjed minnufih wara l-paragrafu (e) tiegħu:

"(f) jipprovdi linji gwida dwar il-mod kif kull waħda mid-disposizzjonijiet tal-artikoli 94A u 94B għandha tiġi interpretata jew applikata, hekk iżda li dik l-interpretazzjoni jew applikazzjoni ma tmurx kontra d-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmulin taħt dan l-Att;"

98. Il-Kodiċi Ċivili għandu jiġi emendat kif ġej:

Emendi tal-
Kodiċi Ċivili.
Kap. 16.

(a) fl-artikolu 205 tiegħu, il-kliem "artikolu 66" għandhom jiġu sostitwiti bil-kliem "artikolu 68";

(b) l-artikolu 242 tiegħu għandu jiġi emendat kif ġej:

(i) fis-subartikolu (2) tiegħu l-kliem "wieħed mill-Viżitaturi tal-atti nutarili" għandhom jiġu sostitwiti bil-kliem "l-Imħallef irtirat, jew il-Maġistrat irtirat jew l-avukat irtirat tal-Qorti ta' Revizjoni ta' Atti Nutarili";

(b) fis-subartikolu (3) tiegħu l-kliem "wieħed mill-Viżitaturi hawn fuq imsemmijin" għandhom jiġu sostitwiti bil-kliem "l-imsemmija Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat";

(ċ) fis-subartikolu (1) tal-artikolu 253 tiegħu l-kliem "ta' wieħed mill-Viżitaturi tal-atti nutarili" għandhom jiġu sostitwiti bil-kliem "tal-Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat tal-Qorti ta' Revizjoni ta' Atti Nutarili";

(d) l-artikolu 257 tiegħu għandu jiġi emendat kif ġej:

(i) fis-subartikolu (1) tiegħu l-kliem "minn wieħed mill-Viżitaturi tal-atti nutarili" għandhom jiġu sostitwiti bil-kliem "mill-Imħallef irtirat jew mill-Maġistrat irtirat jew mill-avukat irtirat tal-Qorti ta' Revizjoni ta' Atti Nutarili";

(ii) fis-subartikolu (4) tiegħu l-kelma "Viżitatur" għandha tiġi sostitwita bil-kliem "Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat imsemmijin";

(iii) fis-subartikolu (5) tiegħu l-kelma "Viżitaturi" għandha tiġi sostitwita bil-kliem "fuq imsemmija Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat";

(iv) fis-subartikolu (8) tiegħu l-kelma "Viżitatur" għandha tiġi sostitwita bil-kliem "mill-Imħallef irtirat jew mill-Maġistrat irtirat jew mill-avukat irtirat";

(v) fis-subartikolu (9) tiegħu l-kelma "Viżitatur" għandha tiġi sostitwita bil-kliem "mill-Imħallef irtirat jew mill-Maġistrat irtirat jew mill-avukat irtirat kif imsemmi qabel";

(e) fil-paragrafu (a) tas-subartikolu (2) tal-artikolu 280

tieġu l-kliem "wieġed mill-Viżitaturi tal-atti nutarili" għandhom jiġu sostitwiti bil-kliem "l-Imħallef irtirat jew il-Maġistrat irtirat jew l-avukat irtirat tal-Qorti ta' Revizjoni ta' Atti Nutarili";

(f) l-artikolu 281 tiegħu għandu jiġi emendat kif ġej:

(i) fis-subartikoli (1) u (2) tiegħu l-kliem "wieġed mill-Viżitaturi tal-atti nutarili" għandhom jiġu sostitwiti bil-kliem "l-Imħallef irtirat jew il-Maġistrat irtirat jew l-avukat irtirat tal-Qorti ta' Revizjoni ta' Atti Nutarili";

(ii) fis-subartikolu (3) tiegħu l-kelma "Viżitatur" għandha tiġi sostitwita bil-kliem "Imħallef irtirat jew Maġistrat irtirat jew avukat irtirat";

(g) fl-artikolu 286 tiegħu l-kliem "wieġed mill-Viżitaturi tal-atti nutarili" għandhom jiġu sostitwiti bil-kliem "l-Imħallef irtirat jew il-Maġistrat irtirat jew l-avukat irtirat tal-Qorti ta' Revizjoni ta' Atti Nutarili"; u

(h) l-artikolu tiegħu għandu jiġi sostitwit b'dan li ġej:

"610. Lanqas ma jista' n-nutar li jkun irċieva testment pubbliku, jew il-persuna li tkun kitbet b'idha t-testment sigriet, jieġu ebda ġid minn testment bħal dak."

Emendi tal-Att
dwar ir-Registru
Pubbliku.
Kap. 56.

99. L-Att dwar ir-Registru Pubbliku għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tal-artikolu 11 tiegħu għandu jithassar;

(b) fis-subartikolu (1) tal-artikolu 36 tiegħu l-kliem "Wieġed mill-Viżitaturi" għandhom jiġu sostitwiti bil-kliem "L-Imħallef irtirat jew il-Maġistrat irtirat jew l-avukat irtirat tal-Qorti ta' Revizjoni ta' Atti Nutarili"; u

(ċ) fl-artikolu 37 tiegħu, il-kliem "l-Viżitatur" għandhom jiġu sostitwiti bil-kliem "l-Imħallef irtirat jew il-Maġistrat irtirat jew l-avukat irtirat".

100. L-Ordinanza dwar il-Kummissjunarji b'Setgħa li jagħtu Ġurament għandha tiġi emendata kif ġej:

Emendi għall-Ordinanza dwar il-Kummissjunarji b'Setgħa li jagħtu Ġurament. Kap. 79.

(a) fl-artikolu 3 tagħha:

(i) is-subartikolu (4) tiegħu għandu jithassar;

(ii) is-subartikolu (5) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (4);

(b) is-subartikolu (1) tal-artikolu 6 tagħha għandu jiġi emendat kif ġej:

(i) il-kliem "kif ukoll il-Maġistrati" għandhom jiġu sostitwiti bil-kliem "kif ukoll il-Maġistrati u n-nutara";
u

(ii) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied il-proviso ġdid li ġej:

"Izda nutar jista' f'kull żmien permezz ta' avviż bil-miktub lill-Avukat Ġenerali jirriżenja mill-kariga tiegħu bħala Kummissjunarju b'Setgħa li jagħti Ġurament, u dik ir-riżenja għandha tiġi ppubblikata fil-Gazzetta."

101. Is-subartikolu (4) tal-artikolu 19 tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti għandu jiġi sostitwit b'dan li ġej:

Emenda tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti. Kap. 364.

"(4) L-eżami ta' atti nutarili għandu jsir mill-Qorti ta' Revizjoni tal-Atti Nutarili li għandha tagħmel rapport lill-Kummissarju dwar kull reat kontra dan l-Att li tista' ssib waqt dak l-eżami:

Izda dik il-qorti tista' tiddelega lin-Nutar Principali tal-Gvern biex jeżamina, f'isimha, kull testment, u tista' tiddelega lil uffiċjal revizur biex jeżamina, f'isimha, kull att nutarili ieħor bl-esklużjoni ta' dawk ippubblikati skont it-Taqsima IIIA tal-imsemmi Att:

Kap. 55.

Iżda ukoll id-disposizzjonijiet ta' dan is-subartikolu ma għandhomx iwaqqfu lil xi uffiċjal bħal ma hu msemmi fis-subartikolu (1) milli jispezzjona l-atti *inter vivos* (bl-esklużjoni ta' dawk ippubblikati skont it-Taqsima IIIA tal-imsemmi Att) fil-fond jew band'oħra ta' nutar bil-għan li jigura li dan l-Att ikun ġie osservat."

Ghanijiet u Raġunijiet

L-għan prinċipali ta' dan l-Abbozz ta' Liġi hu biex tiġi aġġornata l-liġi dwar il-professjoni nutarili billi jipprovdi l-akbar numru ta' salvagwardji possibbli għall-pubbliku li jagħmel użu mis-servizzi ta' nutar. Il-Kunsill Nutarili qed jinghata, flimkien mal-Qorti ta' Revizjoni ta' Atti Nutarili, rwol ċentrali fil-għbir ta' atti nutarili, ir-reviżjoni, l-ispezzjon u l-konservazzjoni tagħhom fl-Arkivji Nutarili. Il-Kunsill ser ikollu varji setgħat ta' regolamentazzjoni interna fuq membri tal-professjoni. L-Abbozz ta' Liġi jintroduċi miżuri prekawzjonarji biex jiġi żgurat li nutar li ma jikkonservax atti nutarili skont il-liġi, u jonqos milli josserva dan id-dmir fi żmien raġonevoli, ikun inabilitat parzjalment mill-eżerċizzju tal-funzjonijiet tiegħu u, jekk ikompli f'dan in-nuqqas, jeħel il-piena tad-destituzzjoni. Barra minn hekk l-Abbozz ta' Liġi jipproteġi l-interess pubbliku billi jnaqqas il-possibbiltà li att nutarili jkun null jew annullabbli unikament għal raġunijiet ta' forma, u billi jintroduċi assigurazzjoni ta' bilfors kontra r-responsabbiltà professjonali ta' nutara. Bħala riżultat ta' ċerti sentenzi reċenti, l-Abbozz ta' Liġi jiċċara u jirregola ċerti setgħat ta' nutara li mhumiex specificatament imsemmija fl-Att.

**A BILL
entitled**

*AN ACT to amend the Notarial Profession and Notarial Archives Act,
Cap. 55.*

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 Notarial Profession and Notarial Archives (Amendment) Act, 2011, and this Act shall be read and construed as one with the Notarial Profession and Notarial Archives Act, hereinafter referred to as "the principal Act".

Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for notarial affairs may by notice in the Gazette establish, and different dates may be so established for different provisions and different purposes thereof.

2. The table entitled "Arrangement of Act" appearing immediately before article 1 of the principal Act shall be amended as follows:

Amendment of Arrangement of Act of the principal Act.

(a) immediately after Title IV of Part II there shall be added the following:

"Title V Of Notarial Trust Accounts 24A"

(b) for the words "Of Copies and Extracts" in Title III of Part III there shall be substituted the word "Of Copies, Extracts and Declarations";

(c) immediately after Title V of Part III there shall be added the following:

"Part IIIA Of Notarial Trust Deeds and Private Foundations 84A-84B

Part III Of the Examination of Title 84C"; and

(d) immediately after Part IV there shall be added the following:

"Part IVA Of the Review of Notarial Acts 94A-94B"

Amendment of article 2 of the principal Act.

3. Article 2 of the principal Act shall be amended as follows:

(a) paragraphs (i) and (j) of subarticle (2) thereof shall be substituted by the following:

"(i) to act as mediators;

(j) *ex officio* to act as Commissioners for Oaths for the purposes of the Commissioners for Oaths Ordinance;

(k) generally, to exercise such other powers as are assigned to them by law."

(b) immediately after subarticle (2) thereof, there shall added the following new subarticles:

"(3) Notaries are empowered to draft private writings containing agreements that purport to create legal rights and obligations between third parties.

(4) Notaries are empowered to examine title to immovable property in terms of article 84C."

Amendment of article 3 of the principal Act.

4. Subarticle (1), including the proviso thereto, of article 3 of the principal Act shall be substituted by the following:

"(1) No person may practise as a notary if:

(a) he holds the warrant of advocate or legal procurator;

(b) he is a bank manager;

(c) he is an estate agent or similar broker (*sensar*);

(d) he is a partner in a commercial partnership or a director or shareholder in a limited liability company -

(i) whose principal business is the acquisition and transfer of immovable property, or its construction, reconstruction or development, or

(ii) whose principal service is estate agency;

(e) he is a director in a public company whose principal business or service is any of those mentioned in paragraph (d);

(f) he is a trader whose principal acts of trade are any of those mentioned in paragraph (d):

Provided that the President of Malta may authorize such person to practise as a notary on his surrendering the said warrant or on his ceasing to be such manager, broker, estate agent, partner, director, shareholder or trader."

5. Article 4 of the principal Act shall be substituted by the following:

Substitution of article 4 of the principal Act.

"4. (1) The Chief Notary to Government shall in January of each year post on one of the Government websites the lists mentioned hereunder which he shall update from time to time as the need arises:

(a) the names of the notaries practising their profession in Malta and Gozo;

(b) the names of notaries who are the keepers of the acts of deceased notaries or of notaries who have ceased to practise their profession, together with the names of the notaries whose acts are so kept.

(2) The Minister responsible for notarial affairs may make regulations prescribing the manner in which such lists and their updates are to be drawn up."

6. Article 5 of the principal Act shall be amended as follows:

Amendment of article 5 of the principal Act.

(a) subarticle (2) thereof shall be renumbered subarticle (3);

(b) immediately after subarticle (1) thereof, there shall

be added the following new subarticle:

Cap. 249. "(2) For the purposes of subarticle (1), "Malta" shall have the meaning assigned to it in the Interpretation Act and shall also mean the premises housing Maltese high commissions, embassies and consulates, and Maltese registered ships and aircraft.";

(c) immediately after subarticle (3) thereof, as renumbered, there shall be added the following new subarticles:

"(4) Any person who, not being one whose name has appeared in the Gazette in terms of subarticle (1), assumes the designation of Notary or in any manner purports to be entitled to practise the profession of a Notary Public in Malta, shall be guilty of an offence under this Act and shall, on conviction, be liable to a fine (*multa*) of not less than one thousand euro (€1,000) but not more than five thousand euro (€5,000), and in respect of a second or subsequent conviction to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(5) The provisions of subarticle (4) shall also apply to a person who has ceased to practise his profession in terms of article 14(1)."

Substitution of article 6 of the principal Act.

7. Article 6 of the principal Act shall be substituted by the following:

"6. (1) No person shall be appointed as a notary, unless -

(a) he is a citizen of Malta or of a Member State of the European Union or of a State of the European Economic Area: provided that a State of the European Economic Area means Iceland, the Principality of Liechtenstein and the Kingdom of Norway;

(b) he is of good conduct and good character;

(c) he has obtained the Doctorate of Laws from the University of Malta after having followed a course which includes appropriate study-units in notarial studies as prescribed by the relevant statutes, regulations and bye-laws of the University of Malta;

(d) he has been a trainee at the office of a notary

for a continuous period of not less than two years prior to the date when the qualifying examination is held in terms of article 7, provided that if he has been a trainee with one notary and has continued his traineeship with another notary or notaries, the aggregate period shall be taken into account:

Provided further that the notary or notaries with whom the period of traineeship is conducted shall have practised their profession in Malta for at least ten years;

(e) he is fully conversant with written and spoken Maltese and English;

(f) he has passed the qualifying examination held in terms of article 7.

(2) The Minister shall, after consulting the Notarial Council and the Board mentioned in article 7, make regulations determining the manner in which the requisites laid down in subarticle (1)(a) to (e) are proved."

8. Article 7 of the principal Act shall be substituted by the following:

Substitution of article 7 of the principal Act.

"7. (1) The Minister responsible for notarial affairs shall in November of each year appoint for a period of twelve months a Board of Examiners composed of a retired Judge or retired Magistrate or retired advocate ordinarily presiding the Court of Revision of Notarial Acts, the Chief Notary to Government, a practising notary proposed by the Notarial Council and two other practising notaries:

Provided that no notary shall sit on the Board unless he has practised his profession for at least ten years.

(2) The Board shall hold the qualifying examination mentioned in article 6(1)(f) after ascertaining that the requisites of paragraphs (a) to (e) thereof have been satisfied, and it shall also carry out any other function assigned to it by this Act and any other law.

(3) Subject to the provisions of this Act and any applicable regulations, the Board shall regulate its own procedure.

(4) The notary at whose office a candidate satisfied the requirements of article 6(1)(d), any associate of such notary and

any notary who provides services from the same office shall not sit on the Board. If the candidate undertook his traineeship with more than one notary, the provisions of this subarticle shall apply to the notaries with whom the traineeship took place, their associates and other notaries who provide services from the same office.

(5) No person may sit on the Board if he is the spouse of or is related to any of the candidates by consanguinity or affinity in the direct line up to any degree or in the collateral line up to the third degree inclusively, or if there is a manifest conflict of interest.

(6) Where the retired Judge or retired Magistrate or retired advocate ordinarily presiding the Court of Revision of Notarial Acts or the Chief Notary to Government is disqualified to sit on the Board, or if he is unable or unwilling to do so, the Minister shall appoint, as the case may be, another retired Judge or retired Magistrate or retired advocate or one of the notaries in Government employment.

(7) Where the Notarial Council fails to propose a notary for appointment on the Board within fifteen days of receiving a request to do so, the Minister shall proceed to appoint a practising notary of his choice.

(8) Where a member of the Board resigns or becomes disqualified to continue sitting on the Board, the Minister shall substitute such member in the shortest possible time, so however that his term of appointment shall be for the period as yet unexpired for which the member who resigned or became disqualified had been appointed, and where applicable the provisions of subarticles (6) and (7) shall apply *mutatis mutandis*.

(9) Members of the Board shall be paid an honorarium to be fixed by regulations made by the Minister responsible for notarial affairs under this article."

Substitution of article 8 of the principal Act.

9. Article 8 of the principal Act shall be substituted by the

following:

"The
qualifying
examination.

8. (1) The qualifying examination shall be held in March of each year.

(2) A person who satisfies or, by the time the qualifying examination is held, will have satisfied the requisites of article 6(1)(a) to (e) may apply to sit for the examination on paying the prescribed fee.

(3) The qualifying examination shall consist of one or more written papers, and it may be held on one or more dates. The Board shall also hold an oral examination within two months from the date of the last written examination.

(4) Candidates shall be examined on the formalities of notarial acts, fiscal laws associated with the transfer of immovable property, the laws of registration, the law and practice regarding examination of title to immovable property, applications to a Court of Voluntary Jurisdiction, professional ethics, and any other aspect of substantive and procedural law relative to the notarial profession, according to a syllabus published from time to time by regulations made by the Minister responsible for notarial affairs after he has consulted the Notarial Council and the Board.

(5) A majority of votes of the examiners is necessary for a candidate to pass the examination.

(6) The result of the qualifying examination shall be valid for a period of five years from the date of the report submitted in terms of article 9(1).

(7) Notwithstanding the provisions of the last preceding subarticle, in case of failure a candidate shall have the right to be admitted once to a fresh examination held on the following or any subsequent year."

10. Article 9 of the principal Act shall be substituted by the following:

Substitution of
article 9 of the
principal Act.

"9. (1) Where a candidate passes the qualifying

examination, the Board of Examiners shall report this to the Minister responsible for notarial affairs who shall, subject to such candidate complying with the provisions of article 10, submit his name to the President of Malta for appointment as notary public.

(2) Where a successful candidate does not comply with the provisions of article 10 he may, when he so complies and provided the time referred to in article 8(6) has not elapsed, apply to the Minister requesting him to submit his name to the President for appointment as notary public."

Amendment of article 10 of the principal Act.

11. Article 10 of the principal Act shall be amended as follows:

(a) the present provision shall be renumbered as subarticle (1) thereof;

(b) immediately after paragraph (c) of subarticle (1) thereof, as renumbered, there shall be added the following new paragraphs:

"(d) submit to the Notarial Council proof that he has adequate insurance cover for professional liability;

(e) submit to the Notarial Council the personal details and other information required by regulations made by the Minister with the concurrence of the Notarial Council."; and

(c) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticle:

"(2) A notary shall not enter upon the exercise of his functions before notice of his appointment has been published in the Gazette in terms of article 5(1)."

Addition of new articles to the principal Act.

12. Immediately after article 10 of the principal Act there shall be added the following new articles:

"Insurance.

10A. (1) It shall be the responsibility of every notary, except those referred to in article 22, to be adequately insured against all risks of professional liability during the time he is exercising his profession. The insurance company providing such insurance shall each year issue a certificate to the notary attesting that he is covered in terms of this subarticle.

(2) A notary may apply to the Court of Revision of Notarial Acts to exempt him from the provisions of subarticle (1) for any particular calendar year.

(3) The Minister may, after consulting the Notarial Council, make regulations -

(a) to specify the criteria which insurance companies shall take into account when providing the cover referred to in subarticle (1), and

(b) to indicate the cases where and the conditions under which the Court of Revision may exempt notaries from the provisions of subarticle (1).

Change in
name/
surname.

10B. (1) A notary whose name/surname has changed either by court order, which has become final, or through marriage shall, not later than two months from the date of such court order or the celebration of the marriage, file a note in the Court of Revision of Notarial Acts informing the court of such change and shall also write his specimen signature in the book at the Attorney General's office referred to in article 10(1)(b). The note shall be served on the Chief Notary to Government and on the President of the Notarial Council.

(2) The Chief Notary to Government shall forthwith cause the note to be published in the Gazette and he shall update the electronic list mentioned in article 4(1)(a).

(3) A notary who publishes a notarial act before the note appears on the Gazette in terms of this article shall be liable to a fine (*ammenda*) of five hundred euro (€500) for each act so published.

(4) The Notarial Council shall ensure compliance with the provisions of this article and may apply to the Court of Revision to order the notary to comply and/or to award the appropriate disciplinary punishment."

13. Article 12 of the principal Act shall be substituted by the following:

Substitution of
article 12 of the
principal Act.

"12. It shall not be lawful for any notary to receive any

act -

(a) which is expressly prohibited by law or manifestly contrary to good morals or to public policy;

(b) if any of the parties thereto is the notary's spouse or is related to the notary by consanguinity or affinity in the direct line in any degree or in the collateral line up to the third degree inclusively;

(c) (i) which, being a will, contains any disposition in favour of the receiving notary, or any of the persons mentioned in paragraph (b), unless such disposition is allowed by law or is contained in a secret will not written by the notary or by any of the persons mentioned in that paragraph, and delivered to him sealed by the testator;

(ii) which, being an *inter vivos* act, contains any provision concerning the receiving notary or any of the persons referred to in paragraph (b), unless such provision is required or allowed by law;

(d) if any of the parties thereto is by the competent authority restrained from entering into contracts or disposing of his property, provided such act is affected by the terms of the inhibition, notified to the notary in accordance with article 527 of the Code of Organization and Civil Procedure;

(e) if any of the parties thereto is represented by an agent or other representative who is any of the persons referred to in paragraph (b);

(f) if any of the parties thereto is a commercial partnership, other than a public company -

(i) having at the time a director, partner or shareholder who is the notary or any of the persons referred to in paragraph (b), or

(ii) whose legal or judicial representation is vested in the notary or any of the said persons;

(g) if any of the parties thereto is a civil partnership, foundation, association or a legal entity other than a commercial partnership, and it has at the time a partner, founder, associate, or a member of its governing or

administrative body or a person having its legal or judicial representation who is the notary or any of the persons referred to in paragraph (b);

(h) which, being a notarial trust deed or a notarial act referring to a trust, the settlor, trustee or protector of the trust is the notary or any of the persons referred to in paragraph (b);

(i) which, being a notarial trust deed with beneficiaries who are determined or determinable, any of them is or may be the notary or any of the persons referred to in paragraph (b); or

(j) which, being a discretionary trust deed, the power of appointment or any discretion may be exercised in favour of the notary or any of the persons referred to in paragraph (b).".

14. In paragraph (g) of subarticle (1) of article 14 of the principal Act, the word "permanent" shall be deleted. Amendment of article 14 of the principal Act.

15. Article 15 of the principal Act shall be amended as follows: Amendment of article 15 of the principal Act.

(a) for the words "Temporary suspension or incapacitation" in the marginal note thereof there shall be substituted the words "Suspension or incapacitation";

(b) the present article shall be renumbered subarticle (1) thereof; and

(c) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticle:

"(2) He may be partially incapacitated from doing so in any of the cases mentioned in articles 94A and 94B.".

16. In article 17 of the principal Act, for the words "as provided in this Act," there shall be substituted the words "as provided in this Act, or issue the declaration in terms of the proviso to article 68(2),". Amendment of article 17 of the principal Act.

17. Subarticle (1) of article 20 of the principal Act shall be amended as follows: Amendment of article 20 of the principal Act.

(a) for the words "from such deeds," there shall be substituted the words "from such deeds, or issue the declaration

in terms of the proviso to article 68(2),";

(b) for the words "of any notary" there shall be substituted the words "or issue the said declaration"; and

(c) for the words "such copies or extracts" there shall be substituted the words "such copies or extracts or issue such declarations".

Amendment of article 21 of the principal Act.

18. In article 21 of the principal Act, for the words "or extract" there shall be substituted the words "or extract or issuing a declaration in terms of the proviso to article 68(2)".

Addition of new Title and article to the principal Act.

19. Immediately after article 24, there shall be added the following new Title and article:

"TITLE V

OF NOTARIAL TRUST ACCOUNTS

Notarial Trust Account.

24A. (1) Every notary, except those referred to in article 22, shall open an account with a local commercial bank, to be designated a "Notarial Trust Account", in which he shall deposit all monies deposited with him in his professional capacity, and he shall inform the Notarial Council of the opening or closing of such account in the manner and within the time prescribed:

Provided that where the notary closes such account he shall, unless he has already done so, open another one with the same or a different local bank in such a way that he shall always have one such account open.

(2) The notary may open, operate and close other such accounts, in which case he shall inform the Notarial Council in the manner and within the time prescribed.

(3) The notary shall keep a register in the manner prescribed wherein he shall list all the monies deposited in and withdrawn from the accounts mentioned in subarticles (1) and (2), and he shall note therein all other information as may be prescribed.

(4) Monies deposited in such accounts shall constitute for each such account a trust fund owned by the notary for the benefit of the persons who deposited them with him, and such fund shall be distinct and separate from his personal property.

(5) The existence of such accounts, duly registered with the Notarial Council, shall have the following legal effects, namely:

(a) the personal creditors of the notary shall have no recourse against the monies held in the accounts;

(b) such monies shall not form part of the notary's personal estate upon his insolvency; and

(c) such monies shall not form part of the matrimonial property of the notary or his spouse nor part of the notary's estate upon his death.

(6) Where a notary fails to register the opening of such accounts with the Notarial Council, the monies deposited therein shall not, for the purposes of subarticle (4), be deemed to be owned separately and distinctly from the notary's personal property, nor shall the provisions of subarticle (5) of this article apply.

(7) Upon the appointment for any reason of a notary keeper of the acts of a notary, such keeper shall *ipso jure* and without the need of any further procedure, be vested with the ownership of such account or accounts and all the provisions of this article shall *mutatis mutandis* apply to the notary keeper:

Provided that where the cause that gave rise to the appointment of a keeper has ceased and has been published in the Gazette, the ownership of such account or accounts shall, without the need of any further procedure, vest again in the first notary:

Provided further that where the Chief Notary to Government is appointed keeper of the acts of a notary who was in private practice, such account or accounts shall vest in the Government but be administered by the Chief Notary and the first proviso to this subarticle shall also apply.

(8) The Notarial Council shall keep a record of such Notarial Trust Accounts in the manner prescribed and shall, in the circumstances and manner prescribed, confirm the existence of such accounts to any local bank, to the heirs of the deceased notary or to any person as may be prescribed.

(9) Notaries shall each year confirm to the Notarial Council the details of such accounts currently held by them.

(10) The Minister responsible for notarial affairs may from time to time, after consulting the Notarial Council, make regulations generally for carrying out the provisions of this article and for such matters as are authorised by this article to be prescribed."

Substitution of article 25 of the principal Act.

20. Article 25 of the principal Act shall be substituted by the following:

"25. (1) In this Part, and in Parts IIIA and IIIB, "party" refers to the person who is a party to the *negotium* which is incorporated in the act and, in the case of a will, to the testator; and "appearer" means the person who appears before the notary either as a party or as the representative or agent of a party.

(2) The notary shall not receive a notarial act except in the presence of the appearers.

(3) The presence of two witnesses shall be required only in the following cases:

- (a) whenever any of the appearers so requests;
- (b) whenever any of the appearers does not know how or is unable to sign his name;
- (c) in the case of public wills; and

(d) in the case of acts of delivery of secret wills.

(4) It is the duty of the notary to direct the drawing up of the act from beginning to end, even when he causes it to be prepared by a person whom he deems trustworthy.

(5) The notary alone is competent to ascertain the will of the appearers and to inquire, after reading over and explaining the act to them, whether it is in accordance with their will.

(6) Notwithstanding the provisions of this and any other law, provided no witnesses are required in terms of subarticle (3), and nor does the proviso to article 34(1) or any of articles 36, 37, 38 apply, where all the appearers on the act declare that they are fully cognizant of the contents of the act and its annexes, they may by an express declaration exempt the notary from reading over the act to them in which case the following formalities are required:

(a) at the foot of the act and before the final signatures, the notary records both declarations in his own handwriting and signs what he has recorded,

(b) immediately following the notary's signature, each appearer separately writes in his own handwriting "I confirm this exemption" to which he affixes his signature, and

(c) all the appearers sign every sheet of the act in the outer margin and every annexe, unless the annexes have already been signed in terms of article 28(1)(k)."

21. Article 26 of the principal Act shall be substituted by the following:

Substitution of article 26 of the principal Act.

"Notary must be certain of identity of appearers, attestors, witnesses and interpreters.

26. The notary must personally be certain of the identity of the appearers, attestors, witnesses and interpreters. Such identity shall be ascertained by the production of the official identity card, passport or other similar official document and, where such document cannot be produced by any of the appearers, on the testimony of two attestors who may also be the witnesses appearing on the act."

Amendment of article 27 of the principal Act.

22. In paragraphs (b) and (c) of subarticle (2) of article 27 of the principal Act, for the word "parties" there shall be substituted the words "parties, their agents or representatives" respectively.

Amendment of article 28 of the principal Act.

23. Subarticle (1) of article 28 of the principal Act shall be amended as follows:

(a) in sub-paragraph (i) of paragraph (c) thereof:

(i) in the English text for the words "the maiden name of the mother" there shall be substituted the words "the maiden surname of the mother";

(ii) for the words "residence and the profession or calling of each of the parties, witnesses and attestors, and, as regards the parties and the attestors, also the place of birth" there shall be substituted the words "residence, the place and date of birth (which may be written in figures only) of the parties";

(b) for sub-paragraph (iii) of paragraph (c) thereof there shall be substituted the following:

"(iii) where a person appears as the agent or representative of any of the parties or where witnesses, attestors or interpreters appear thereon, the name and surname, the place and date of birth (which may be written in figures only), and place of residence of such agent, representative, witness, attestor or interpreter;"

(c) in sub-paragraph (iv) of paragraph (c) thereof for the word "Act" there shall be substituted the word "act";

(d) for paragraph (d) thereof there shall be substituted the following:

"(d) the number (which may be written in figures only) of the official document produced for ascertaining the identity of the appearers or a declaration that the notary has ascertained such identity by means of attestors. Where witnesses or interpreters appear on an act, or where the identity of any of the appearers has been ascertained on the testimony of attestors, the number (which may be written in figures only) of the official document produced by such witness, attestor or interpreter for their identification;"

(e) in paragraph (e) thereof, for the words "of any date

or" there shall be substituted the words "of any date, sum of money,";

(f) immediately after the proviso to subparagraph (ii) of paragraph (f) thereof, there shall be added the following new proviso:

"Provided further that for the purpose of this paragraph, all land shall be considered rural unless it is the whole roof and airspace overlying urban property;"

(g) for the proviso to paragraph (g) thereof, there shall be substituted the following:

Cap. 364. "Provided that, in any case where, in terms of the Duty on Documents and Transfers Act and the Income Tax Acts or any other enactments substituting the same, the duty and the tax due in terms of the respective laws regarding the *negotium* of the notarial act are to be paid at the office of the Commissioner of Inland Revenue, it shall be lawful for the notary to annex to the act after the publication thereof the copy given to him by the said Commissioner of the notice which the notary filed at such office, and the copy thus annexed shall be deemed to form part of the act notwithstanding that it is not mentioned in the act and is not signed by the appearers, the witnesses, the attestors, the interpreters, if any, and the notary;"

(h) in paragraph (h) thereof, for the word "parties" there shall be substituted the word "appearers";

(i) in paragraph (i) thereof, after the words "to any of the parties" there shall be added the words "or the appearers";

(j) in paragraph (j) thereof, for the word "published" there shall be substituted the words "published and, where it is a country or place other than Malta, the name of such country or such place"; and

(k) in paragraph (k) thereof:

(i) in subparagraph (i) thereof, for the words "the parties" there shall be substituted the words "the

appearers", and for the words "of this subarticle" there shall be substituted the words "of this subarticle; and, unless article 25(6) applies, the notary shall initial every sheet of the act and of every annexe thereto;"

(ii) in sub-paragraph (ii) thereof, for the words "sealed stamp" there shall be substituted the words "stamp or a sealed stamp"; and

(iii) for sub-paragraph (iii) thereof, there shall be substituted the following:

Cap. 364. "(iii) when the documents annexed to the act exceed five in number, disregarding for this purpose the copy of the notice filed at the office of the Commissioner of Inland Revenue subsequently to the completion of the act in terms of the Duty on Documents and Transfers Act and the Income Tax Acts or any enactments substituting the same, the notary may make a list thereof, separate from the act, and annex it to the act, making an express reference to such list in the act; in any such case the list shall be signed in the same manner as the act, and the signatures on the annexed documents shall be dispensed with,".

Addition of new article to the principal Act.

24. Immediately after article 28 of the principal Act, there shall be added the following new article:

"Regulations prescribing the documents to be annexed.

28A. Without prejudice to the right of the notary to annex to a notarial act the documents he deems necessary or useful, and without prejudice to his obligation to do so in terms of this Act or any other law, the Minister responsible for the notarial profession may make regulations prescribing the documents which a notary shall be obliged to annex to a notarial act."

Amendment of article 29 of the principal Act.

25. In subarticle (3) of article 29 of the principal Act, for the word "parties" there shall be substituted the word "appearers".

Amendment of article 30 of the principal Act.

26. Article 30 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof, for the word "parties" there shall be substituted the word "appearers"; and

(b) in subarticle (3) thereof, for the words "the expression "words added" ", there shall be substituted the words "the expression "words added", "adde" or other similar expression".

27. Article 31 of the principal Act shall be amended as follows: Amendment of article 31 of the principal Act.

(a) subarticle (2) thereof shall be deleted; and

(b) subarticle (1) thereof shall be renumbered as the whole article 31.

28. Article 32 of the principal Act shall be amended as follows: Amendment of article 32 of the principal Act.

(a) in subarticle (1) thereof, for the words "public act" there shall be substituted the words "*inter vivos* act";

(b) in subarticle (2) thereof:

(i) in paragraph (d) thereof, for the words "the registrar and two witnesses;" there shall be substituted the words "and the registrar;"; and

(ii) paragraph (e) thereof shall be substituted by the following new paragraph:

"(e) the name, surname, the name of the father, the place of birth and death of the testator and in addition, when any of the following details result from the secret will or its act of delivery, the name and maiden surname of the mother, the date of the testator's birth and the official document of identification;"

29. In article 33 of the principal Act, for the words "a public deed" there shall be substituted "an *inter vivos* act". Amendment of article 33 of the principal Act.

30. Article 34 of the principal Act shall be amended as follows: Amendment of article 34 of the principal Act.

(a) for the words "party" and "parties" wherever they occur there shall be substituted the words "appearer" and "appearers" respectively;

(b) in subarticle (1) thereof, the words from "(including the acts which notaries" to the words "and (h)" shall be deleted; and

(c) immediately after subarticle (6) thereof, there shall be added the following new subarticle:

"(7) The acts a notary is empowered to receive, perform or issue in terms of article 2(2)(b), (c), (d), (e), (g), (h) and (j) shall likewise be in the Maltese or the English language as the persons signing, approving, declaring or requiring such documents desire, and in the case of the act made in terms of paragraph (f) in the Maltese or English language as the notary desires, and all the other provisions of this article shall *mutatis mutandis* apply."

Amendment of article 36 of the principal Act.

31. Subarticle (1) of article 36 of the principal Act shall be amended as follows:

(a) for the word "parties", wherever it occurs, there shall be substituted the word "appearers";

(b) subarticle (3) thereof shall be renumbered as subarticle (4); and

(c) immediately after subarticle (2) thereof there shall be added the following new subarticle:

"(3) The interpreter shall sign the act as provided in article 28(1)(k) and (l)."

Amendment of article 37 of the principal Act.

32. Article 37 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words "parties" and "party", there shall be substituted the words "appearers" and "appearer" respectively;

(b) in subarticle (2) thereof:

(i) for the word "party" there shall be substituted the word "appearer";

(ii) for the words "Civil Court, Second Hall" there shall be substituted the words "Civil Court (Voluntary Jurisdiction Section)";

(c) in subarticle (3) thereof for the figure "36(3)" there shall be substituted the figure "36(4)"; and

(d) subarticle (5) thereof shall be substituted by the following new subarticle:

"(5) The provisions of article 36(3) and (4) shall apply to such interpreter."

33. In article 38 of the principal Act for the words "party" and "parties", wherever they appear, there shall be substituted the words "appearer" or "appearers", as the case may be.

Amendment of article 38 of the principal Act.

34. Article 39 of the principal Act shall be amended as follows:

Amendment of article 39 of the principal Act.

(a) in subarticle (1) thereof:

(i) for the word "parties" there shall be substituted the word "appearers";

(ii) for the words "Civil Court, Second Hall" there shall be substituted the words "Civil Court (Voluntary Jurisdiction Section)"; and

(b) in subarticles (2) and (3) thereof for the word "party" there shall be substituted the word "person".

35. Article 40 of the principal Act shall be substituted by the following:

Substitution of article 40 of the principal Act.

"Null and annulable notarial acts.

40. (1) A notarial act is null:

(a) if it has been received by a notary before his name has appeared in the Gazette in terms of article 5(1);

(b) if it has been received by a notary who has ceased to exercise his functions for any of the causes laid down in article 14, or who has been suspended or incapacitated in any of the cases referred to in article 15(1) and after such cessation, suspension or incapacitation has been published in the Gazette;

(c) if it is undated;

(d) if it has been received in contravention of any of the provisions of article 12(a), (c)(i), (c)(ii), and (d):

Provided that if the contravention refers only to one or more parts of the act, only such part or parts shall be null:

Provided further that the contravention of article 12(c)(i) or (ii) shall only imply the nullity of the disposition or provision referred to in those subparagraphs;

(e) if the requirements of articles 25(1), (2), (3), (4) and (5), 27, 28(1)(k) and 34 have not been complied with:

Provided that where no witnesses are required in terms of article 25(3), nor does the proviso to article 34(1) or any of articles 36, 37, 38 apply, the temporary absence of an appearer during the publication of the act shall not invalidate the act unless, immediately upon his return, he requests the notary to read again what such appearer had not been present for, and the notary refused:

Provided further that the omission of signatures in the annexe or list, as required by article 28(1)(k), shall not render the act null but such unsigned annexe or list shall not be deemed to form part of the act except in so far as the truthfulness of its contents results from the act itself or from the list mentioned in the said paragraph (k):

Provided further that the omission of the declaration referred to in article 28(1)(k)(ii) shall not render the act null.

(2) A notarial act is annulable:

(a) if it has been received in contravention of any of the provisions of article 12(b), (e), (f), (g), (h), (i) and (j);

(b) if the requirements of articles 36, 37, and 38 have not been complied with;

(c) if the requirements of article 25(6) have not been complied with;

(d) if the notary has not read the act to the appearers, saving the provisions of article 25(6);

(e) if the notary has not explained the act to the appearers;

(f) if the notary has not read and explained the act to the appearers in the presence of the witnesses, when the presence of witnesses is required by article 25(3).

(3) No action shall lie for the declaration of nullity of an act having any of the defects referred to in subarticle (1)(c), (d) and (e) except on the demand of one of the parties thereto:

Provided that where the defect is that mentioned in subarticle (1)(c), the date of the act shall be deemed to be the one referred to in the proviso to subarticle (12).

(4) No action shall lie for the annulment of an act having any of the defects referred to in subarticle (2) except on the demand of a party to the act who proves to have suffered material damage as a consequence of such defect or defects.

(5) Subject to the applicable provisions of this article, no action mentioned in subarticles (3) and (4) shall lie except within the peremptory terms of ten and five years respectively, such terms to start running from the date of publication of the act or, where the act is enrolled in the Public Registry or an application has been filed in the Land Registry for the first registration of, or the dealing with the immovable which is the subject-matter of, the act, from the date of its enrolment in the Public Registry or the application in the Land Registry whichever occurs first.

(6) Without prejudice to the rights already acquired by third parties, an act which is null in terms of subarticle (1) may be rendered valid by a subsequent act and with effect thereof, hereinafter referred to as an "act of validation".

(7) An act which is annulable on account of any of the defects listed in subarticle (2) may, by a subsequent act, hereinafter referred to as an "act of convalidation", have its validity *ab initio* confirmed.

(8) Where an act of validation is published in terms of subarticle (6), the notary shall annex to such act -

(a) the original defective act with the available documents annexed thereto, if the original defective act is not preserved in the records of the notary who published it, or

(b) an authenticated copy of the defective act including a copy of the available annexed documents if it is so preserved;

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and, notwithstanding any other law, any duty already paid for the purposes of the Duty on Documents and Transfers Act and any tax already paid for the purposes of the Income Tax Acts regarding the defective act, shall be deemed to have been paid on account or in full settlement of any such duty or tax that may be due on the act of validation.

(9) Where any party to a defective act or his successors in title is unable or unwilling to appear on an act to validate or convalidate as the case may be a defective act, and such party has not yet brought or is not entitled to bring an action in terms of subarticles (3) or (4), any other party to the defective act or his successors in title shall have the right to apply to the Court of Revision of Notarial Acts requesting it to order that an act be published validating or convalidating, as the case may be, the defective act under such terms and conditions as the Court may consider appropriate, and that curators be appointed to appear in the name of those parties or their successors in title who fail to appear on such act of validation or convalidation.

(10) A copy of the application shall be served on the other parties to the act or their successors in title or their agents.

(11) Where an application has been filed in terms of subarticle (9) for the validation or convalidation of an act, the right any other party to the act may have hitherto had to bring an action in terms of subarticles (3) or (4) shall immediately lapse.

(12) Upon being satisfied that the signatures on the defective act are authentic and that the appearers on the act had given their consent thereto, the Court shall order the publication of an act of validation or convalidation, as the case may be, of the defective act:

Provided that where the act is defective in terms of subarticle (1)(c), but it has been enrolled in the Public Registry or an application has been filed in the Land Registry for the first registration of, or the dealing with the immovable which is the subject-matter of, the act, the date of the act shall be deemed to be that contained in such note of enrolment or that referred to in such an application.

(13) The notary publishing the act of validation or convalidation ordered in terms of subarticle (12) shall annex to the act the registrar's declaration that the decision of the Court of Revision has become *res judicata*.

(14) Saving any other provision of this article and without prejudice to the rights already acquired by third parties, the Minister responsible for notarial affairs may by regulations provide that a notarial act having one or more of the defects mentioned in any of the paragraphs of subarticle (1) and which has been enrolled in the Public Registry or in relation to which an application has been filed in the Land Registry for the first registration of, or the dealing with the immovable the subject-matter of, the act, and which had been received either by a notary who is no longer alive or by one who has ceased to exercise his functions in terms of article 14, shall be deemed to be valid notwithstanding such defect or defects, and in making such regulations the Minister may also subject the said validity to such terms and conditions as he may consider appropriate.

(15) Saving any other provision of this article, the Minister responsible for notarial affairs may by regulations provide that no action shall be brought in terms of subarticle (4) to annul a notarial act having one or more of the defects mentioned in subarticle (2) and which had been received either by a notary who is no longer alive or by one who has ceased to exercise his functions in terms of article 14, and in making such regulations the Minister may also subject the said validity to such terms and conditions as he may consider appropriate.

(16) (a) The applicability of this article to public wills shall be limited to subarticles (1) and (2) and to the provisions of this subarticle.

(16) (b) A will which is affected by any of the defects mentioned in subarticle (1)(d) and (e) or in any paragraph of subarticle (2) shall not be declared null or be annulled, as the case may be, for the sole reason that any of the formalities required therein has not been complied with if, after the death of the testator, the person having an interest in his succession and who brings an action for the declaration of nullity of the will or its annulment, though aware of the cause of nullity or annullability of the will, either confirmed the will or voluntarily gave execution thereto.

(16) (c) No action shall lie in terms of paragraph (b) unless it is brought within the peremptory term of ten years in case of any of the defects mentioned in subarticle (1)(d) and (e) and five years in the case of any of those mentioned in subarticle (2), and the said terms shall start running from the date of the opening of succession of the testator, unless the will is an *unica charta* one published before the 1st March 2005, in which case the aforesaid terms shall start running from the date of the opening of succession of the surviving testator."

36. In article 41 of the principal Act, for the word "null" there shall be substituted the words "null or annulable, as the case may be".

Amendment of article 41 of the principal Act.

37. Article 42 of the principal Act shall be amended as follows:

Amendment of article 42 of the principal Act.

(a) in the marginal note thereof, after the word "null" there shall be added the words "or is annulled";

(b) for the words "null and void" there shall be substituted the words "null or is annulled"; and

(c) at the end thereof there shall be added the following proviso:

"Provided that where the original of the act is deposited in the Archives, the communication shall also be made to the Archivist who, with regard to such act, shall have the same duty imposed on the notary by this article."

Amendment of article 43 of the principal Act.

38. Article 43 of the principal Act shall be amended as follows:

(a) for the words "the proviso to" there shall be substituted the words "subarticles (14) and (15) of"; and

(b) for the word "parties" there shall be substituted the word "appearers".

Addition of new article to the principal Act.

39. Immediately after article 45 of the principal Act, there shall be added the following new article:

"Notarial
corrective act.

45A.(1) Without prejudice to the rights already acquired by third parties and subject to the provisions of this article, a notary shall have, with regard to an *inter vivos* act in his records, in this article referred to as "the original act", the right to make at any time, a declaratory act rectifying any of the errors or omissions contained therein. The declaratory act, in this article referred to as a "notarial corrective act", shall be preserved and registered in the records of the notary.

(2) A notarial corrective act shall not affect the intention of the parties, their consent given in the original act or any of their personal or real rights emanating therefrom.

(3) A party who agrees with the contents of the notarial corrective act may appear thereon to signify his agreement whether in whole or in part, and in such a case the provisions of subarticle (9) shall not apply to such party.

(4) A party who has not appeared on the notarial corrective act may appear on a subsequent act published by the same notary and signify his agreement with the contents of the notarial corrective act.

(5) The errors or omissions that may be the subject-matter of a notarial corrective act are the following:

(a) typing or spelling errors;

(b) details relating to the boundaries of immovables;

(c) discrepancies between words and figures;

(d) mistaken currency conversions;

(e) mistakes in tax calculations;

(f) mistakes in the root of title;
and

(g) any other matter which the Minister responsible for notarial affairs may by regulations determine.

(6) A note for the registration of the notarial corrective act shall be filed in the Public Registry in terms of article 50 containing the errors or omissions rectified and whether any of the parties appeared on the act.

(7) The Director of Public Registry shall accept a note so filed notwithstanding any provision of this Act or any other law.

(8) The notarial corrective act shall not be effective against third parties until the relative note has been filed in the Public Registry.

(9) The notary shall cause a copy of the notarial corrective act to be sent by registered mail to the present or last known address of the parties to the original act or their agents or representatives or successors in title, but this provision shall not apply to any of the parties who appeared on the notarial corrective act in terms of subarticle (3) or on a subsequent act in terms of subarticle (4).

(10) Except for a party who had signified his agreement in terms of subarticles (3) or (4), and to the extent that he has done so, the declarations made in a notarial corrective act may be rebutted by any of the parties to the original act or their agents or representatives or their successors in title within the peremptory term of two years from the date of receipt of the copy mentioned in subarticle (9), after which time the declarations on the notarial corrective act shall form an integral part of the contents of the original act.

(11) Such rebuttal shall be made by another declaratory act, duly enrolled in the Public Registry in terms of article 50, indicating such rebuttal, in whole or in part, of the notary's rectification of errors or omissions, and such note of enrolment shall have the effect of annulling the declarations made by the notary in the notarial corrective act, with regard to all the parties to the original act including any party who may have appeared on a notarial corrective act or a subsequent corrective act in terms of subarticles (3) or (4).

(12) Where a notary has died or ceased to perform his functions in terms of articles 14 or 15(1), the notarial corrective act may be made by any notary.

(13) Any notarial corrective act purporting to add, reduce, modify or cancel any real or personal rights or to affect the privileged or hypothecary standing or ranking of any creditor shall be null, and may be rebutted in terms of subarticle (11).

(14) A notary who negligently publishes a notarial corrective act or a subsequent corrective act as stated in subarticle (13) shall be liable in damages towards any of the parties or his successors in title adversely affected by such act."

Amendment of article 46 of the principal Act.

40. Subarticle (2) of article 46 of the principal Act shall be substituted by the following:

"(2) The notary shall make annotations relating to registrations made in any registry, to the rescission, variation, cancellation, validation or convalidation made by notarial act, to notarial corrective acts and subsequent corrective acts, to the declaration of nullity of an act or its annulment made by a judgement of the competent judicial authority, and to any other declaration relating to the act itself and which the notary is bound to make according to law."

Substitution of article 47 of the principal Act.

41. Article 47 of the principal Act shall be substituted by the following:

"47. (1) If the notary receiving an act of rescission, cancellation, variation, validation, convalidation, or a notarial

corrective act or a subsequent corrective act is the same who had received the original act, he shall within fifteen days enter in the margin or at the foot of the original act and of its registration in the register a reference to such act.

(2) Where the original act referred to in subarticle (1) is deposited in the Archives, the notary shall, besides entering the reference in the register as provided in subarticle (1), submit to the Archivist within one month of receiving the act a copy of the note filed in terms of article 50 or, if the act is not so registerable, a copy of the act of rescission, cancellation, variation, validation, convalidation, or of the notarial corrective act or subsequent corrective act.

(3) If the notary receiving the act of rescission, cancellation, variation, validation, convalidation, or the notarial corrective act or subsequent corrective act is not the same as the one who had received the act so rescinded, cancelled, varied, validated, convalidated or corrected, he shall within one month of receiving the act submit to such notary, or to the keeper of such act, and to the Archivist a copy of the note or of the act as provided in subarticle (2).

(4) The notary who had received the act so rescinded, cancelled, varied, validated, convalidated or corrected or, as the case may be, the keeper of such act, shall within fifteen days from receipt of the note or copy enter a reference to the act of rescission, cancellation, variation, validation, convalidation or to the notarial corrective act or subsequent corrective act in the margin or at the foot of the original act and of its registration in the register and, where the original is deposited in the Archives, the provisions of this subarticle shall *mutatis mutandis* apply to the Archivist.

(5) The notary who had received the act so rescinded, cancelled, varied, validated, convalidated or corrected, or the keeper of such act, and the Archivist shall issue a receipt to the notary submitting the note or the copy, as the case may be, and the Archivist shall annex the note or the copy to the original act.

(6) Where the Archivist receives the note or the copy in terms of subarticle (3) but the original act is not deposited in the Archives, the Archivist shall return the document to the notary or the keeper of his acts advising him that the original is not yet so deposited."

Repeal of articles 48 and 49 of the principal Act.

42. Articles 48 and 49 of the principal Act shall be repealed.

Amendment of article 50 of the principal Act.

43. Article 50 of the principal Act shall be amended as follows:

(a) subarticle (5) thereof shall be substituted by the following:

"(5) It shall not be lawful to draw up two or more notes on one sheet."; and

(b) in subarticle (6) thereof the words "in a book kept for the purpose" shall be deleted.

Repeal of article 51 of the principal Act.

44. Article 51 of the principal Act shall be repealed.

Amendment of article 52 of the principal Act.

45. Article 52 of the principal Act shall be amended as follows:

(a) subarticle (1) thereof there shall be substituted by the following:

"(1) Notwithstanding any covenant to the contrary, every notary must register in the Public Registry, within one month from the date of the relative act, unless registration shall have been made on the demand of other persons any assignment, subrogation, reduction or cancellation of a hypothec or privilege, provided that in the case of a privileged debt not yet registered the term specified in this subarticle shall run from date of registration of such debt."; and

(b) subarticle (3) thereof shall be substituted by the following:

"(3) The notary shall, together with the note by means of which an assignment, subrogation, reduction or cancellation of any hypothec or privilege is registered, present to the Director of the Public Registry a copy thereof which shall be countersigned by the said Director who shall affix thereto the date and his signature as evidence of the presentation.".

Repeal of articles 53 and 54 of the principal Act.

46. Articles 53 and 54 of the principal Act shall be repealed.

47. Article 55 of the principal Act shall be amended as follows:

Amendment of article 55 of the principal Act.

(a) in subarticle (3) thereof, for the words "shall bear a progressive number." there shall be substituted the words "shall bear a progressive number:" and immediately thereafter there shall be added the following new proviso:

"Provided that where any of the written pages or annexes bears a similar progressive number, the notary shall either rectify the error and initial the correction or add to the page number a distinguishing alphabetical letter which he shall initial. In the latter case, he shall at the end of the volume make a signed declaration referring to the pages where such letters have been added and shall state that he has done so to avoid duplication in the volume's pagination.";

(b) in subarticle (4) thereof:

(i) the words "and the acts of delivery of secret wills" shall be deleted;

(ii) immediately after the words "written pages" there shall be added the words "and annexes";

(c) in subarticle (5) thereof the words "and of the acts of delivery of secret wills" shall be deleted;

(d) in subarticle (6) thereof the words "or act of delivery" shall be deleted;

(e) subarticle (7) thereof (including its proviso) shall be substituted by the following:

"(7) (a) Both wills and acts inter vivos shall be numbered within twenty-four hours of the execution thereof.

(b) The numbering of the written pages and annexes, if any, shall be made within twenty-four hours of the execution of a will, and within thirty days in the case of any other act."; and

(f) immediately after subarticle (7) thereof, as substituted, there shall be added the following new subarticles:

"(8) Notwithstanding any other provision of this

Act and any other law, the notary may, for the purposes of subarticle (2), hand over to a binder the original acts and wills, their annexes, indexes and registers to be bound as required by this Act:

Provided that the notary shall at no moment release contemporaneously from his possession the originals and their respective registers.

(9) The Minister responsible for notarial affairs shall by regulations made with the concurrence of the Notarial Council prescribe the conditions under which a notary may hand over the documents mentioned in subarticle (8)."

Amendment of article 59 of the principal Act.

48. In subarticle (3) of article 59 of the principal Act for the word "twenty" there shall be substituted the word "fifty".

Amendment of article 60 of the principal Act.

49. In article 60 of the principal Act the words "and of the acts of delivery of secret wills" shall be deleted.

Amendment of article 61 of the principal Act.

50. Immediately after subarticle (2) of article 61 of the principal Act, there shall be added the following new subarticle:

"(3) The proviso to subarticle (3) of article 55 shall *mutatis mutandis* apply."

Substitution of article 62 of the principal Act.

51. Article 62 of the principal Act shall be substituted by the following:

"62. No volume of the original acts or of the registers shall contain more than five hundred pages:

Provided that where any single act is contained in more than five hundred pages, the original or register of such act may be contained in a separate volume containing that sole act, and in such case such volume may consist of more than five hundred pages."

Amendment of article 64 of the principal Act.

52. Article 64 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, the words "and of the acts of delivery of secret wills" shall be deleted; and

(b) in subarticle (3) thereof, the words "and the number of the first page of the act itself" shall be deleted.

53. Article 66 of the principal Act shall be amended as follows: Amendment of article 66 of the principal Act.

(a) the present provision shall be renumbered subarticle (1) thereof; and

(b) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticles:

"(2) For the purposes of subarticle (1), the binder who in terms of article 55(8) has in his possession the originals, their annexes, indexes and registers shall, during such time, be subject to the same civil and criminal responsibility as the notary.

(3) For the purposes of this Act and any other law, the notary's civil and criminal responsibility in case of disclosure to third parties of confidential information resulting from the originals, their annexes, indexes and registers shall extend to the binder."

54. Article 68 of the principal Act shall be amended as follows: Amendment of article 68 of the principal Act.

(a) in subarticle (1) thereof:

(i) for the words "article 81(4), public wills, the acts of delivery of secret wills, and" there shall be substituted the words "article 81(5), public wills and";

(ii) for the words "will, the act or" there shall be substituted the words "will or"; and

(b) in subarticle (2) thereof, for the words "testamentary dispositions of the deceased testator." there shall be substituted the words "testamentary dispositions of the deceased testator:" and immediately thereafter there shall be added the following new proviso:

"Provided that with regard to such will published before 1st March 2005, the notary shall, instead of an extract, issue a declaration containing the substance of the testamentary dispositions of the deceased testator in such a way that the dispositions of the surviving testator shall not be divulged. Where the notary encounters difficulties in drawing up the declaration, he shall have the right to apply to the Court of Voluntary Jurisdiction requesting it to give him directions as to the manner in which the declaration is

to be made; and the court shall give him such directions as it deems fit."

Amendment of article 69 of the principal Act.

55. Subarticle (1) of article 69 of the principal Act shall be amended as follows:

(a) for the words "The notary" there shall be substituted the words "Saving the provisions of the Notarial Acts (Temporary Provisions) Act and article 55(8) of this Act, the notary"; and

(b) for the word "court" there shall be substituted the words "a court".

Amendment of article 70 of the principal Act.

56. In subarticles (1) and (2) of article 70 of the principal Act for the figure "15" there shall be substituted the figure "15(1)".

Amendment of article 71 of the principal Act.

57. Article 71 of the principal Act shall be amended as follows:

(a) for the marginal note thereof there shall be substituted the following: "The notary is the owner of his registers.";

(b) in subarticle (1) thereof the words from "He shall be" to the words "of this Act." shall be deleted; and

(c) in subarticle (3) thereof for the words "Such acts" there shall be substituted the words "The original acts".

Substitution of heading of Title III of Part III of the principal Act.

58. Immediately after article 73 and before article 74 of the principal Act for the words "OF COPIES AND EXTRACTS" in Title III of Part III there shall be substituted the words "OF COPIES, EXTRACTS AND DECLARATIONS".

Amendment of article 74 of the principal Act.

59. Article 74 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, immediately after the words "such acts" there shall be added the words "or issue the declaration referred to in the proviso to article 68(2)";

(b) in subarticle (2) thereof and in the proviso thereto for the words "copy or extract" there shall be substituted the words "copy, extract or declaration";

(c) in subarticle (3) thereof for the figure "81(4)" there shall be substituted the figure "81(5)";

(d) in subarticle (4) thereof:

(i) for the words "copy of a will" there shall be substituted the words "copy of a will, extract thereof or declaration";

(ii) for the word "abstract" wherever it occurs there shall be substituted the word "extract";

(e) subarticle (6) thereof shall be renumbered as subarticle (7); and

(f) immediately after subarticle (5) thereof there shall be added the following new subarticle:

"(6) Where an extract is issued in terms of article 68(2) or a declaration is issued in terms of the proviso to such subarticle, the notary shall state in writing at the end thereof to whom such extract or declaration has been issued after duly ascertaining that the provisions of such subarticle or proviso apply."

60. In subarticle (3) of article 75 of the principal Act for the word "even" there shall be substituted the word "except".

Amendment of article 75 of the principal Act.

61. Article 76 of the principal Act shall be amended as follows:

Amendment of article 76 of the principal Act.

(a) for the marginal note thereof there shall be substituted the following: "Contents of copies, extracts and declarations.";

(b) in subarticle (1) thereof for the word "original" there shall be substituted the words "original or the register";

(c) in subarticle (2) thereof for the word "original" there shall be substituted the words "original or the register"; and

(d) immediately after subarticle (2) thereof, as amended, there shall be added the following new subarticle:

"(3) Besides the information referred to in the proviso to article 68(2), a declaration made in terms of such proviso shall contain the date and time when the will was executed, the name of the notary who received it, and the full particulars of the deceased testator and the witnesses, the attestors and the interpreters, if any, and a transcription or the substance of any annexe to the will but

only to the extent that such annexe refers to the deceased testator:

Provided that where the contents of an annexe refer exclusively to the deceased testator, the notary may issue a photocopy of such annexe."

Substitution of article 77 of the principal Act.

62. Article 77 of the principal Act shall be substituted by the following:

"Issue of copies, extracts and declarations.

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 "in conformity with the register" or other similar expression.

(2) Every declaration in terms of the proviso to article 68(2) shall bear at the end the date of its issue, and the notary shall affix his signature thereto and the words "declaration made in terms of the proviso to article 68(2) of Chapter 55" or other similar expression.

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

(4) The notary shall transcribe or make a photocopy of any or all of the annexes to the act or register if he is requested to do so by the person requiring the copy or the extract.

(5) The notary shall transcribe at the end of every copy, or in the margin of its first page, the references to other acts entered in the original act or in the register as the case may be."

Amendment of article 79 of the principal Act.

63. In the English version of paragraph (a) of article 79 of the principal Act, for the words "procès-firebox" there shall be substituted the words "*procès-verbaux*".

Amendment of article 81 of the principal Act.

64. Article 81 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof for the words "copy or extract" there shall be substituted the words "copy, extract or declaration";

(b) in subarticle (2) thereof for the word "null" there shall be substituted the words "null or annulable";

(c) subarticle (4) thereof shall be renumbered as subarticle (5); and

(d) immediately after subarticle (3) thereof there shall be added the following new subarticle:

"(4) The notary shall, in respect of the services provided in terms of article 84C, be entitled to receive from the transferee the fees fixed in the Tariff and, where there is a contract of engagement, the fees agreed upon in such contract. He shall also be entitled to the reimbursement of all expenses and accessory charges."

65. Article 83 of the principal Act shall be repealed.

Repeal of article 83 of the principal Act.

66. Immediately after Part IIIA and immediately before the beginning of Part IV of the principal Act, there shall be added the following new Part and article:

Addition of new Part and article to the principal Act.

"PART IIIB

OF THE EXAMINATION OF TITLE

Notary may examine title.

84C. (1) A notary is empowered to compile documents conducive to establishing both the title to an immovable property and the causes of preference among creditors affecting such title. He has the right to interpret the compiled documents and give advice thereon. In this Act, this process of compilation, interpretation and advice is referred to as "the examination of title" or cognate expressions.

(2) Without prejudice to his responsibility in terms of this article, the notary shall have the right to delegate any or all of these powers to persons he deems trustworthy.

Examination of title.

(3) The examination of title shall be carried out in terms of regulations made under this article.

Where a notary examines title.

(4) A notary may examine title whenever he is instructed to do so by a written contract of engagement whose requisites shall be laid down by regulations.

(5) A notary who publishes a notarial act of transfer of ownership of immovable property or other real rights over such property shall be deemed to have been instructed by the transferee to examine its title:

Provided that the transferee may, by an express declaration recorded in the notarial act, exempt the notary from the obligation imposed on him in terms of this subarticle or limit the extent of such obligation in any way the transferee deems fit:

Provided further that regulations may list the instances where a notary shall be exempt from examining the title.

(6) Where a notary publishes a notarial act containing a transaction other than the transfer of ownership of immovable property or other real rights over such property, or where he authenticates a private writing containing a transaction referring to such property, his obligation to examine title shall arise if, and to the extent that, specific regulations are made with regard thereto.

Diligence and
responsibility.

(7) Notwithstanding the provisions of this Act or any law:

(a) a notary's responsibility for the examination of title shall be regulated by, and be strictly interpreted according to, this article and the regulations made thereunder;

(b) where a notary examines title he shall exercise the diligence required by the regulations referred to in paragraph (a);

(c) where he examines title in terms of the regulations, he shall be deemed to have acted with due diligence;

(d) only the following persons may bring an action against a notary in connection with the examination of title which he has carried out:

(i) the person with whom he has entered into a contract of engagement in terms of subarticle (4),

(ii) the transferee referred to in subarticle (5), or

(iii) the persons indicated in regulations which may be made in terms of subarticle (6).

Report. (8) Where a notary receives instructions in terms of subarticle (4) or where he is bound to examine title in terms of this article, he shall, at the termination thereof, draw up a written report with such contents as may be required by regulations made under this article.

Preservation of documents. (9) The notary shall preserve for a period of five years the documents he compiles for the examination of title. Such period shall run from the date he issues the report where the examination was made in terms of subarticle (4), and from the date of publication of the act where the examination was made in terms of subarticles (5) or (6), and in the case of a private writing referred in subarticle (6) from the date it is authenticated by the notary.

Actions. (10) An action brought against a notary by a person mentioned in subarticle (7)(d) alleging any act or omission of the notary regarding the examination of title shall be barred by the peremptory term of five years which starts running from the dates mentioned in subarticle (9).

Other services. (11) Nothing in this article shall preclude the notary from being engaged only to compile any of the documents referred to in subarticle (1), or to interpret or give advice on such documents which he or a third party has compiled, but this shall not be deemed to be the examination of title as defined in this article. Such a service shall be regulated by an *ad hoc* contract of engagement made in terms of regulations made under this article.

Regulations. (12) The Minister responsible for notarial affairs shall from time to time make regulations, after consulting the Notarial Council, prescribing any matter referred to in this article including, but not limited to:

- (a) the manner in which and the extent to which a notary examines title;
- (b) the exemptions from the obligation to examine title;
- (c) the applicability or otherwise of this article both to notarial acts containing transactions other than the transfer of ownership of immovable property or other real rights over such property, and to transactions referring to such property made by a private writing authenticated by a notary;
- (d) services analogous to but short of the examination of title in terms of this article;
- (e) the degree of diligence required of the notary;
- (f) the formalities of a contract of engagement; and
- (g) the contents of the report and related matters."

Amendment of article 88 of the principal Act.

67. Article 88 of the principal Act shall be amended as follows:

- (a) the present provision shall be renumbered as subarticle (1) thereof; and
- (b) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticle:
 - "(2) Without prejudice to the generality of subarticle (1), the Code of Ethics made in terms of article 92(2) may define any matter referred to in subarticle (1) as a breach of ethics."

Amendment of article 89 of the principal Act.

68. Article 89 of the principal Act shall be amended as follows:

- (a) the present provision shall be renumbered as subarticle (1) thereof; and
- (b) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticle:
 - "(2) Where within a period of five years the Council has admonished a notary three times for conduct,

abuse, negligence or a breach of ethics, he may be suspended from office by the Court of Revision for a period from one to six months upon an application being made to the Court by the President of the Council."

69. Article 92 of the principal Act shall be amended as follows: Amendment of article 92 of the principal Act.

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

(b) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticle:

"(2) The Notarial Council shall have the power to make and amend, with the approval of the Notarial College, regulations respecting a Code of Ethics for Notaries."

70. Immediately after article 93 of the principal Act there shall be added the following new article: Addition of new article to the principal Act.

" Annual fee due to the Council.

93A. Unless a higher fee is prescribed in the regulations made in terms of article 92(1), the annual fee due by each notary to the Notarial Council shall be calculated on the basis of one euro (€1) for every act published by a notary during any calendar year (to the exclusion of wills and acts in terms of Part IIIA), and such fee shall become due at the end of every calendar year and payable upon presentation of the acts in terms of article 94A(12)(iv). The annual fee shall be revised according to the cost of living index every ten years from basis year 2011 and, in default of such an index, in terms of regulations made under this Act."

71. Immediately after Part IV and immediately before the beginning of Part V of the principal Act, there shall be added the following new part and articles: Addition of new Part and articles to the principal Act.

"PART IVA OF THE REVIEW OF ACTS

Review of of notarial acts.

94A. (1) For the purposes of this Part and Part VI, unless the context otherwise requires, the following definitions shall apply:

"acts" means the original *inter vivos* acts except those published in terms of Part IIIA;

"Chief Notary" means the Chief Notary to Government, and includes a Notary to Government duly delegated by him and approved by the Court;

"basis year" means any calendar year starting on the first day of January and ending on the thirty first day of December of that year;

"Council" means the Notarial Council;

"Court" means the Court of Revision of Notarial Acts established by article 110;

"inspection" has the meaning assigned to it in Part VI;

"Minister" means the Minister responsible for notarial affairs;

"notary" includes notary keeper;

"partial incapacitation" has the meaning assigned to it in subarticle (19);

"period of presentation" means the months from April to September both inclusive immediately following the end of any basis year;

"period of review" means a continuous period of twelve months starting on the first of July of the year immediately following the end of a basis year, during which period the notarial acts are reviewed;

"President of the Council" means the President of the Council acting in such a capacity in the name of the Council, or his delegate;

"previous basis year" means the basis year immediately preceding the period of presentation, and shall include any part thereof;

"review" has the meaning assigned to it in article 94B;

"review officers" means the persons holding such an appointment in terms of subarticle (4);

"wills" means the original wills.

Council's
duty.

(2) It shall be the duty of the Council to ensure that all acts published in any basis year are presented to a review officer during the period of presentation so that the latter may review them during the period of review, and that by not later than the end of the calendar year following the completion of the period of review, the acts are inspected by the Court in terms of this Act.

Appointment
of review
officers.

(3) For the purposes of subarticle (2), the President of the Council shall from time to time by application to the Court submit the names of such qualified persons as the Council deems appropriate for appointment as review officers, and the Court shall within fifteen days approve or otherwise their proposed appointment.

(4) The Council shall appoint as review officers the candidates so approved for such periods of time, which may not be less than one year, as the Council shall determine.

Qualifications

(5) (a) No person shall be qualified to be appointed as review officer unless he holds or has held the warrant of notary, advocate or legal procurator for at least two years:

Provided that a notary's appointment as review officer shall be conditional on his resigning his office as notary as provided in article 14(1)(d); so however that, if he is not re-appointed as review officer or if he resigns the office of review officer, he may within three months of the date when he could have been re-appointed review officer or from the date of his resignation as review officer, apply to the Minister responsible for notarial affairs to be granted again the warrant to exercise his profession as notary and, in such case, notwithstanding any other provision of this or any other law and provided the President of the Council confirms to the Minister that the Council is in possession of the documents required by subarticle (12)(a), (b) and (c), the Minister shall submit his name to the President of Malta who shall forthwith re-appoint him notary, and his re-appointment shall be published in the Gazette in terms of article 5(1).

(b) If a review officer is not so re-appointed following his term as a review officer or if he resigns, he shall within seven days of the termination of his term as review officer or of his resignation hand over to another review officer as directed by the President of the Council all acts, registers, indexes, notes and other documents in his possession in view of his former appointment and, if he fails to do so, apart from any other liability in terms of this or any other law, he shall be awarded by the Court at the instance of the President of the Council a penalty of two hundred and fifty euro (€250) due as a civil debt in favour of the Council for every week or part thereof during which he fails to comply.

Oath of office. (6) A review officer shall not enter into his duties unless he has taken before the Court the oath of office as follows: "I, swear to exercise to the best of my ability the office of review officer established by the Notarial Profession and Notarial Archives Act, Chapter 55 of the Laws of Malta. So help me God.":

Provided that a review officer who, immediately following a period in such a capacity, is re-appointed for a further period or periods shall not take the oath of office again.

Duties and powers of review officers.

(7) A review officer shall have the duty and the power -

(a) to accept in the name of the Council the presentation of acts published by notaries;

(b) to review in the name of the Court the acts of notaries for the purposes of the relevant provisions of this and any other law;

(c) to collect from notaries the fees due for the review and the Council's annual fee, and forward them to the Council as soon as he receives them; and

(d) to perform such other functions as may be assigned to him by this or any other law.

Review officers are answerable to the Council in all administrative matters.

(8) (a) In all administrative matters related to the process of acceptance of acts which notaries present during the period of presentation, review officers shall act under the direction of the Council to which they shall be answerable; in all other matters including decisions taken when the acts are presented and during the review of the acts, review officers shall act independently of the Council but subject to any direction of the Court to which they shall be answerable.

(b) A review officer may apply to the Court for directions concerning the manner in which he may or should act in connection with any matter concerning the presentation of acts and their review; and the Court may give such directions, if any, as it thinks fit.

Fees.

(9) Notaries shall be charged for such review a fee of three euro (€3) per act which shall be due to the Council at the end of the basis year when the act was published, and the fee shall be collected by a review officer upon the presentation of the acts by the notary as provided in subarticle (12). Such fee shall be revised every ten years from basis year 2011 according to the cost of living index and, in default of such an index, in terms of regulations made by the Minister after consulting the Council.

Presentation of acts.

(10) (a) During the period of presentation all notaries shall present to a review officer on dates and in places mentioned in the notice referred to in paragraph (d), in volumes bound as required by this Act, all the acts they published during the previous basis year including their respective indexes. They shall also present the copy of the notes of enrolment and reference given to the notary by the Director of Public Registry in terms of articles 50(6) and 52(3):

Provided that the presentation of acts published by notaries referred to in article 22 shall be made at the Archives and the review shall take place therein.

(b) The Council shall ensure that the presentation of such acts be conducted in a transparent and orderly manner.

(c) (i) For the purposes of paragraphs (a) and (b), the Council shall in January of every year cause to be published in the Gazette a notice containing the following:

(i) a list of the names of all notaries who in the previous basis year were known to have practised their profession;

(ii) a list of the names of all keepers of the acts of notaries who practised their profession in the previous basis year;

(iii) a list of the names of the review officers assigned to each of the notaries mentioned in sub-paragraph (i);

(iv) a list of the names of the review officers assigned to each of the notaries keeper mentioned in sub-paragraph (ii); and

(v) a time-table with the dates when and the place where the acts, including their indexes, published during the previous basis year are to be presented to the respective review officer for his review.

(ii) For the purposes of subarticle (16), the same notice shall also contain a time-table with the dates when and the place where notaries and notaries keeper are to present to the Chief Notary for his review the wills, including their indexes, published during the previous basis year.

(d) Notwithstanding any other provision of this or any other law, the publication of the notice mentioned in paragraph (c)(i) and (ii) shall be deemed for all purposes of law to be sufficient notice to the notaries mentioned therein of their obligation to present on the dates and in the places mentioned in the notice the acts and wills including their indexes, and all other documents and to make the payments required by this and any other article of this Act.

(e) The Council shall cause to be published in the Gazette any amendment it makes to the notice mentioned in paragraph (c)(i) and (ii), but such amendment shall not be effective with regard to a notary or notary keeper referred to therein unless at least one month elapses from the date when he is so informed by registered letter.

Declaration.

(11) (a) Together with the presentation of acts, the notary shall submit a written declaration containing a statement of:

(i) the number of volumes presented,

(ii) the number of acts in each volume, and

(iii) the number of pages of acts in each volume.

(b) The review officer shall immediately check whether the number of volumes, the number of acts and the number of pages tally with the declaration and, if there is any discrepancy, the notary shall have the option either to re-present the acts within such time as the review officer shall determine which shall in no case exceed seven days, together with a declaration that tallies with the aforementioned details of the number of volumes, acts and pages, or to give his consent to the review officer to record on the declaration what the discrepancies are and the notary shall on the same day effect the required corrections regarding the number of volumes, acts and pages and make any corrections in terms of this Act in the progressive number of the acts and the page numbers.

(c) The review officer shall make two photostatic copies of the original with his comments, if any, one copy of which shall be authenticated by the review officer and given to the notary as a receipt of the acts that have been so presented, and the other shall be authenticated by the notary and kept by the review officer.

(d) The notary shall appear before the review officer either personally or through a special attorney constituted in writing.

Other documents.

(12) Together with the declaration required by subarticle (11), the notary shall also submit to the review officer the following:

(a) the insurance certificate referred to in article 10A, unless he presents a copy of the Court's decree exempting him from complying with such a requirement;

(b) the personal details of the notary and such other information, including details of notarial trust accounts, as may be required in terms of regulations made by the Minister after consulting the Notarial Council;

(c) a copy of the extract from the Gazette referred to in article 10B(2) if there has been a change in the notary's name or surname; and

(d) the fees due for the review in terms subarticle (9), and the Council's annual fee for the previous basis year in terms of article 93A.

Wills.

(13) It shall be the duty of the Chief Notary to ensure that all wills published in any basis year are presented to him in the Archives during the period of presentation so that he may review them during the period of review, and that by the end of the calendar year following the completion of the period of review such wills are inspected by the Court in terms of this Act.

(14) For the purposes of subarticle (13), all notaries shall present to the Chief Notary in bound volumes as required by this Act the wills which they published during the previous basis year together with a declaration regarding such wills containing information similar to that required in subarticle (11)(a) as well as the fee referred to in subarticle (15), and all the provisions on the functions and powers of review officers regarding the presentation of acts shall *mutatis mutandis* apply to the Chief Notary, and the notaries shall have the same duties with regard to such presentation.

(15) Notaries shall be charged for such review a fee of three euro (€3) per will which shall be due to the office of the Notary to Government at the end of the basis year when it was published and shall be payable upon the presentation of such wills. This fee shall be revised every ten years from basis year 2011 according to the cost of living index and, in default of such an index, in terms of regulations made by the Minister after consulting the Council.

(16) The presentation of wills shall be made to the Chief Notary in terms of the notice referred to in subarticle (10)(c)(ii) and all the provisions of subarticles (10), (11) and (12) shall *mutatis mutandis* apply:

Provided that where the notary appears through a special attorney, the Chief Notary shall not proceed to accept the presentation of wills unless the special attorney is also a notary who shall be bound to observe the same professional secrecy and confidentiality as required of the notary who published them.

Oath of office
of Chief
Notary.

(17) The Chief Notary to Government shall not enter into his duties in term of this article until he takes before the Court the following oath: "I, swear to exercise to the best of my ability the office of accepting the presentation of and reviewing wills in terms of the Notarial Professions and Notarial Archives Act, Chapter 55 of the Laws of Malta, and to observe the same professional secrecy and confidentiality as required of the notaries who published them. So help me God."

Failure to
comply.

- (18) (a) If a notary -
- (i) fails to appear before the review officer and present to him the acts as required by this article, or
 - (ii) fails to make a complete declaration with regard to the acts in terms of subarticle (11)(a), or

(iii) fails to present the insurance certificate or the Court decree as required by subarticle (12)(a), or

(iv) fails to effect the full payments as required by subarticle (12)(d),

he shall, subject to the following provisions of this article, be liable until he complies to a fine (*ammenda*) of fifty euro (€50) per week or part thereof, to start running from the date of filing of the application mentioned in the proviso to this paragraph, and he shall be partially incapacitated from exercising his functions until he complies:

Provided that the review officer shall grant the notary a period of one month to comply and, if the notary fails to do so, the review officer shall, within three days of such failure, file an application in the Registry of the Court informing the Court of the notary's failure and requesting it to order the Registrar to issue a formal subpoena in terms of article 120.

(b) The provisions of paragraph (a) shall *mutatis mutandis* apply to -

(i) the presentation of wills to the Chief Notary in terms of subarticle (14),

(ii) the submission in terms of subarticle (14) of a complete declaration regarding such wills,

(iii) the submission of a copy of the insurance certificate or the Court decree, and

(iv) the payment of the fee in terms of subarticle (15).

(c) If the notary fails to appear before the review officer or the Chief Notary on the date and at the place fixed in the subpoena and produce to him the originals, indexes and documents referred to in the subpoena and make the payments mentioned therein, the review officer or the Chief Notary, as the case may be, shall by application filed within three days of the date when the notary should have appeared before the review officer or the Chief Notary bring the notary's alleged failure to the cognizance of the Court and request it to take the appropriate action.

(d) The Court shall by decree served on the notary and the Attorney General order that the notary and Attorney General make written submissions on the matter, and it shall also set a date for the hearing of the case. If the facts are proved, the Court shall either -

(i) impose the disciplinary punishment mentioned in paragraph (a), and partially incapacitate the notary until he complies, or

(ii) suspend him in terms of article 132.

(e) The Court's powers in terms of this subarticle shall be without prejudice to its powers under article 123.

Partial
incapacitation

(19) (a) A notary who has been partially incapacitated from the exercise of his functions may not, during such incapacitation, exercise any notarial functions but he shall have the right and the duty -

(i) to sign and submit notices for the payment of duties and taxes in terms of fiscal laws,

(ii) to sign and deliver notes in terms of articles 50 and 52 of this Act, and notes of privileges and hypothecs in terms of the Civil Code,

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(iii) to sign and submit applications at the Land Registry, and

(iv) to give copies, extracts and make declarations as required by article 74(1).

(b) The order of partial incapacitation shall be enforceable notwithstanding an appeal against the Court's declaration of responsibility of the notary, or the award of a disciplinary punishment or the order of partial incapacitation itself.

(c) Unless the Court orders the seizure of documents in terms of article 123, the provisions of articles 20, 70(1) and 126 shall not apply when a notary is partially incapacitated.

(d) (i) Where following an application filed by a review officer in terms of subarticle (18)(c), the Court partially incapacitates the notary, and the Chief Notary files a similar application with regard to the same basis year, the Court shall not incapacitate the notary for a second time but the incapacitation imposed following the review officer's application shall likewise be deemed to apply to the notary with regard to the application of the Chief Notary, provided that the incapacitation shall not extend for more than six months.

(ii) The provisions of subparagraph (i) shall apply *mutatis mutandis* where the notary is partially incapacitated following the Chief Notary's application and the review officer files a similar application with regard to the same basis year.

(e) A notary who publishes a notarial act while he is subject to partial incapacitation shall, at the instance of the Attorney General or the President of the Council, be deprived of his office and in addition, but in the Court's discretion, he shall be liable to a fine of not more than five thousand euro (€5,000) for any notarial act which he publishes during such incapacitation.

(f) Notwithstanding any provision of this or any other law, no notarial act shall be invalid for the sole reason that it was published by a notary while he was subject to partial incapacitation.

(g) A notary who has been subject to partial incapacitation for a continuous period of six months shall be deprived of his office by the Court at the instance of the Attorney General or the President of the Council, and all the provisions of this Act regarding deprivation of office shall apply including the appointment of a notary keeper which the Court shall order in the same decree.

Rehabilitation (20) (a) Where a notary who is subject to partial incapacitation complies with the requirements of subarticles (10), (11), (12), (14) and (16), the review officer or the Chief Notary, as the case may be, shall immediately by note filed in the Registry of the Court inform the Court of such compliance.

(b) The Court shall forthwith by decree *in camera* rehabilitate the notary in the full exercise of his functions.

(c) The provisions of article 14(2) shall not apply to such rehabilitation.

(d) Both the note and the decree shall be served on the notary, the Attorney General and the President of the Council.

Publication. (21) The provisions of article 16 shall apply to partial incapacitation and rehabilitation therefrom.

Other provisions. (22) (a) If the notary who fails in his obligations in terms of subarticles (10), (11), (12), (14) or (16) is the President or another member of the Council he shall, unless he has voluntarily resigned, forfeit his seat on the Council and, in the case of the President of the Council, his functions and powers shall be taken over by the most senior notary in the Council.

(b) Regulations made under article 92(1) shall provide for such eventualities and, in default, the Minister responsible for notarial affairs shall make regulations to ensure transparency in such matters.

Review.

94B.(1)(a) Review officers shall review the acts and the Chief Notary shall review the wills.

(b) During the review, care shall be taken to ascertain whether all obligations imposed on notaries by this or any other law have been complied with, especially the provisions of the law relating to the drawing up and preservation of notarial acts, registers and indexes, and the payment of duty on documents and other taxes.

(2) When the review is completed, the review officer and the Chief Notary, as the case may be, shall draw up separate reports in the manner prescribed by regulations and they shall file them in the Registry of the Court.

(3) In their reports, the review officer and the Chief Notary shall list the notary's breaches of this Act and of any other law which are punishable by the Court, and they shall propose to the Court the appropriate disciplinary punishments it could apply and any directions that it could give to the notary.

(4) The notary shall have the right, by means of an application filed within thirty days from the date when a report is served on him, to demand that the Court set aside in whole or in part the report of the review officer or the Chief Notary. The application shall be served on the Attorney General who shall have thirty days to reply.

(5) Where the notary has contested a report or any part thereof, the Court shall consider the notary's written submissions contesting the report or part thereof and the Attorney General's reply, if any, and shall proceed by a decree *in camera* to confirm or otherwise the reports of the review officer and, or, the Chief Notary and shall award the notary the disciplinary punishments of admonition and reprimand or fine (*ammenda*) and may give any other direction in terms of article 124.

(6) (a) Where the notary has not contested a report, the Court shall proceed to confirm it and award the disciplinary punishments of admonition and reprimand (*twiddiba u canfira*) or fine (*ammenda*), unless it appears to the Court that the report contains a manifest error of law or of fact in which case the Court shall through the Registrar send the report back to the review officer or the Chief Notary for his reconsideration. Following his reconsideration, the Court shall decide whether to accept, reject or vary the review officer's or Chief Notary's report and the disciplinary punishments or directions any of them may have proposed.

(b) The provisions of subarticles (2), (3), (4) and (5) shall *mutatis mutandis* apply with regard to the reconsidered report of the review officer or the Chief Notary.

(7) (a) Where it appears from the report of the review officer or the Chief Notary that the notary is liable to the punishment of suspension from or deprivation of office, even if the notary has not contested the report, the Court shall by decree served on the notary and the Attorney General order that the notary and Attorney General make written submissions on that part of the report that may give rise to either of the said disciplinary punishments, and shall also set a date for the hearing of the case.

(b) The provisions of subarticles (4) and (5) shall *mutatis mutandis* apply.

(8) Where the notary fails to contest the report or, after he has done so, the facts alleged in the report are proved during a sitting of the Court, the Court shall, notwithstanding any other provision of this or any other law, opt either to apply the disciplinary punishment of suspension from or deprivation of office in terms of the relevant provisions of this Act or to partially incapacitate the notary for a period not exceeding six months until he regularizes his position and it shall also award a fine (*ammenda*) of fifty euro (€50) per week or part of a week until he regularizes his position.

(9) Where a notary has regularized his position, the provisions of article 94A(20) shall *mutatis mutandis* apply.

(10) (a) The review officer or the Chief Notary may also at any time during the period of presentation and, or, review request the notary to present the registers of acts or wills and their respective indexes for the basis year under review.

(b) The review officer or the Chief Notary shall not keep the registers and their respective indexes for more than twenty-four hours, and he shall be responsible for their custody until they are returned to the notary.

(c) If the notary fails to present the registers to the review officer or the Chief Notary when so requested, the provisions of article 94A(18) shall *mutatis mutandis* apply."

Amendment of article 97 of the principal Act.

72. Article 97 of the principal Act shall be amended as follows:

(a) in paragraph (d) thereof, for the words "this Act;" there shall be substituted "this Act."; and

(b) paragraph (e) thereof shall be deleted.

Amendment of article 98 of the principal Act.

73. Article 98 of the principal Act shall be amended as follows:

(a) in paragraph (d) thereof, for the words "this Act;" there shall be substituted "this Act."; and

(b) paragraph (e) thereof shall be deleted.

74. Immediately after subarticle (4) of article 103 of the principal Act, there shall be added the following new subarticle:

Amendment of article 103 of the principal Act.

"(5) The provisions of this article shall apply to acts and registers of acts published up to and including the 31st December 2011 and deposited in the Archives at any time."

75. Immediately after article 103 of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"General index of notaries.

103A. (1) Each archivist shall keep a general index of notaries whose acts are published on or after the 1st January 2012 and are deposited in the Archives in terms of law.

(2) The provisions of this article shall also apply to the registers of such acts which may be deposited in the Archives.

(3) The Minister responsible for notarial affairs shall prescribe the manner in which such index is to be kept and the information it shall contain."

76. In article 105 of the principal Act, for the words "The acts, registers" there shall be substituted the words "Saving the provisions of the Notarial Acts (Temporary Provisions) Act, the acts, registers".

Amendment of article 105 of the principal Act.

77. Article 110 of the principal Act shall be substituted by the following:

Substitution of article 110 of the principal Act.

"110. (1) Supervision over all notaries, the Notarial Archives and the Public Registry shall be exercised by the Court of Revision of Notarial Acts.

(2) The court shall at all times consist of a retired Judge or a retired Magistrate or a retired advocate who has practised his profession for over twelve years.

(3) In case of abstention or challenge, another retired Judge or retired Magistrate or retired advocate having the same qualifications mentioned in subarticle (2) shall take cognizance of the case.

(4) The court shall be a court of law having the functions set out in this Act and such other functions as may be assigned to it under any other law."

Amendment of article 111 of the principal Act.

78. Article 111 of the principal Act shall be amended as follows:

(a) for the marginal note thereof there shall be substituted the following: "Decisions to be notified to the Attorney General, the President of the Notarial Council, the archivist or the notary concerned.";

(b) the present article shall be renumbered subarticle (1) thereof; and

(c) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticle:

"(2) A copy of such decision, decree, order or written notice of an award shall also be served on the President of the Council."

Amendment of article 112 of the principal Act.

79. Article 112 of the principal Act shall be amended as follows:

(a) the present provision shall be renumbered subarticle (1) thereof;

(b) the words "or by any of the Visitors separately" in subarticle (1) thereof, as renumbered, shall be deleted; and

(c) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticles:

"(2) An appeal by the archivist or notary in terms of subarticle (1) shall be made only against the Attorney General.

(3) A copy of an application made in terms of subarticle (1) and of all the subsequent records of the case shall, except where the appellant or respondent is the archivist, be also served on the President of the Council."

Substitution of article 114 of the principal Act.

80. Article 114 of the principal Act shall be substituted by the following:

"114. The Registrar of the Court of Magistrates shall act as Registrar of the Court and shall take part in its sittings."

Amendment of article 115 of the principal Act.

81. Article 115 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words "of any

notary." there shall be substituted the words "of any notary and any place where he keeps the notarial acts, registers and indexes:";

(b) the following proviso shall be added to subarticle (1), as amended, thereof:

"Provided that with regard to a notary, the powers exercisable by the Attorney General in terms of this subarticle shall *mutatis mutandis* be exercisable independently by the President of the Council.";

(c) in subarticle (2) thereof, immediately after the words "the Attorney General" there shall be added the words "or, as the case may be, the President of the Council"; and

(d) for subarticle (3) thereof, there shall be substituted the following:

Cap. 364. "(3) In the case of visits and inspections mentioned in this article, the provisions of articles 94B(1)(b), 111, 112, 116, 118, 119 and 124, and the provisions of article 19(4) of the Duty on Documents and Transfers Act shall *mutatis mutandis* apply.".

82. Article 117 of the principal Act shall be substituted by the following:

Substitution of article 117 of the principal Act.

"117. (1) A general inspection of the notarial acts of every notary, their respective indexes and registers shall be made by the Court once a year following the review carried out in terms of article 94B.

(2) Where the Court has dealt with a report in terms of article 94B, the notarial acts shall be deemed to have been regularly inspected as provided in subarticle (1).

(3) The originals, together with the respective indexes shall, on the termination of such inspection and following the Court's order, be deposited in the Archives by a review officer or the Chief Notary, as the case may be.".

83. In subarticle (1) of article 118 of the principal Act for the words "The said court" there shall be substituted the words "Following the inspections made in terms of articles 115 or 116, the court".

Amendment of article 118 of the principal Act.

Substitution of article 119 of the principal Act.

84. Article 119 of the principal Act shall be substituted by the following:

"Counter-signature of volumes.

119. Each volume of original notarial acts, registers and indexes, and every book and register which the notaries and the archivist are bound to keep shall be countersigned by the review officer or the Chief Notary who reviewed the notarial acts in terms of article 94B, and by the court in all other cases."

Amendment of article 120 of the principal Act.

85. Article 120 of the principal Act shall be amended as follows:

(a) for the marginal note thereof there shall be substituted the following: "Procedure where notary is summoned."; and

(b) for subarticle (1) thereof there shall be substituted the following:

"(1) Where a notary fails to appear before a review officer or the Chief Notary as required by article 94A(18) or where he appears but does not produce what is required by article 94A(10), (11) and (12), he shall, on an application filed by the review officer or the Chief Notary, as the case may be, be called to do so by means of a formal writ of subpoena issued by the Registrar in the name of the said Court, which must be served on the notary at least seven days before the new date fixed for presentation before the review officer or the Chief Notary as the case may be and must specify the acts or wills, registers and indexes, as well as other documents which the notary is to produce and payments he is to make, the place where and the day and hour in which he is to attend."

Repeal of article 121 of the principal Act.

86. Article 121 of the principal Act shall be repealed.

Substitution of article 123 of the principal Act.

87. Article 123 of the principal Act shall be substituted by the following:

"123. If any person, summoned as provided in articles 120 or 122, fails to appear before the court, the review officer or the Chief Notary, as the case may be, and produce the notarial acts, registers, books and indexes specified in the subpoena, the court may issue a warrant of escort against such person and it may also order the seizure of the documents specified in the writ of

subpoena."

88. Subarticle (2) of article 124 of the principal Act shall be substituted the following new subarticles:

Amendment of article 124 of the principal Act.

"(2) When the contravention consists in any omission on the part of the notary or the 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.

(3) Where the order is made to the archivist, the court shall direct the registrar to see whether such order is punctually carried out. If the archivist fails to comply with any such order, the court may suspend the archivist from his office for such time as the default continues.

(4) Where the order is made to a notary, the court shall direct one of the review officers if the order refers to acts, or the Chief Notary if the order refers to wills, to ensure that such order is punctually carried out. If the notary fails to comply with such order, the court may in its discretion order the partial incapacitation of the notary until such time as he complies, and all the provisions on partial incapacitation shall *mutatis mutandis* apply."

89. In subarticle (1) of article 125 of the principal Act, for the words "Attorney General" there shall be substituted the words "Attorney General, the President of the Notarial Council".

Amendment of article 125 of the principal Act.

90. In article 127 of the principal Act, for the words "eleven euro and sixty five cents (€11.65)" there shall be substituted the words "one hundred euro (€100)".

Amendment of article 127 of the principal Act.

91. Article 130 of the principal Act shall be repealed.

Repeal of article 130 of the principal Act.

92. Articles 131 and 132 of the principal Act shall be substituted by the following:

Substitution of articles 131 and 132 of the principal Act.

"131. (1) A notary who -

(a) is a recidivist in any contravention under articles 68, 68A, 68B and 69; or

(b) offends against any of the provisions of article 12(a), (c)(i), (c)(ii) and (d), article 25(6) or article 26,

shall be liable to a fine (*ammenda*) of five hundred euro (€500).

(2) A notary or archivist who contravenes the provisions of articles 11, 28(1)(a), (i) and (k), 34, 35, 36, 37, 38, 44, 55, 58, 60, 62, 64, 68, 68A, 68B, 69, 100, 103 and 105 shall be liable for every contravention, to a fine (*ammenda*) of fifty euro (€50).

(3) The notary who during his suspension or incapacitation (except for partial incapacitation), issues any copy, extract or declaration shall be liable to a fine (*ammenda*) of thirty euro (€30).

(4) Saving the provisions of articles 88, 89 and 143, the notary who contravenes any other provision of this Act for which there is no specific disciplinary punishment shall be liable for each such contravention to a fine (*ammenda*) of ten euro (€10).

(5) Where, with reference to the same notarial act, a notary is guilty of more than one contravention punishable with a fine (*ammenda*), he shall be awarded the higher or highest applicable punishment or, if they are all punishable with a similar fine, to one such fine.

132. Any notary who -

(a) through negligence, fails to preserve the acts received by him as provided in this Act; or

(b) opposes the inspection referred to in article 115 or otherwise renders the same impossible; or

(c) is, for a second time, a recidivist in any of the contraventions mentioned in article 131(1)(a); or

(d) is a recidivist in any of the contraventions mentioned in article 131(1)(b),

shall be liable to suspension for a period from one to six months."

Amendment of
article 134 of
the principal
Act.

93. In article 134 of the principal Act for the words "in the judgment." there shall be substituted the words "in the judgment and, in default, in an order of the Court of Revision either of its own motion or at the instance of the Attorney General or the President of the Notarial Council."

94. In article 135 of the principal Act for the words "Court of Revision" there shall be substituted the words "Court of Revision at the instance of the Attorney General or the President of the Notarial Council".

Amendment of article 135 of the principal Act.

95. Article 138 of the principal Act shall be substituted by the following:

Substitution of article 138 of the principal Act.

"138. A notary shall be liable to be deprived of his office if -

(a) he continues to practise during his suspension or temporary incapacitation, saving the provisions of article 131(3); or

(b) he publishes a notarial act while he is partially incapacitated; or

(c) he has wilfully failed to preserve the acts received by him or the registers thereof or any other acts or the registers whereof he is the keeper; saving any heavier punishment prescribed in the Criminal Code; or

(d) is, for a second time, a recidivist in any of the contraventions mentioned in 132(b)."

96. Articles 147 to 151 of the principal Act shall be repealed.

Repeal of articles 147 to 151 of the principal Act.

97. Subarticle (1) of article 152 shall be amended as follows:

Amendment of article 152 of the principal Act.

(a) paragraph (f) thereof shall be renumbered as paragraph (g); and

(b) the following new paragraph shall be added immediately after paragraph (e) thereof:

"(f) provide guidelines on the manner in which any of the provisions of articles 94A and 94B is to be interpreted or applied, so however that such interpretation or application shall not be in conflict with the provisions of this Act or of any regulations made thereunder;"

98. The Civil Code shall be amended as follows:

Amendment of the Civil Code. Cap. 16.

(a) in article 205 thereof, for the words "article 66" there shall be substituted the words "article 68";

(b) article 242 thereof shall be amended as follows:

(i) in subarticle (2) thereof for the words "one of the Visitors of Notarial Acts" there shall be substituted the words "the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts";

(b) in subarticle (3) thereof for the words "one of the said Visitors" there shall be substituted the words "the said retired Judge or retired Magistrate or retired advocate";

(c) in subarticle (1) of article 253 thereof for the words "one of the Visitors of Notarial Acts" there shall be substituted the words "the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts";

(d) article 257 thereof shall be amended as follows:

(i) in subarticle (1) thereof for the words "one of the Visitors of Notarial Acts" there shall be substituted the words "the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts";

(ii) in subarticle (4) thereof for the word "Visitor" there shall be substituted the words "the said retired Judge or retired Magistrate or retired advocate";

(iii) in subarticle (5) thereof for the word "Visitors" there shall be substituted the words "the aforesaid retired Judge or retired Magistrate or retired advocate";

(iv) in subarticle (8) thereof for the word "Visitor" there shall be substituted the words "retired Judge or retired Magistrate or retired advocate";

(v) in subarticle (9) thereof for the word "Visitor" there shall be substituted the words "retired Judge or retired Magistrate or retired advocate as aforesaid";

(e) in paragraph (a) of subarticle (2) of article 280 thereof for the words "one of the Visitors of notarial acts" there shall be substituted the words "the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts";

(f) article 281 thereof shall be amended as follows:

(i) in subarticles (1) and (2) thereof for the words "one of the Visitors of notarial acts" there shall be substituted the words "the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts";

(ii) in subarticle (3) thereof, for the word "Visitor" there shall be substituted the words "retired Judge or retired Magistrate or retired advocate";

(g) in article 286 thereof for the words "one of the Visitors of notarial acts" there shall be substituted the words "the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts"; and

(h) article 610 thereof shall be substituted by the following:

"610. Nor can the notary by whom a public will has been received, or the person by whom a secret will has been written out, benefit in any way by any such will."

99. The Public Registry Act shall be amended as follows:

Amendment of
the Public
Registry Act.
Cap. 56.

(a) subarticle (3) of article 11 thereof shall be repealed;

(b) in subarticle (1) of article 36 thereof, for the words "One of the Visitors" there shall be substituted the words "The retired Judge or retired Magistrate or retired advocate of the Court of Revision"; and

(c) in article 37 thereof, for the words "the Visitor" there shall be substituted the words "the retired Judge or retired Magistrate or retired advocate".

100. The Commissioners for Oaths Ordinance shall be amended as follows:

Amendment of
the
Commissioners
for Oaths
Ordinance.
Cap. 79.

(a) in article 3 thereof:

(i) subarticle (4) thereof shall be deleted;

(ii) subarticle (5) thereof shall be renumbered as subarticle (4);

(b) subarticle (1) of article 6 thereof shall be amended as follows:

(i) for the words "as well as the magistrates"

there shall be substituted the words "as well as the magistrates and the notaries"; and

(ii) immediately after subarticle (1) thereof there shall be added the following new proviso:

"Provided that a notary may at any time by notice in writing to the Attorney General resign his office as Commissioner for Oaths, and such resignation shall be published in the Gazette."

Amendment of
the Duty on
Documents and
Transfers Act.
Cap. 364.

101. Subarticle (4) of article 19 of the Duty on Documents and Transfers Act shall be substituted by the following:

"(4) The examination of notarial acts shall be carried out by the Court of Revision of Notarial Acts which shall make a report to the Commissioner of any offence against this Act which may come to its notice during such examination:

Cap. 55.

Provided that such court may delegate the Chief Notary to Government to examine in its name any wills, and it may delegate a review officer appointed in terms of article 94A of the Notarial Profession and Notarial Archives Act to examine in its name any other notarial act to the exclusion of those published in terms of Part IIIA of the said Act:

Provided further that the provisions of this subarticle shall not preclude any officer as is referred to in subarticle (1) from inspecting *inter vivos* acts (to the exclusion of those published in terms of Part IIIA of the said Act) at the premises or elsewhere of a notary for the purpose of ascertaining compliance with this Act."

Objects and Reasons

The main object of the Bill is to update the law relating to the notarial profession by providing as many safeguards as possible for the public who use the services of a notary. The Notarial Council is being given, together with the Court of Revision of Notarial Acts, a pivotal role in the collection of notarial acts, their review, inspection and deposit in the Notarial Archives. The Council will have various

self-regulatory powers over members of the profession. The Bill introduces precautionary measures to ensure that a notary who does not preserve notarial acts in terms of law, and fails to comply within a reasonable time, be partially incapacitated from the exercise of his functions and, should he persist, be deprived of his office. The Bill further protects the public interest by minimizing the possibility of notarial acts being null or annulable solely on formal grounds, and by introducing compulsory professional indemnity cover for notaries. Following some recent judgements, the Bill clarifies and regulates certain powers of notaries which are not specifically mentioned in the Act.
