

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda diversi ligijiet li għandhom x'jaqsmu mar-Registru Pubbliku u l-Arkivji Nutarili.

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. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2011 li Jemenda Diversi Ligijiet li għandhom x'jaqsmu mar-Registru Pubbliku u l-Arkivji Nutarili. Titolu fil-qosor.

TAQSIMA I

Emenda għall-Kodiċi Ċivili

2. (1) Din it-Taqsima temenda l-Kodiċi Ċivili u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "il-Kodiċi". Emenda għall-Kodiċi Ċivili. Kap. 16.

(2) Id-disposizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh f'dik id-data li l-Ministru tal-Ġustizzja jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal għanijiet differenti ta' din it-Taqsima.

Emenda tal-artikolu 306 tal-Kodiċi.

3. Is-subartikolu (5) tal-artikolu 306 tal-Kodiċi għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(5) Id-Direttur tar-Registru Pubbliku għandu jkun l-unika persuna kompetenti biex jirrappreżenta f'kull kapaċità lir-Registru Pubbliku f'kull proċedura legali taħt dan il-Kodiċi jew xi liġi oħra, hekk iżda li huwa jista' jiddelega s-setgħat tiegħu, inkluża r-rappreżentanza ġudizzjarja, lil wiehed minn jew iktar minn wiehed mill-Assistenti Diretturi fuq bażi *ad hoc* jew inkella fuq bażi permanenti."

TAQSIMA II

Emendi għall-Att dwar il-Professjoni Nutarili u Arkivji Nutarili

Emendi għall-Att dwar il-Professjoni Nutarili u Arkivji Nutarili. Kap. 55.

4. (1) Din it-Taqsima temenda l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili, u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) Id-disposizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għal affarijiet nutarili jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' din it-Taqsima.

Emenda tal-artikolu 3 tal-Att prinċipali.

5. Is-subartikolu (2) tal-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(2) Bla ħsara għad-disposizzjonijiet tal-artikoli 14 u 22 sa fejn jirreferixxu għall-karigi ta' Nutar Prinċipali tal-Gvern u Nutar tal-Gvern, ebda persuna li jkollha kariga bi ħlas taħt il-Gvern, minbarra l-kariga ta' Direttur jew ta' Assistent Direttur tar-Registru Pubbliku jew ta' Direttur jew ta' Assistent Direttur tar-Registru tal-Artijiet, ma tista' tiġi maħtura bhala Nutar:

Izda d-Direttur jew l-Assistent Direttur tar-Registru Pubbliku u d-Direttur jew l-Assistent Direttur tar-Registru tal-Artijiet ma jistax jeżerċità l-professjoni ta' nutar hlief bhala Nutar Prinċipali tal-Gvern jew Nutar tal-Gvern."

Emenda tal-artikolu 14 tal-Att prinċipali.

6. L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-proviso li hemm fil-paragrafu (a) tas-subartikolu (1) tiegħu, il-kliem "jew Nutar Pubbliku fit-Taqsima Proprjeta tal-Gvern jew Nutar Pubbliku ma' l-Awtorità tad-Djar" għandhom jiġi jithassru; u

(b) fis-subartikolu (3) tiegħu, il-kliem "jew ta' Nutar Pubbliku fit-Taqsima Proprjeta' tal-Gvern jew ta' Nutar Pubbliku ma' l-Awtorità tad-Djar" għandhom jithassru.

7. L-artikolu 22 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni
tal-artikolu 22
tal-Att
prinċipali.

"22. (1) Għandu jkun hemm Nutar Prinċipali tal-Gvern u Nutar tal-Gvern wiehed jew aktar kif jiġi stabbilit fl-Iskeda II b'mod li n-nutara kollha fl-imsemmija Skeda jkunu taħt is-supervizzjoni diretta tan-Nutar Prinċipali tal-Gvern għalkemm huma jistgħu jiġu speċifikament assenjati ma' kull dipartiment ieħor jew entità oħra.

(2) In-Nutar Prinċipali tal-Gvern u n-Nutara tal-Gvern għandhom ikunu maħtura minn fost nutara maħtura mill-President ta' Malta skont id-disposizzjonijiet tat-Titolu I tat-Taqsima II.

(3) Il-funzjonijiet ta' Nutar Prinċipali tal-Gvern u Nutara tal-Gvern huma li jirċievu dawk l-atti biss li fihom ikunu parti l-Gvern jew xi korp magħqud mwaqqaf b'ligi jew, skont kif jista' jiġi awtorizzat mill-Ministru f'kull każ, xi soċjeta' jew korp ieħor li fih il-Gvern ta' Malta jew xi korp ieħor kif imsemmija hawn qabel, ikollhom sehem biżżejjed biex jikkontrollaw jew li fuqu jkollhom kontroll effettiv, li jkollhom il-kustodja tal-atti rispettivament riċevuti minnhom u li joħorġu kopji u estratti ta' jew minn dawk l-atti matul iż-żmien li jibqgħu fil-kariga tagħhom. In-Nutar għandu jagħti wkoll pariri, jeżamina r-riċerki jew jeżerċità dmirijiet oħra li jaqgħu taħt il-kompetenza tiegħu u kif jista' jiġi mitlub min-Nutar Prinċipali tal-Gvern jew mill-kap tad-dipartiment jew entità fejn jiġi assenjat.

(4) (a) Nutar tal-Gvern, għalkemm ikun qiegħed jeżerċità d-dmirijiet tiegħu f'dipartiment jew entità partikolari, għandu jeżerċità dawk id-dmirijiet, setgħat u funzjonijiet li jistgħu jiġu delegati jew mogħtija lil min-Nutar Prinċipali tal-Gvern, iżda meta ssir din il-delega n-Nutar Prinċipali tal-Gvern għandu jitlob bil-miktub għall-parir tal-kap tad-dipartiment jew entità fejn jiġi assenjat qabel ma jiddeċiedi dwar din id-delega.

(b) In-Nutar Prinċipali tal-Gvern jista' jitlob wiehed jew aktar Nutara tal-Gvern biex jaqdu d-dmirijiet tagħhom ma' xi dipartiment jew entità tal-Gvern kif ikun meħtieġ sabiex ix-xogħol nutarili kif indikat fis-subartikolu (3) ikun jista' jitwettaq bl-aħjar mod.

(5) Fil-każ ta' assenza jew impediment ieħor legittimu tan-Nutar Prinċipali tal-Gvern, il-Ministru responsabbli għall-affarijiet nutarili jista' jiddelega lil wiehed min-Nutara tal-Gvern għall-Gżira ta' Malta, jew jahtar nutar ieħor sabiex jaqdi d-dmirijiet tan-Nutar Prinċipali tal-Gvern jew ta' wiehed min-Nutara msemmija fl-Iskeda II.

(6) Il-kariga ta' Nutar Prinċipali tal-Gvern jew ta' Nutar tal-Gvern titqies li m'hijiex inkompatibbli mal-kariga ta' Arkivist tar-Registru Pubbliku."

Emenda tal-
artikolu 105 tal-
Att prinċipali.

8. L-artikolu 105 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "ikunu ittieħdu barra mill-Arkivju." għandhom jiġu sostitwiti bil-kliem "ikunu ttieħdu barra mill-Arkivju:" u

(b) minnufih wara l-kliem "ikunu ttieħdu barra mill-Arkivju:" għandhom jiżdiedu l-*provisos* ġodda li ġejjin:

"Izda meta persuna jew entità titlob li jittieħdu xi atti, registri u indicijiet imsemmija f'dan l-artikolu għal għan kulturali, xjentifiku jew forensiku, fil-Gżejjer Maltin, tkun fid-diskrezzjoni tal-Arkivist, wara li jkun ikkonsulta ma' espert fil-qasam tal-konservazzjoni u preservazzjoni tad-dokumenti, u wara d-debita awtorizzazzjoni mill-Ministru responsabbli għall-affarijiet nutarili, li jawtorizza sabiex jittieħdu barra mill-Arkivji. Din il-persuna jew entità għandha tiżgura illi dawn l-atti, registri u indicijiet jintrodudu lura malli ma jkunux iżjed meħtieġa għall-għan li għalih ikunu ttieħdu mill-Arkivji u qatt m'għandhom jittieħdu barra mill-Arkivji għal perjodu ta' iktar minn għoxrin gurnata:

Izda wkoll meta dawn l-atti, registri u indicijiet jittieħdu għall-finijiet ta' dan is-subartikolu, kull miżura li l-Arkivist iqis li hija meħtieġa, inklużi miżuri li għandhom x'jaqsmu mas-sigurtà u kopertura ta' assigurazzjoni, għandha tittieħed mill-persuna jew entità li titlob li jittieħdu barra mill-Arkivji għas-sodisfazzjon tal-Arkivist u l-espert imsemmija hawn qabel."

Enumerazzjoni
mill-ġdid tal-
iSkeda li tinsab
mal-Att
prinċipali.

9. L-iSkeda li tinsab mal-Att prinċipali għandha tiġi enumerata mill-ġdid bhala "Skeda I".

10. Fl-artikoli 81, 101, 104, 110 u 146 tal-Att prinċipali, il-kelma "Skeda", kull fejn tinsab, għandha tiġi sostitwita bil-kliem "Skeda I".

Emenda ġenerali fl-Att prinċipali.

11. Minnufih wara l-iSkeda I, kif enumerata mill-ġdid, tal-Att prinċipali, għandha tiżdied l-iSkeda ġdida li ġejja:

Zjieda ta' Skeda ġdida mal-Att prinċipali.

"Skeda II

Nutara tal-Gvern

(jinkludi l-Gzejjer ta' Malta u Għawdex skont kif ikun jeħtieġ il-każ)

Nutar tal-Gvern

Assistent Direttur tar-Registru Pubbliku

Assistent Direttur tar-Registru tal-Artijiet

Nutar mal-Awtorità tad-Djar

Nutar mal-Uffiċċju Kongunt

Nutar mat-Taqsima Proprietà tal-Gvern".

TAQSIMA III

Emenda għall-Att dwar Atti Nutarili (Provvedimenti Temporanji)

12. (1) Din it-Taqsima temenda l-Att dwar Atti Nutarili (Provvedimenti Temporanji), u għandha tinqara u tinftiehem haġa waħda mal-Att dwar Atti Nutarili (Provvedimenti Temporanji), hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda għall-Att dwar Atti Nutarili (Provvedimenti Temporanji). Kap. 408.

(2) Id-disposizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għall-affarijiet nutarili jista' jstabilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal għanijiet differenti ta' din it-Taqsima.

13. Fil-proviso mas-subartikolu (8) tal-artikolu 4 tal-Att prinċipali, il-kliem "Dik l-ispezzjoni ta' l-atti li ġew depożitati fl-arkivji għandha ssir ġewwa l-istess arkivji." għandhom jithassru.

Emenda tal-artikolu 4 tal-Att prinċipali.

Ghanijiet u Raġunijiet

L-ghanijiet ta' dan l-Abbozz ta' Liġi huma sabiex jiffaċilita l-funzjonijiet tad-Direttur tar-Reġistru Pubbliku f'kull proċedura legali u jagħtuh is-setgħa biex jaħtar persuna delegata minnu, sabiex jiffaċilita l-proċedura biex jittiehdu volumi mill-Arkivji Nutarili għal skop kulturali, xjentifiku jew forensiku, u biex jiżgura li jittiehdu l-miżuri meħtieġa li għandhom x'jaqsmu ma' konservazzjoni u sigurtà, u sabiex titneħħa r-restrizzjoni fir-rigward tal-proviso fis-subartikolu (8) tal-artikolu 4 tal-Att dwar Atti Nutarili (Provvedimenti Temporari) u l-membri tal-Qorti tar-Revizjoni tal-Atti Nutarili jkunu jistgħu jispjazzjonaw l-Atti Nutarili li jkunu ġew depożitati fl-Arkivji Nutarili f'post ieħor barra mill-istess Arkivji.

**A BILL
entitled**

AN ACT to amend various laws relating to the Public Registry and Notarial Archives.

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. The short title of this Act is the Various Laws (Public Registry and Notarial Archives) (Amendment) Act, 2011. Short title.

PART I

Amendment to the Civil Code

2. (1) This Part amends the Civil Code, and it shall be read and construed as one with the Civil Code, hereinafter in this Part referred to as "the Code". Amendment to the Civil Code. Cap. 16.

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

Amendment of article 306 of the Code.

3. Sub-article (5) of article 306 of the Code shall be substituted by the following new sub-article:

"(5) The Director of the Public Registry shall be the only competent person to represent in any capacity the Public Registry in any legal proceedings under this Code or any other law, so however that he may delegate such duties, including judicial representation, to one or more Assistant Directors either on an ad hoc basis or on a more permanent one."

PART II

Amendments to the Notarial Profession and Notarial Archives Act

Amendments to the Notarial Profession and Notarial Archives Act. Cap. 55.

4. (1) This Part amends the Notarial Profession and Notarial Archives Act and it shall be read and construed as one with the Notarial Profession and Notarial Archives Act, hereinafter in this Part referred to as "the principal Act".

(2) This Part shall come into force on such date as the Minister responsible for notarial affairs may by notice in the Gazette appoint, and different dates may be so appointed for different provisions or for different purposes of this Part.

Amendment of article 3 of the principal Act.

5. Sub-article (2) of article 3 of the principal Act shall be substituted by the following new sub-article:

"(2) Saving the provisions of articles 14 and 22, in so far as they relate to the offices of Chief Notary to Government or Notary to Government, no person holding an office of profit under the Government, except the office of Director or Assistant Director of the Public Registry or Director or Assistant Director of the Land Registry, may be appointed to be a Notary:

Provided that the Director or the Assistant Director of the Public Registry and the Director or Assistant Director of the Land Registry may not practise as a notary except in the capacity of Chief Notary to Government or Notary to Government."

Amendment of article 14 of the principal Act.

6. Article 14 of the principle Act shall be amended as follows:

(a) in the proviso to paragraph (a) of sub-article (1) thereof, the words "or Notary Public in the Government Property Division or Notary Public with the Housing Authority" shall be deleted; and

(b) in sub-article (3) thereof, the words "or of Notary Public in the Government Property Division or of Notary Public with the Housing Authority" shall be deleted.

7. Article 22 of the principal Act shall be substituted by the following new article:

Substitution of article 22 of the principal Act.

"22. (1) There shall be a Chief Notary to Government and one or more Notaries to Government as may be established in Schedule II, such that all notaries indicated in the said Schedule shall be under the direct supervision of the Chief Notary to Government even though they may be specifically assigned with any other department or entity.

(2) The Chief Notary to Government and Notaries to Government shall be appointed from among notaries appointed by the President of Malta in accordance with the provisions of Title I of Part II.

(3) The functions of Chief Notary to Government and Notaries to Government shall consist in receiving those deeds only to which the Government, any corporate body established by law, or, as may be authorized by the Minister in each case, any partnership or any other body in which the Government of Malta or any such body as aforesaid have a controlling interest or over which they have effective control, is a party, in having the custody of the deeds respectively received by them and in serving out copies and extracts of or from such deeds during their tenure of office. The notary shall also tender advice, examine researches or perform other duties as may be within his competence and as may be required by the Chief Notary to Government or the head of the department or entity to which he is assigned.

(4) (a) A Notary to Government, even though assigned duties in a particular department or entity, shall exercise such duties, powers and functions as may be delegated or assigned to him by the Chief Notary to Government, provided that in assigning such duties the Chief Notary shall seek, in writing, the advice of the head of department or entity where the notary is assigned before deciding on such delegation.

(b) The Chief Notary may require one or more of the Notaries to Government to be assigned with any Government department or entity as may be required for the better management of the notarial work indicated in sub-article (3).

(5) In the case of absence or other lawful impediment of the Chief Notary to Government, the Minister responsible for notarial affairs may delegate one of the Notaries to Government for the Island of Malta, or appoint another notary to discharge the duties of the Chief Notary to Government or of any of the Notaries listed in Schedule II.

(6) The office of Chief Notary to Government or of Notary to Government shall be deemed not to be incompatible with the office of Archivist of the Public Registry."

Amendment of article 105 of the principal Act.

8. Article 105 of the principal Act shall be amended as follows:

(a) for the words "shall be served." there shall be substituted the words "shall be served:" and

(b) immediately after the words "shall be served:" there shall be added the following new provisos:

"Provided that where the removal of any of the acts, registers and indexes referred to in this article is requested by a person or entity for a cultural, scientific or forensic purpose, within the Maltese Islands, it shall be at the discretion of the Archivist, after consultation with an expert in the field of conservation and preservation of documents, and after obtaining endorsement by the Minister responsible for notarial affairs, to authorise their removal from the Archives. Such person or entity shall ensure that they are returned and replaced as soon as the purpose for which they shall have been removed from the Archives shall have been served and in no case shall their removal from the Archives exceed twenty calendar days:

Provided further that where such acts, registers and indexes are removed for the purposes of this sub-article, any measures considered necessary by the Archivist, including those relating to security and insurance cover, shall be taken by the persons or entity requesting their removal to the satisfaction of the Archivist and expert abovementioned."

Renumbering of the Schedule to the principal Act.

9. The Schedule to the principal Act shall be renumbered as "Schedule I".

10. In articles 81, 101, 104, 110 and 146 of the principal Act, for the word "Schedule", wherever it occurs, there shall be substituted the words "Schedule I".

General amendment to the principal Act.

11. Immediately after Schedule I, as renumbered, of the principal Act, there shall be added the following new Schedule:

Addition of new schedule to the principal Act.

"Schedule II

Notaries to Government

(unless otherwise indicated includes Malta and Gozo as may be required)

Notary to Government

Assistant Director Public Registry

Assistant Director Land Registry

Notary with the Housing Authority

Notary with the Joint Office

Notary with the Government Property Division".

PART III

Amendment to the Notarial Acts (Temporary Provisions) Act

12. (1) This Part amends the Notarial Acts (Temporary Provisions) Act and it shall be read and construed as one with the Notarial Acts (Temporary Provisions) Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Notarial Acts (Temporary Provisions) Act. Cap. 408.

(2) This Part shall come into force on such date as the Minister responsible for notarial affairs may by notice in the Gazette appoint, and different dates may be so appointed for different purposes of this Part.

13. In the proviso to sub-article (8) of article 4 of the principal Act, the words "Such inspection of Acts deposited in the archives shall be carried out at the archives." shall be deleted.

Amendment of article 4 of the principal Act.

Objects and Reasons

The objects of this Bill are to facilitate the duties of the Director of Public Registry in any legal proceedings and to enable him/her to appoint a delegate, to facilitate the procedure for the removal of volumes from the Notarial Archives when the scope for their removal is a cultural, scientific or forensic one and to ensure that the requisite conservation and safety measures are taken, and to remove the restriction from the proviso to article 4(8) of the Notarial Acts (Temporary Provisions) Act in order to enable the members of the Court of Revision of Notarial Acts to carry out the inspection of Notarial Acts deposited in the Notarial Archives on premises other than the Archives.