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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Owen Bonnici, M.P., Ministru għall-Ġustizzja, Kultura u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta tal-21 ta' Marzu, 2018.

A BILL introduced by the Honourable Owen Bonnici, M.P., Minister for Justice, Culture and Local Government, and read the First time at the Sitting of the 21 March, 2018.

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

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

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŽJONI ELETTRONIKA

Abbozz ta' Liġi msejjah

ATT sabiex jemenda l-Att dwar il-Professjoni Nutarili u 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, ħarġet b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2018 li jemenda l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili, hawnhekk iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.
Kap. 55.

2. Fis-subartikolu (2) tal-artikolu 3 tal-Att prinċipali, il-kliem "fit-Taqsima Proprjetà tal-Gvern" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet", u l-kliem "tiġi maħtura bħala" għandhom jiġu sostitwiti bil-kliem "teżercita ta'".

Emenda tal-artikolu 3 tal-Att prinċipali.

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

Emenda tal-artikolu 6 tal-Att prinċipali.

(a) (i) fil-paragrafu (d) tas-subartikolu (1) tiegħu, minnufih wara l-kliem "skont l-artikolu 7" għandhom jidhru l-kliem "b'dan illi l-bid ta' din il-prattika għandu jseħħ wara li jkun inkiseb il-grad akkademiku msemmi fil-paragrafu (ċ).";

(ii) fil-proviso tal-paragrafu (d) tas-subartikolu (1) tiegħu, minnufih wara l-kliem "qabel id-data ta' meta jsir l-eżami ta' kwalifika" għandhom jiżdiedu l-kliem "u l-bidu ta' din il-prattika jkun komunikat lil u rikonoxxut mill-Kunsill Nutarili, li jkollu wkoll il-fakoltà li jirrifjuta l-għoti ta' din il-prattika min-nutar konċernat,

fejn il-Kunsill Nutarili jkun tal-opinjoni li dak in-nutar ma jistax jipprovdi Prattika adegwata";

(b) fil-paragrafu (f) tas-subartikolu (1) tiegħu, il-kliem "li jkun għadda minn eżami ta' kwalifika li jkun sar skont l-artikolu 7." għandhom jiġu sostitwiti bil-kliem "li jkun għadda minn eżami ta' kwalifika li jkun sar skont l-artikolu 7:" u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

"Iżda wkoll li kwalunkwe persuna ma tithalliex tagħmel l-eżami ta' kwalifika għal aktar minn tliet darbiet."

Emenda tal-artikolu 11 tal-Att prinċipali.

4. L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kelma "hu" għandha tiġi sostitwita bil-kliem "ma jistax ikun";

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Madankollu n-nutar ma jistax jirrifjuta li jagħti s-servizz tiegħu fil-każ ta' testment u fil-każ ta' protest marittimu."

Emenda tal-artikolu 14 tal-Att prinċipali.

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

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "jispiċċa mill-eżerċizzju tal-professjoni" għandhom jithassru;

(ii) fil-paragrafu (a) tiegħu, il-kliem "jekk jaċċetta impjeg mal-Gvern" għandhom jiġu sostitwiti bil-kliem "għandu temporanjament jieqaf milli jeżerċita l-funzjonijiet tiegħu jekk jaċċetta impjeg mal-Gvern jew jimpjega ruħu ma' bank kummerċjali."; u l-kliem "fit-Taqsima Proprjetà tal-Gvern" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet";

(iii) fil-paragrafu (b) tiegħu, il-kliem "jekk idum nieqes minn Malta għal żmien kontinwu ta' mhux anqas minn għaxar snin", għandhom jiġu sostitwiti bil-kliem "jitlef għal dejjem il-warrant ta' nutar jekk idum nieqes minn Malta għal perjodu ta' seba' snin jew jonqos milli jippubblika xi att għal perjodu ta' seba' snin";

(iv) fil-paragrafu (ċ) tiegħu, il-kliem "jekk jiġi interdett", għandhom jiġu sostitwiti bil-kliem "permanentement jitlef il-*warrant* tiegħu ta' nutar jekk jiġi interdett";

(v) fil-paragrafu (d) tiegħu, il-kliem "jekk jagħmel rinunzja bil-miktub tal-professjoni tiegħu lill-President ta' Malta" għandhom jiġu sostitwiti bil-kliem "permanentement jitlef il-*warrant* tiegħu ta' nutar jekk jippreżenta riżenja bil-miktub mill-professjoni tiegħu lill-President ta' Malta b'dan illi n-nutar jista' jindika li r-riżenja tiegħu hija temporanja, f'liema każ id-dispożizzjonijiet tal-paragrafu (b) u tal-artikolu 2 jibqgħu japplikaw.";

(vi) fil-paragrafu (e) tiegħu, il-kliem "jekk jiġi mneħhi mill-eżerċizzju tal-professjoni tiegħu" għandhom jiġu sostitwiti bil-kliem "jitlef għal dejjem il-*warrant* tiegħu ta' nutar jekk jiġi mneħhi mill-eżerċizzju tal-professjoni tiegħu.";

(vii) fil-paragrafu (f) tiegħu, il-kliem "jekk jiġi mneħhi mill-eżerċizzju tal-professjoni tiegħu" għandhom jiġu sostitwiti bil-kliem "jitlef għal dejjem il-*warrant* tiegħu ta' nutar jekk jiġi mneħhi mill-eżerċizzju tal-professjoni tiegħu.";

(viii) fil-paragrafu (g) tiegħu, il-kliem "jekk jiġi inabilitat" għandhom jiġu sostitwiti bil-kliem "jitlef għal dejjem il-*warrant* tiegħu ta' nutar jekk jiġi inabilitat.";

(ix) minnufih wara l-paragrafu (g) għandu jizdied dan il-paragrafu ġdid li ġej:

"(h) jieqaf milli jeżerċita l-funzjonijiet tiegħu jekk jassumi xi kariga bħala Ministru tal-Gvern jew Segretarju Parlamentari, b'dan illi f'dawn il-każijiet din il-waqfa titqies bħala waħda temporanja u f'dawn il-każijiet id-dispożizzjonijiet tal-paragrafu (b) ma japplikawx, u dak in-nutar għandu minnufih jieħu l-*warrant* tiegħu malli jieqaf mid-doveri tiegħu bħala Ministru jew Segretarju Parlamentari hekk kif avvż dwar dan jidher fil-Gazzetta.";

(b) fis-subartikolu (2) tiegħu, il-kliem "bil-parir tal-Bord imsemmi fl-artikolu 7" għandhom jiġu sostitwiti bil-kliem "hekk kif jagħmel l-eżami ta' kwalifika msemmi fl-artikolu

6(1)(f)"; u

(ċ) fis-subartikolu (3) tiegħu, il-kliem "fit-Taqsima Proprjetà tal-Gvern" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet".

Emenda tal-artikolu 18 tal-Att prinċipali.

6. Fil-paragrafu (a) tal-artikolu 18 tal-Att prinċipali, il-kliem "fit-Taqsima Proprjetà tal-Gvern" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet".

Emenda tal-artikolu 20 tal-Att prinċipali.

7. Minnufih wara s-subartikolu (2) tal-artikolu 20 tal-Att prinċipali, għandu jizjed dan li ġej:

"Izda l-Qorti tista' tahtar nutar delegat għall-finijiet ta' dan l-artikolu għal kwalunkwe numru ta' drabi li l-imsemmi nutar ikun nieqes minn Malta matul haġtu, jew għal perjodu wiehed kontinwu ta' nuqqas li ma jaqbiżx seba' (7) snin:

Izda wkoll in-Nutar Prinċipali tal-Gvern jew il-President tal-Kunsill Nutarili jistgħu b'rikors il-Qorti, jitolbu l-ħatra ta' dan in-nutar delegat fiċ-ċirkostanzi msemmija fil-proviso ta' qabel dan jew fil-każ ta' inkapaċitazzjoni, inabilitazzjoni jew mewt ta' nutar."

Emenda tal-artikolu 22 tal-Att prinċipali.

8. L-artikolu 22 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "fit-Taqsima Proprjetà tal-Gvern u Nutar Pubbliku mal-Awtorità tad-Djar" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet u wiehed jew iktar nutara mal-Awtorità tad-Djar";

(b) fis-subartikolu (2) tiegħu, il-kliem "fit-Taqsima Proprjetà tal-Gvern u n-Nutar Pubbliku mal-Awtorità tad-Djar" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet u n-Nutara Pubbliċi mal-Awtorità tad-Djar";

(ċ) fis-subartikolu (3) tiegħu, il-kliem "fit-Taqsima Proprjetà tal-Gvern u n-Nutar Pubbliku mal-Awtorità tad-Djar" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet u n-Nutara Pubbliċi mal-Awtorità tad-Djar";

(d) fis-subartikolu (5) tiegħu, il-kliem "fit-Taqsima Proprjetà tal-Gvern jew ta' Nutar Pubbliku mal-Awtorità tad-Djar, il-Prim Ministru jista' jiddelega wiehed min-Nutara tal-Gvern, jew jinnomina nutar ieħor, biex jaqdi d-dmirijiet ta' Nutar Pubbliku fit-Taqsima Proprjetà tal-Gvern jew tan-Nutar Pubbliku mal-Awtorità tad-Djar, skont kif ikun jehtieg il-każ"

għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet jew Nutar Pubbliku mal-Awtorità tad-Djar, il-Prim Ministru jista' jiddelega wiehed min-Nutara tal-Gvern, jew jahtar Nutar ieħor, sabiex jaqdi d-dmirijiet ta' Nutar Pubbliku mal-Awtorità tal-Artijiet jew ta' Nutar Pubbliku mal-Awtorità tad-Djar, skont kif ikun jinħtieġ il-każ."

9. L-artikolu 23 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 23 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, il-kliem "u n-nutar fit-Taqsima Proprietà tal-Gvern" għandhom jiġu mħassra;

(b) fis-subartikolu (3) tiegħu, il-kelma "In-nutar" għandha tiġi sostitwita bil-kelma "nutar";

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

"(4) Nutar Pubbliku mal-Awtorità tal-Artijiet jirċievi mingħand dik l-Awtorità salarju fiss u għandu jiġbor f'isem dik l-Awtorità d-drittijiet dovuti skont l-artikolu 81."

10. Fl-artikolu 24 tal-Att prinċipali, il-kliem "fit-Taqsima Proprietà tal-Gvern" għandhom jiġu sostitwiti bil-kliem "mal-Awtorità tal-Artijiet". Emenda tal-artikolu 24 tal-Att prinċipali.

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

(a) fis-subparagrafu (i) tal-paragrafu (ċ) tiegħu, minnufih wara l-kliem "il-post fejn joqogħdu", għandhom jiżdiedu l-kliem "(u jekk jitniżżel l-indirizz sħiħ fl-att, dan l-indirizz jista' jkun fih figuri biss)";

(b) fis-subparagrafu (ii) tal-paragrafu (ċ) tiegħu, minnufih wara l-kliem "jekk il-post" għandhom jiżdiedu l-kliem "jew id-data";

(ċ) fil-paragrafu (e) tiegħu, il-kliem "li dwarhom isir l-att;" għandhom jiġu sostitwiti bil-kliem "li dwarhom isir l-att:" u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

"Iżda f'kull nuqqas ta' qbil bejn il-kliem u l-figuri jipprevalu l-kliem.";

(d) fis-subparagrafu (ii) tal-paragrafu (f) tiegħu, il-

kliem "kif ukoll pjanta dettaljata tal-proprjeta' flimkien ma' *survey sheet* ufficjali li turi l-qagħda tal-imsemmija proprjeta' b'mod li tkun stabbilita l-identita' tagħha" għandhom jiġu sostitwiti b'dan li ġej: "kif ukoll *site plan* tal-proprjeta' li turi l-qagħda tal-proprjeta'.";

(e) fil-proviso tas-subparagrafu (ii) tal-paragrafu (f) tiegħu, il-kelma "pjanta" għandha tiġi sostitwita bil-kliem "*site plan*"; u

(f) fil-proviso tal-paragrafu (g) tiegħu, il-kliem "nutar jista'" għandhom jiġu sostitwiti bil-kliem "nutar għandu".

Emenda tal-artikolu 44 tal-Att prinċipali.

12. L-artikolu 44 tal-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 44(1) u minnufih wara għandhom jizdedu s-subartikoli godda li ġejjin:

"(2) Kwalunkwe att li jkollu difett ta' formalita' kontemplat fil-paragrafi (a), (b), (c), (d), (f), (g), (j), u s-subparagrafu (ii) tal-paragrafu (k) tal-artikolu 28 tiegħu jista' jiġi kkoreġut min-nutar permezz ta' marka enumerata kif stabbilit fl-artikolu 30 fil-preżenza tal-Ufficjal Revizur tiegħu, u dik il-korrezzjoni tkun ukoll kontroinizjalata fil-margini tal-att mill-Ufficjal Revizur sabiex ikun ċar li dik il-korrezzjoni saret wara li l-att ġie ffirmat mill-partijiet u dawk il-korrezzjonijiet ikunu hawn aktar 'il quddiem imsejha "korrezzjonijiet ta' wara l-att". Kwalunkwe korrezzjoni ta' wara l-att bħal dawn jistgħu jiddaħħlu wkoll taht il-firma tan-nutar fl-att:

Izda kwalunkwe korrezzjoni ta' wara l-att kif kontemplat f'dan l-artikolu m'għandhiex taffettwa l-intenzjoni tal-partijiet, il-kunsens tagħhom mogħti fuq l-att originali, jew kwalunkwe dritt reali jew personali tagħhom li joħroġ minnu.

(3) Fejn xi korrezzjoni ta' wara l-att issir skont dan l-artikolu, l-Ufficjal Revizur għandu jagħmel dikjarazzjoni fl-aħħar paġna tal-volum kif ġej: "Jiena, (idaħħal l-isem tal-Ufficjal Revizur) awtorizzajt il-korrezzjonijiet ta' wara l-att ta' dan il-volum", u jiffirma dik id-dikjarazzjoni."

Emenda tal-artikolu 52 tal-Att prinċipali.

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

(a) fis-subartikolu (1) tiegħu, il-kliem "kull ċessjoni" għandhom jiġu sostitwiti bil-kliem "kull ipoteka, ċessjoni".

(b) fis-subartikolu (1) tiegħu, il-kelma "ċessjoni" għandha tiġi sostitwita bil-kliem "ipoteka, ċessjoni".

14. L-artikolu 84Ċ tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 84Ċ tal-Att prinċipali.

(a) minnufih wara l-paragrafu (d) tas-subartikolu (7) tiegħu, għandu jiżdied dan il-paragrafu ġdid li ġej:

"(e) Meta nutar jitqies li kien ingaġġat biex jeżamina t-titolu mill-akkwirent jew gie ngaġġat biex jeżamina t-titolu minn kwalsijasi persuna, dak in-nutar ma jistax, mingħajr il-kunsens anteedenti tal-akkwirent jew il-persuna li ngaġġatu, jiġi mistoqsi xi materja b'riferenza għal dan l-eżami tat-titolu msemmi, jew dwar rapport tat-titolu ta' proprjetà, jew xi komunikazzjoni relatata miegħu, u lanqas ma jista' n-nutar ikun imġiegħel biex jipproduċi xi dokument li ma jkunx disponibbli pubblikament, jew jikkxef bi kwalunkwe mod xi materja jew informazzjoni li n-nutar isir jafha bis-sigriet professjonali jew fil-kapaċità professjonali tiegħu.";

(b) is-subartikolu (8) tiegħu għandu jiġi sostitwit b'dan is-subartikolu li ġej:

"(8) (a) Meta nutar jirċievi struzzjonijiet skont is-subartikolu (4) jew meta huwa jkun marbut li jeżamina t-titolu skont dan l-artikolu, huwa għandu jinforma lill-akkwirent bi kwalunkwe mod, inkluż permezz ta' komunikazzjoni verbali, dwar dawk il-fatti u dak li jkun sab riżultanti mir-riċerki u dawk ir-riżervi li huwa jkun meħtieġ li jsemmi speċifikament skont ir-regolamenti magħmula taht dan l-artikolu.

(b) Jekk l-akkwirent ma jkunx diġà għamel dikjarazzjoni skont l-ewwel proviso għas-subartikolu (5) li biha jeżenta lin-nutar milli jeżamina t-titolu, jew jekk in-nutar inizzel fl-att skont it-tieni proviso tiegħu li huwa eżentat milli jeżamina t-titolu jew in-nutar inizzel fl-att skont it-tielet proviso tiegħu illi huwa awtorizzat li jirrifjuta li jeżamina t-titolu, in-nutar jitqies li ngħata struzzjonijiet mill-akkwirent sabiex jeżamina t-titolu.";

(ċ) fis-subartikolu (9) tiegħu, il-kliem "huwa jkun hareġ ir-rapport" għandhom jiġu sostitwiti bil-kliem "li tkun maqbula fil-kuntratt tal-ingaġġ jew jekk l-ebda data ma tkun maqbula, mid-data tal-kuntratt tal-ingaġġ, jew fin-nuqqas, mid-data tal-att"; u

(d) fil-paragrafu (g) tas-subartikolu (12) tiegħu, il-kliem

"il-kontenut tar-rapport u affarijiet relatati" għandhom jiġu sostitwiti bil-kliem "il-fatti u dak li jinstab rizzultanti mill-eżami tat-titolu u r-rizzervi li n-nutar jeħtieġ li jsemmi lill-akkwirent".

Emenda tal-artikolu 85 tal-Att prinċipali.

15. L-artikolu 85 tal-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 85(1) u minnufih wara s-subartikolu (1) kif enumerat mill-ġdid għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Bis-saħħa tal-kostituzzjoni tiegħu taħt dan l-Att u mingħajr il-bżonn ta' reġistrazzjoni jew xi formalità oħra, il-Korp Nutarili għandu jitqies bħala enti korporat li jkollu personalità legali distinta, li jkollu patrimonju ta' assi u passiv separat u distint minn dak ta' kwalunkwe persuna oħra, u jkollu s-saħħa legali li jilhaq l-għan tiegħu permezz tal-amministrazzjoni tal-korp governattiv tiegħu stess. Il-Korp Nutarili, rappreżentat mill-President tiegħu, ikun kapaċi li f'ismu jkun parti f'kuntratti, li jakkwista, li jżomm u jiddisponi minn kwalunkwe tip ta' proprjetà għall-finijiet tal-oġġettiv tiegħu, li jfittex u jkun imfittex fil-Qorti, u li jagħmel dawk l-affarijiet kollha u li jagħmel dawk l-akkordji kollha li huma inċidentali jew li jwasslu għall-eżerċizzju jew twettiq tal-oġġettiv tiegħu taħt dan l-Att."

Emenda tal-artikolu 93A tal-Att prinċipali.

16. Fl-artikolu 93A tal-Att prinċipali l-kliem "tliet euro (€3)" għandhom jiġu sostitwiti bil-kliem "ħames euro (€5)", u l-kliem "sena bażi 2011" għandhom jiġu sostitwiti bil-kliem "sena bażi 2010".

Emenda tal-artikolu 94A tal-Att prinċipali.

17. L-artikolu 94A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (ċ) tas-subartikolu (7) tiegħu, il-kliem "u l-miżata annwali dovuta lill-Kunsill" għandhom jithassru;

(b) fis-subartikolu (9) tiegħu, il-kliem "tliet euro (€3)" għandhom jiġu sostitwiti bil-kliem "ħames euro (€5)", u l-kliem "sena bażi 2011" għandhom jiġu sostitwiti bil-kliem "sena bażi 2010".

(ċ) fil-paragrafu (a) tas-subartikolu (10) tiegħu, il-kliem "u r-referenza" għandhom jithassru, u l-kliem "Iżda l-preżentazzjoni ta' atti ppubblikati min-nutara msemmija fl-artikolu 22 għandha ssir fl-Arkivji u r-reviżjoni għandha ssir f'dak il-post" għandhom jiġu sostitwiti b'dan li ġej:

"Iżda l-preżentazzjoni ta' atti ppubblikati min-nutara msemmija fl-artikolu 22 għandha ssir fl-Arkivji; madankollu, ir-reviżjoni ta' dawn l-atti u atti oħrajn li

jistgħu jiġu ddepożitati fl-Arkivji imma li ma tkunx saret ir-reviżjoni tagħhom, tista' ssir fil-postijiet kif stabbilit fis-subartikolu (10)(ċ)(v). F'dawn il-każijiet l-Arkivist għandu jagħmel dikjarazzjoni bil-miktub f'żewġ kopji li jinżammu waħda mill-Arkivist u waħda mill-Uffiċjal Revizur, li jkun ffirmati kemm mill-Arkivist kif ukoll mill-Uffiċjal Revizur, li jkun fiha:

(i) in-numru ta' volumi pprezentati mill-Arkivist lill-Uffiċjal Revizur; u

(ii) in-numru ta' atti f'kull volum.";

(d) fis-subartikolu (13) tiegħu, minnufih wara l-kliem "In-Nutar Prinċipali" għandhom jiżdiedu l-kliem "jew l-Uffiċjal Revizur maħtur mill-Kunsill Nutarili";

(e) fis-subartikolu (14) tiegħu, minnufih wara l-kliem "In-Nutar Prinċipali" għandhom jiżdiedu l-kliem "jew l-Uffiċjal Revizur";

(f) fis-subartikolu (15) tiegħu, il-kliem "tliet euro (€3)" għandhom jiġu sostitwiti bil-kliem "hames euro (€5)", u l-kliem "sena bażi 2011" għandhom jiġu sostitwiti bil-kliem "sena bażi 2010", u minnufih wara l-kliem "tan-Nutar tal-Gvern" għandhom jiżdiedu l-kliem "jew lill-Uffiċjal Revizur";

(g) fis-subartikolu (16) tiegħu, minnufih wara l-kliem "lin-Nutar Prinċipali" għandhom jiżdiedu l-kliem "jew lill-Uffiċjal Revizur maħtur mill-Kunsill Nutarili";

(h) fis-subartikolu (17) tiegħu, minnufih wara l-kliem "lin-Nutar Prinċipali" għandhom jiżdiedu l-kliem "jew lill-Uffiċjal Revizur maħtur mill-Kunsill Nutarili".

18. Minnufih wara l-paragrafu (a) tas-subartikolu (1) tal-artikolu 94B tal-Att prinċipali, għandu jiżdied dan li ġej:

Emenda tal-artikolu 94B tal-Att prinċipali.

"Iżda l-Kunsill Nutarili jista' jahtar Uffiċjal Revizur biex jirrevedi t-testmenti, skont ftehim bejn in-Nutar Prinċipali u l-Kunsill Nutarili."

19. Minnufih wara l-artikolu 94B tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

Żjieda tal-artikolu 94Ċ tal-Att prinċipali.

"Proċedura għal revizjoni tal-atti nutarili.

94Ċ. (1) Għall-finijiet ta' dan l-artikolu, sakemm il-kuntest ma jeħtieġx xort'oħra, għandhom japplikaw it-tifsiriet li ġejjin:

"atti" tfisser kull att originali *inter vivos*, ħlief dawk l-atti ppubblikati skont it-Taqsima IIIA tal-Att, ippubblikati sa u inkluż il-31 ta' Diċembru 2011 u liema atti sal-31 ta' Diċembru 2012 jew ma jkunux għadhom ġew depożitati fl-Arkivji jew għalkemm ikunu ġew hekk depożitati ma jkunux għadhom riveduti skont il-liġi fi kwalunkwe żmien;

"Nutara" tfisser in-nutara kollha maħtura skont l-Att u jinkludi wkoll kull nutar konservatur u kull persuna oħra li għandha kustodja ta' xi att nutarili għal kwalunkwe raġuni;

"Nutar Prinċipali" għandha t-tifsira mogħtija lilha fl-artikolu 94A;

"Perjodu ta' Preżentazzjoni" tfisser ix-xahar stabbilit skont is-subartikolu (3) fis-sena stabbilita fis-subartikolu (4)(a);

"Reviżjoni" għandha t-tifsira mogħtija lilha fl-artikolu 94B;

"Uffiċjali revizuri" għandha t-tifsira mogħtija lilha fl-artikolu 94A;

"Testmenti" tfisser testmenti originali; u tinkludi l-atti ta' konsenja ta' testmenti sigrieti ppubblikati sal-31 ta' Diċembru, 2012, li sal-31 ta' Diċembru tas-sena 2013 jew ikunu għadhom mhux depożitati l-Arkivji jew għalkemm ikunu ġew hekk depożitati ma jkunux għadhom riveduti skont il-liġi fi kwalunkwe żmien.

(2) (a) Kull nutar għandu skont dan l-Att jissottometti, fil-perjodu ta' preżentazzjoni, kull att miżmum għandu għar-reviżjoni, skont it-termini stabbiliti f'dan l-artikolu, lill-Kunsill Nutarili u għal dan il-għan id-dispożizzjonijiet tal-artikoli 94A(2), (3), (4), (5), (6), (7)(a), 7(b), 7(d), (8), (11), (17), (18)(a)(i) u (ii) u l-provisos relattivi, (b)(i), (ċ), (d), (e), (19), (20), (21), (22) japplikaw.

(b) In-nutara għandhom ukoll jipprezentaw kopja tan-noti tal-insinwa mogħtija lill-istess nutar mid-Direttur tar-Registru Pubbliku skont l-artikoli 50(6) u 52(3).

(ċ) Id-dhul fis-seħħ ta' dan l-artikolu għandu jittqies, għal kull fini legali, notifika adegwata lin-nutara li għalihom japplika dan l-artikolu sabiex jipprezentaw fid-data u l-post imsemmija fih, l-atti, it-testmenti, l-indicijiet relattivi u kull dokument ieħor mitlub minn dan l-artikolu u mill-Att.

(3) Il-Kunsill Nutarili għandu, għall-iskop imsemmi fis-subartikolu (2), jara li jiġi ppubblikat fil-Gazzetta, avviż bl-ismijiet tal-Uffiċjali Revizuri li jkunu assenjati sabiex jirvedu l-atti u dawk in-nutara li jkunu assenjati lill-istess Uffiċjali Revizuri, biex l-atti tagħhom jiġu riveduti minnhom, kif ukoll il-post u x-xahar meta jridu jiġu pprezentati l-atti waqt il-perjodu tal-prezentazzjoni.

(4) (a) In-nutara għandhom jipprezentaw lill-Uffiċjali Revizuri sad-dati msemmija hawn isfel l-atti kollha fil-kustodja tagħhom:

(i) li jkunu ġew ippubblikati nhar jew wara l-1 ta' Jannar 2010 sal-31 ta' Diċembru 2011, sa mhux aktar tard mill-1 ta' Ottubru 2019;

(ii) li jkunu ġew ippubblikati nhar jew wara l-1 ta' Jannar 2008 sal-31 ta' Diċembru 2009, sa mhux aktar tard mill-1 ta' Ottubru 2020;

(iii) li jkunu ġew ippubblikati nhar jew wara l-1 ta' Jannar 2006 sal-31 ta' Diċembru 2007, sa mhux aktar tard mill-1 ta' Ottubru 2021;

(iv) li jkunu ġew ippubblikati nhar jew wara l-1 ta' Jannar 2004 sal-31 ta' Diċembru 2005, sa mhux aktar tard mill-1 ta' Ottubru 2022;

(v) li jkunu ġew ippubblikati nhar jew wara l-1 ta' Jannar 2002 sal-31 ta' Diċembru 2003, sa mhux aktar tard mill-1 ta' Ottubru 2023;

(vi) li jkunu ġew ippubblikati sa u inkluż fis-sena 2001, sa mhux aktar tard mill-1 ta' Ottubru 2024.

(b) Il-Kunsill Nutarili jista', jekk iċ-ċirkostanzi hekk jitolbu u fid-diskrezzjoni tiegħu fi kwalunkwe żmien, jipposponi permezz ta' avviż li għandu jiġi ppubblikat fil-Gazzetta, b'sena kalendarja, l-iskeda ta' preżentazzjoni stabbilita skont is-subartikolu (4)(a) jew skedi oħra ppubblikati mill-Kunsill Nutarili skont dan l-artikolu.

(5) In-nutara jkunu obbligati jipprezentaw lin-Nutar Prinċipali jew lill-Uffiċjal Revizur li jinħatar mill-Kunsill Nutarili sa mhux aktar tard mill-1 ta' Ottubru 2019 kull testment fil-kustodja tagħhom ippubblikat fi kwalunkwe żmien sa u inkluża s-sena 2011.

(6) (a) Waqt il-perjodu ta' preżentazzjoni kull nutar għandu jipprezenta lill-Uffiċjal Revizur fid-data u l-post imsemmija fl-avviż indikat fl-avviż imsemmi fis-subartikolu (3), f'volumi llegati kif meħtieġ bl-Att, l-atti kollha kif stabbiliti fis-subartikolu (4), inklużi l-indiċi rispettivi tagħhom. Għandhom ukoll jipprezentaw in-noti tal-insinwa jew kopja tagħhom, mogħtija lin-nutar mid-Direttur tar-Registru Pubbliku skont l-artikoli 50(6) u 52(3).

(b) Il-Kunsill Nutarili għandu jara li l-preżentazzjoni tal-atti ssir b'mod trasparenti u ordnat.

(ċ) Għall-finijiet tas-subartikolu (2) u oltre l-avviż imsemmi fis-subartikolu (3), il-Kunsill Nutarili għandu jara li jiġi ppubblikat fi kwalunkwe żmien fil-Gazzetta avviż li jkollu s-segwenti:

(i) l-ismijiet u l-kunjomijiet tan-nutara li kienu magħrufa li kienu jipprattikaw il-professjoni tagħhom qabel is-sena 2012, tul is-snin li kienu s-sugġett tar-reviżjoni;

(ii) l-isem tal-Uffiċjal Revizur assenjat lil kull nutar; u

(iii) skeda li tindika x-xahar u l-post tal-preżentazzjoni tal-atti, inkluż l-indiċi tagħhom lill-Uffiċjal Revizur rispettiv għar-reviżjoni tiegħu;

(iv) il-pubblikazzjoni tal-avviż imsemmi fil-subparagrafi (i), (ii) u (iii) għandha titqies għal kull fini tal-liġi avviż suffiċjenti lin-nutara hemmhekk imsemmija sabiex jipprezentaw fid-dati u fil-postijiet imsemmija fl-avviż, l-atti u t-testmenti u l-indicijiet tagħhom, u kull dokument ieħor kif meħtieġ skont dan l-artikolu.

(v) Il-Kunsill Nutarili għandu jara li tiġi ppubblikata fil-Gazzetta kull emenda li jidhirlu li tkun meħtieġa għal kwalunkwe avviż li jkun sar fil-Gazzetta, skont dan l-artikolu, iżda tali emenda ma tkunx effettiva fir-rigward ta' Uffiċjal Reviżur, nutar jew nutar konservatur hemmhekk imsemmi sakemm ma jkunx għadda almenu xahar mid-data minn mindu tali avviż jidher fil-Gazzetta.

(7) (a) Ikun id-dover tan-Nutar Prinċipali li jassigura li kull testment ippubblikat f'dawk is-snin li huma s-sugġett tar-reviżjoni, jiġu pprezentati lilu fl-Arkivji tul il-perjodu ta' prezentazzjoni sabiex ikun jista' jirrevedihom, u li fi żmien xahrejn immedjatament wara li r-reviżjoni tkun tlestiet tali testmenti jkunu spezzjonati mill-Qorti skont dan l-Att.

(b) Għall-finijiet ta' dan l-artikolu, kull nutar għandu jipprezenta lin-Nutar Prinċipali f'volumi llegati kif rikjest minn dan l-Att it-testmenti li jkun ippubblika matul is-snin li jkunu s-sugġett ta' revizjoni, u dawk id-dispożizzjonijiet kollha dwar il-funzjonijiet u l-poteri tal-Uffiċjal Reviżuri rigward il-prezentazzjoni tal-atti għandhom *mutatis mutandis* japplikaw għan-Nutar Prinċipali, u n-nutara jkollhom l-istess obbligi fir-rigward ta' tali prezentazzjoni.

(ċ) Il-prezentazzjoni tal-atti għandha ssir lin-Nutar Prinċipali skont l-avviż imsemmi f'dan l-artikolu u d-dispożizzjonijiet kollha tas-subartikolu (6)(a), u s-subartikolu (11) tal-artikolu 94A għandhom *mutatis mutandis* japplikaw:

Iżda meta nutar jidher permezz ta' prokuratur speċjali, in-Nutar Prinċipali ma jistax jipproċedi sabiex jaċċetta l-preżentazzjoni tat-testmenti sakemm il-prokuratur speċjali ma jkunx ukoll nutar li jkun marbut josserva l-istess segretezza professjonali u kunfidenzjalità imposti fuq in-nutar li kien ippubblikahom.

(8) L-atti kollha li jkunu suġġetti għar-reviżjoni kif stabbilit b'dan l-artikolu għandhom jiġu riveduti fi żmien sena mid-data tal-preżentazzjoni tagħhom minn nutar, liema żmien jista' jiġi estiż raġonevolment mill-Qorti fuq talba ta' xi Uffiċjal Reviżur filwaqt li ż-żmien tar-reviżjoni tat-testmenti ma għandux jaqbeż għaxar snin mid-data tal-promulgazzjoni ta' dan l-artikolu liema żmien jista' jiġi estiż raġonevolment mill-Qorti fuq talba tan-Nutar Prinċipali.

(9) L-ebda pagament ma jkun dovut min-nutara għall-preżentazzjoni tal-atti u t-testmenti msemmija f'dan l-artikolu."

Emenda tal-artikolu 105 tal-Att prinċipali.

20. Fl-artikolu 105 tal-Att prinċipali, minnufih wara l-kliem "Att dwar Atti Nutarili (Provvedimenti Temporanzi), għandhom jiżdiedu l-kliem "u l-proviso tal-artikolu 94A(10)(a)".

Emenda tal-artikolu 131 tal-Att prinċipali.

21. (1) L-artikolu 131 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5) u (6); u

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

"(4) Nutar li jikser id-dispożizzjonijiet tal-artikolu 50 jeħel ammenda ta' għaxar euro (€10) jekk l-att ma jiġix reġistrat fi żmien xahar, ammenda ta' ħamsa u għoxrin euro (€25) jekk l-att imsemmi ma jiġix reġistrat fi żmien xahrejn, u ammenda ta' ħamsin euro (€50) jekk dak l-att ma jiġix reġistrat fi żmien tliet xhur u ammenda addizzjonali ta' għaxar euro (€10) oltre l-imsemmija ħamsin euro (€50) għal kull ġimgħa jew parti minnha sakemm dak l-att jiġi reġistrat. Dan l-artikolu għandu jiġi effettiv għall-atti kollha ppubblikati fi jew wara s-sena 2018.

Nutar li ma jdaħħalx xi dikjarazzjoni rikjesta

minn kwalunkwe ligi jehel ammenda ta' għaxar euro (€10). Dan l-artikolu għandu jiġi effettiv għall-atti kollha ppubblikati fi jew wara s-sena 2018."; u

22. Fil-partita 7 tat-Taqsima I tal-Iskeda li tinsab mal-Att prinċipali l-kliem "Att ta' separazzjoni personali" għandhom jiġu sostitwiti bil-kliem "Att ta' Separazzjoni Personali, Att ta' Koabitazzjoni, u Att ta' Unjoni Ċivili".

Emenda tal-Iskeda li tinsab mal-Att prinċipali.

Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz ta' Ligi huma sabiex ikunu jistgħu jiġu implimentati dispożizzjonijiet godda fl-Att dwar il-Professjoni Nutarili u Arkivji Nutarili sabiex il-Korp Nutarili jingħata personalità legali kif ukoll sabiex jiżguraw il-preżentazzjoni ordnata tal-atti nutarili u testmenti pubbliċi ppubblikati qabel is-sena 2012 lill-Uffiċjali Revizuri u sabiex jiġi determinat meta r-revizjoni msemmija għandha ssir.

**A BILL
entitled**

AN ACT to amend the Notarial Profession and Notarial Archives, 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 authority of the same, as follows:-

Short title.

1. The short title of this Act is the Notarial Profession and Notarial Archives (Amendment) Act, 2018, 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".

Cap. 55.

Amendment of article 3 of the principal Act.

2. In sub-article (2) of article 3 of the principal Act, for the words "in the Government Property Division" there shall be substituted the words "with the Lands Authority", and for the words "be appointed to be" there shall be substituted the words "practice as".

Amendment of article 6 of the principal Act.

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

(a) sub-article (1) thereof shall be amended as follows:

(i) in paragraph (d) thereof, immediately after the words "in terms of article 7", there shall be added the words "and provided that the start of such practice shall commence after the attainment of the academic degree mentioned in paragraph (c)," and

(ii) in the proviso, immediately after the words "prior to the date when such qualifying examination is held"; there shall be added the words "and the start of such traineeship shall be communicated to and logged by the Notarial Council, which shall also have the faculty to refuse the giving of such practice by the Notary concerned, where the Notarial Council is of the opinion that the said Notary may not provide adequate practice";

(b) in paragraph (f) thereof, the words "he has passed the qualifying examination held in terms of article 7." shall be substituted by the words "he has passed the qualifying examination held in terms of article 7:" and immediately thereafter there shall be added the following new proviso:

"Provided that any person shall not be allowed to sit for the qualifying examination more than three times."

4. Article 11 of the principal Act shall be amended as follows: Amendment of article 11 of the principal Act.

(a) in sub-article (1) thereof, for the word "is" there shall be substituted the words "may not be".

(b) sub-article (2) thereof shall be substituted by the following:

"(2) The notary may not, however, refuse his services in the case of a will and in the case of a sea protest."

5. Article 14 of the principal Act shall be amended as follows: Amendment of article 14 of the principal Act.

(a) sub-article (1) thereof shall be amended as follows:

(i) in sub-article (1) thereof, the words "shall cease from exercising his functions" shall be deleted;

(ii) in paragraph (a) thereof, the words "if he accepts a government employment" shall be substituted by the words "shall temporarily cease from exercising his functions if he accepts a government employment, or is employed with a commercial lending bank." and the words "in the Government Property Division", shall be substituted by the words "with the Lands Authority";

(iii) in paragraph (b) thereof, the words "if he absents himself from Malta for a continuous period of ten years" shall be substituted by the words "permanently loses his warrant as Notary if he absents himself from Malta for a period of seven years or fails to publish any deed, for a period of seven years";

(iv) in paragraph (c) thereof, the words "if he is interdicted" shall be substituted by the words "permanently loses his warrant as Notary if he is interdicted";

(v) in paragraph (d) thereof, the words "if he resigns his office in writing to the President of Malta" shall be substituted by the words "permanently loses his warrant as Notary, if he resigns his office and presents his resignation in writing to the President of Malta provided that the Notary may indicate that his resignation is temporary, in which case the provisions of paragraph (b) and article 2 will still apply";

(vi) in paragraph (e) thereof, the words "if he is removed from his office" shall be substituted by the words "permanently loses his warrant as Notary if he is removed from his office";

(vii) in paragraph (f) thereof, the words "if he is removed from his office" shall be substituted by the words "permanently loses his warrant as Notary if he is removed from his office";

(viii) in paragraph (g) thereof, the words "if he is incapacitated" shall be substituted by the following "shall cease from exercising his functions if he is incapacitated";

(ix) immediately after paragraph (g) thereof, there shall be added the following new paragraph:

"(h) cease from exercising his functions if he assumes an appointment as a Government Minister or Parliamentary Secretary, provided that in such cases said cessation shall be deemed to be temporary and in such cases the provisions of paragraph (b) shall not apply, and the said Notary shall immediately assume his warrant upon cessation of his duties as Minister or Parliamentary secretary, upon a notice to this effect appearing in the Gazette."

(b) in sub-article (2) thereof, the words "with the advice of the Board referred to in article 7" shall be substituted by the words "upon sitting for the qualifying examination referred to in article 6(1)(f)";

(c) in sub-article (3) thereof, for the words "in the Government Property Division", there shall be substituted by the words "with the Lands Authority".

6. In paragraph (a) of article 18 of the principal Act, for the words "in the Government Property Division", there shall be substituted the words "with the Lands Authority".

Amendment of article 18 of the principal Act.

7. Immediately after sub-article (2) of article 20 of the principal Act, there shall be added the following provisos:

Amendment of article 20 of the principal Act.

"Provided that a Court may appoint a Notary delegate for the purposes of this article for any number of absences of the said Notary from Malta during his lifetime, or for one continuous period of absence not exceeding seven (7) years:

Provided further that the Chief Notary to Government or the President of the Notarial Council may by application to the Court, request the appointment of such Notary Delegate in the circumstances mentioned in the immediately preceding proviso or in the case of incapacity, inability or death of a Notary."

8. Article 22 of the principal Act shall be amended as follows:

Amendment of article 22 of the principal Act.

(a) in sub-article (1) thereof, for the words "in the Government Property Division and one Notary Public with the Housing Authority", there shall be substituted the words "with the Lands Authority and one or more Notaries with the Housing Authority";

(b) in sub-article (2) thereof, for the words "in the Government Property Division and the Notary Public with the Housing Authority", there shall be substituted the words "with the Lands Authority and the Notaries Public with the Housing Authority";

(c) in sub-article (3) thereof, for the words "in the Government Property Division and the Notary Public with the Housing Authority", there shall be substituted the words "with the Lands Authority and the Notaries Public with the Housing Authority";

(d) in sub-article (5) of the principal Act, for the words "in the Government Property Division or a Notary Public with the Housing Authority, the Prime Minister may delegate one of the Notaries to Government, or appoint another notary, to discharge the duties of the Notary Public in the Government Property Division or of the Notary Public with the Housing Authority, as the case may require", there shall be substituted the words "with the Lands Authority or a Notary Public with the Housing Authority, the Prime Minister may delegate one of the

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Notaries to Government, or appoint another notary, to discharge the duties of the Notary Public with the Lands Authority or of a Notary Public with the Housing Authority, as the case may require".

Amendment of article 23 of the principal Act.

9. Article 23 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof, the words "and the Notary in the Government Property Division" shall be deleted;

(b) in sub-article (3) thereof, the word "The" shall be substituted by the word "A";

(c) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(4) A Notary Public with the Lands Authority shall receive from that Authority a fixed salary and shall collect on behalf of that Authority the fees due in terms of article 81."

Amendment of article 24 of the principal Act.

10. In article 24 of the principal Act, for the words "in the Government Property Division", there shall be substituted the words "with the Lands Authority".

Amendment of article 28 of the principal Act.

11. Sub-article (1) of article 28 of the principal Act shall be amended as follows:

(a) in sub-paragraph (i) of paragraph (c) thereof, immediately after the words "place of residence", there shall be added the words "(and if the full address is included in the deed such address may also contain figures only)";

(b) in sub-paragraph (ii) of paragraph (c) thereof, immediately after the words "where the place", there shall be added the words "or date";

(c) in paragraph (e) thereof, for the words "forming the subject matter of the act." there shall be substituted the words "forming the subject matter of the act:" and immediately thereafter there shall be added the following new proviso:

"Provided further that in any discrepancy between words and figures, words shall prevail";

(d) in sub-paragraph (ii) of paragraph (f) thereof,

the words "as well as a detailed plan of the property, together with an official survey sheet showing the juxtaposition of the said property in a manner as to establish its identity" shall be substituted by the words "as well as a site plan of the property showing the juxtaposition of the property" and the word "plan" shall be removed and substituted by the words "site plan";

(e) in paragraph (g) thereof, the words "it shall be lawful for the notary to" shall be substituted by the words "the notary shall".

12. Article 44 of the principal Act shall be renumbered as article 44(1) and immediately thereafter there shall be added the following new sub-articles: Amendment of article 44 of the principal Act.

"(2) Any act having a defect of formality contemplated in paragraphs (a), (b), (c), (d), (f), (g), (j), and sub-paragraph (ii) of paragraph (k) of article 28, may be corrected by the Notary by means of a numbered mark as established in article 30, in the presence of his revision officer, and the said correction shall also be counter initialled on the margins of the act by the revision officer such as to make it clear that the said correction was made after the act was signed by the parties and such corrections shall be referred to hereafter as "post-deed corrections". Any such post deed correction may also be inserted under the signature of the notary in the Act:

Provided that any post-deed correction done as contemplated in this article 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) Where any post-deed correction is done in terms of this article, the revision officer shall make a declaration on the last page of the volume as follows "I, (insert name of revision officer) have authorised the post-deed corrections in this volume", and shall sign the said declaration thereof."

13. Article 52 of the principal Act shall be amended as follows: Amendment of article 52 of the principal Act.

(a) in sub-article (1) thereof, for the words "any assignment", there shall be substituted the words "any hypothec, assignment";

(b) in sub-article (3) thereof, for the words "an assignment", there shall be substituted the words "a hypothec,

assignment".

Amendment of
article 84C of
the principal
Act.

14. Article 84C of the principal Act shall be amended as follows:

(a) immediately after paragraph (d) of sub-article (7) thereof, there shall be added the following new paragraph:

"(e) Where a Notary is deemed to have been engaged to examine title by the transferee or has been engaged to examine title by any person, the said Notary may not, without the prior consent of the transferee or person who engaged him, be questioned on any matter in reference to the said examination of title, or on a property title report, or on any communication related thereto, nor may the Notary be constrained to produce any document which is not available publicly, or to disclose in any manner a matter or information which may have come to the knowledge of the notary in professional confidence or in his professional capacity.";

(b) sub-article (8) thereof shall be substituted by the following sub-article:

"(8) (a) Where a notary receives instructions in terms of sub-article (4) or where he is bound to examine title in terms of this article, he shall inform the transferee in any manner, including through verbal communication, of those facts and findings resulting from the searches and those reservations which he is specifically required to mention in terms of the regulations made under this article.

(b) Unless the transferee has already made a declaration in terms of the first proviso to sub-article (5) exempting the notary from examining the title, or where the notary records in the act in terms of the second proviso thereto that he is exempt from examining title, or the notary records in the act in terms of the third proviso thereto that he is authorized to refuse to examine title, the notary shall be deemed to have been instructed by the transferee to examine title.";

(c) in sub-article (9) thereof, for the words "he issues the report", there shall be substituted "agreed upon in the contract of engagement or if no such date was agreed upon from the date of the contract of engagement or in default from the date of the deed"; and

(d) in paragraph (g) of sub-article (12), for the words "the contents of the report and related matters", there shall be substituted the words "the facts and findings resulting from the examination of title and the reservations which the notary is required to mention to a transferee".

15. Article 85 of the principal Act shall be renumbered as article 85(1) and immediately after sub-article (1) as renumbered there shall be added the following new sub-article: Amendment of article 85 of the principal Act.

"(2) By virtue of its constitution under this Act and without the need of any registration or any other formality, the Notarial College shall be a body corporate having distinct legal personality which has a patrimony of assets and liabilities separate and distinct from that of any other person and the legal powers to achieve its purpose through the administration of its own governing body. The Notarial College, represented by its President may on its behalf be capable of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its objects, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its objects under this Act."

16. In article 93A of the principal Act, for the words "three euro (€3)" there shall be substituted the words "five euro (€5)", and for the words "basis year 2011" there shall be substituted the words "basis year 2010". Amendment of article 93A of the principal Act.

17. Article 94A of the principal Act shall be amended as follows: Amendment of article 94A of the principal Act.

(a) in paragraph (c) of sub-article 7 thereof, the words "and the Council's annual fees" shall be deleted;

(b) in sub-article (9) thereof, for the words "three euro (€3)" there shall be substituted the words "five euro (€5)", and for the words "basis year 2011" there shall be substituted the words "basis year 2010";

(c) in paragraph (a) of sub-article (10) thereof, the words "and reference" shall be deleted, and for the words "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.", there shall be substituted the following:

"Provided that the presentation of acts published by notaries referred to in article 22 shall be made at the Archives; however, the review of these acts, and other acts which may be deposited at the Archives but which would not have been reviewed, may take place at the places established in sub-article (10)(c)(v). In such cases the Archivist shall draw up a written statement in two copies to be retained as to one each by the Archivist and the review officer, which shall be signed by both the Archivist and the review officer containing a statement of:

(i) the number of volumes presented by the Archivist to the review officer, and

(ii) the number of acts in each volume.";

(d) in sub-article (13) thereof, immediately after the words "Chief Notary", there shall be added the words "or the review officer appointed by the Notarial Council";

(e) in sub-article (14) thereof, immediately after the words "Chief Notary", there shall be added the words "or the review officer";

(f) in sub-article (15) thereof, for the words "three euro (€3)" there shall be substituted the words "five euro (€5)", and for the words "basis year 2011" there shall be substituted the words "basis year 2010", and immediately after the words "Notary to Government" there shall be added the words "or review officer";

(g) in sub-article (16) thereof, immediately after the words "Chief Notary to Government", there shall be added the words "or review officer appointed by the Notarial Council";

(h) in sub-article (17) thereof, immediately after the words "Chief Notary to Government", there shall be added the words "or review officer appointed by the Notarial Council".

18. Immediately after paragraph (a) of sub-article (1) article 94B of the principal Act, there shall be added the following:

"Provided that the Notarial Council may appoint a review officer to review the wills, as agreed to by the Chief Notary and the Notarial Council."

19. Immediately after article 94B of the principal Act, there shall be added the following new article:

Adds a new article 94C to the principal Act.

"Procedure for review of notarial acts.

94C. (1) For the purposes of this article, unless the context otherwise requires, the following definitions shall apply:

"acts" means all original *inter vivos* acts, except those acts published in terms of Part IIIA of the Act, published up to and including 31st December 2011 which by 31st December 2012 were either not deposited at the Archives or although deposited therein have not been reviewed at any time in terms of law;

"Chief Notary" has the same meaning assigned to it in article 94A;

"notaries" means all notaries appointed according to the Act and shall include all notary keepers and any other person having custody of any notarial act for any reason;

"period of presentation" shall mean the month established in sub-article (3) in the year as established in sub-article 4(a);

"review" has the meaning assigned to it in article 94B;

"review officers" has the same meaning assigned to it in article 94A;

"wills" means original wills; and includes the original acts of delivery of secret wills published up to 31st December 2011, which by 31st December 2012 were either not deposited at the Archives or although deposited therein were not reviewed in terms of law at any time.

(2) (a) Every Notary shall in pursuance to this Act submit, in the period of presentation, all acts held by him for review, in accordance with the terms established in this article to the Notarial Council and for this purpose the provisions of article 94A(2), (3), (4), (5), (6), (7)(a), 7(b), 7(d), (8), (11), (17), (18)(a)(i) and (ii) and the provisos thereof, (b)(i), (c), (d), (e), (19), (20), (21), (22) shall apply.

(b) Notaries shall also present the copy of the notes of enrolment given to the notary by the Director of Public Registry in terms of articles 50(6) and 52(3).

(c) The coming into force of this article shall be deemed for all purposes of law to be sufficient notice to the notaries to whom this article applies of their obligation to present on the dates and in the places mentioned therein the acts, wills, relative indexes, and all other documents as required by this article and the Act.

(3) The Notarial Council shall for the purpose of sub-article (2) cause to be published in the Gazette, a notice containing the names of review officers assigned to review the acts and of the notaries who are assigned to the said review officers to have their acts reviewed by them as well as the place and month where such acts are to be presented during the period of presentation.

(4) (a) Notaries shall present to the review officers by the dates mentioned hereunder all acts in their possession:-

(i) published on or after the 1st January 2010 and up to the 31st December 2011, by not later than the 1st October 2019;

(ii) published on or after the 1st January 2008 and up to the 31st December 2009, by not later than the 1st October 2020;

(iii) published on or after the 1st January 2006 and up to the 31st December 2007, by not later than the 1st October 2021;

(iv) published on or after the 1st January 2004 and up to the 31st December 2005, by not later than the 1st October 2022;

(v) published on or after the 1st January 2002 and up to the 31st December 2003, by not later than the 1st October 2023;

(vi) published on any date up to and including the year 2001, by not later than the 1st October 2024.

(b) The Notarial Council may, if circumstances so warrant at its discretion at any time, postpone by means of a notice to be published in the Gazette, by a calendar year, the schedule of presentation established in sub-article (4)(a) or other schedules published by the Notarial Council in terms of this article.

(5) Notaries shall be obliged to present to the Chief Notary or the review officer appointed by the Notarial Council by not later than the 1st October 2019 all wills in their possession published on any date up to and including the year 2011.

(6) (a) During the period of presentation every notary shall present to a review officer on dates and in places mentioned in the notice referred to in sub-article (3), in volumes bound as required by the Act, all the acts as determined in sub-article (4), including their respective indexes. They shall also present the notes of enrolment, or a copy thereof, given to the notary by the Director of Public Registry in terms of articles 50(6) and 52(3).

(b) The Notarial Council shall ensure that the presentation of acts be conducted in a transparent and orderly manner.

(c) For the purposes of sub-article (2) and in addition to the notice mentioned in sub-article (3), the Notarial Council may cause to be published at any time in the Gazette a notice containing the following:

(i) the names and surnames of all notaries who were known to have practised their profession prior to 2012, during the years which would be the subject of the review;

(ii) the name of the review officer assigned to each notary; and

(iii) a schedule indicating the month and place of presentation of the acts, including their indexes to the respective review officer for his review;

(iv) The publication of the notice mentioned in paragraphs (i), (ii) and (iii) shall be deemed for all purposes of law to be sufficient notice to the notaries mentioned therein to present on the dates and in the places mentioned in the notice the acts and wills and their indexes, and all other documents as required by this article;

(v) The Notarial Council shall cause to be published in the Gazette any amendment it may deem opportune to any notice made in the Gazette, in terms of this article, but such amendment shall not be effective with regard to a review officer, notary or notary keeper referred to therein unless at least one month elapses from the date when the said notice appears in the Gazette;

(7) (a) It shall be the duty of the Chief Notary to ensure that all wills published during the years which are subject of review, are presented to him in the Archives during the period of presentation so that he may review them, and that within two months immediately following the completion of the period of review such wills are inspected by the Court in terms of this Act.

(b) For the purposes of this article, all notaries shall present to the Chief Notary in bound volumes as required by this Act the wills which they published during the years which would be the subject of the review, 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.

(c) The presentation of wills shall be made to the Chief Notary in terms of the notice referred to in this article and all the provisions of sub-article (6)(a) and sub-article (11) of article 94A of the Act 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.

(8) All acts which are subject to the review as established in this article shall be reviewed within one year from the date of their presentation by a Notary, which time frame may be reasonably extended by the Court on a request by a review officer, whilst the time frame for the revision of wills shall not exceed ten years from the date of the coming into force of this article which time may be reasonably extended by the Court on the request of the Chief Notary.

(9) No fees shall be due by notaries for the presentation of the acts and wills mentioned in this article."

20. In article 105 of the principal Act, immediately after the words "the Notarial Acts (Temporary Provisions) Act", there shall be added the words "and the proviso of article 94A(10)(a)".

Amendment of article 105 of the principal Act

21. Article 131 of the principal Act shall be amended as follows:

Amendment of article 131 of the principal Act

(a) sub-articles (3) and (4) thereof shall be renumbered (5) and (6); and

(b) immediately after sub-article (3) thereof, there shall be added the following new sub-article:-

"(4) A notary who contravenes the provisions of article 50 shall incur a fine (*ammenda*) of ten euro (€10) if the said deed is not registered within one month, a fine of twenty-five euro (€25) if the said deed is not registered within two months, and a fine of fifty euro (€50) if the said deed is not registered within three months and an additional fine of ten euro (€10) over and above the said fifty euro (€50) for every week or part thereof until the said deed is registered. This article shall come into force for all acts published on or after the year 2018:

Provided that a notary who fails to insert any declaration required by any law shall incur a fine (*ammenda*) of ten euro (€10). This article shall come into force for all acts published on or after the year 2018.";

22. In item 7 of Part 1 of the Schedule to the principal Act the words "Act of Personal Separation" shall be substituted by the words "Act of Personal Separation, Act of Cohabitation, Act of Civil Union".

Amendment of Schedule I to the Act.

Objects and Reasons

The objects of this Bill are to allow the implementation of new provisions in the Notarial Profession and Notarial Archives Act to grant legal personality to the Notarial College as well as to ensure the orderly presentation of notarial acts and public wills which were published prior to the year 2012 to review officers and to determine when such review of acts and public wills shall take place.