

The Court of Revision of Notarial Acts

Documentation related to the Court of Revision of Notarial Acts

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Undergraduate Certificate in Notarial
Law Fundamentals for Office Assistants

Learning Outcomes

- The Way documents are formulated.
- The Documentation related to the Court of Revision of Notarial Acts.
- The Accuracy, completeness, and adherence to timelines.
- How to Infer and interpret the legal procedures and processes involved in the submission of acts for revision.
- The submission of acts before the Court of Revision of Notarial Acts



Requirements of notarial acts

- (a) the indication written out in words and in full by the notary himself, of the day, the month and the year, and in the case of a will, also the hour in which the act is signed.
- (b) the name and surname of the notary;
- (c) (i) the personal details of the parties; Provided that the date of birth may be written in figures only, and if the full address is included in the deed, such address may also contain figures only.
- (ii) where the place or date of birth of any of the parties is unknown to the notary or where any of the parties is born of an unknown parent, or where the surname at birth of the parents is unknown to the notary or cannot with the exercise of reasonable diligence be ascertained by him, a statement of such fact in the act shall be sufficient;
- (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;
- (iv) where an appearer declares to be acting as a trustee in respect of the subject-matter of the act, the indication that the party appears as trustee in respect of that subject-matter;



Requirements of notarial acts ... cont'd

- (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) the indication, written out, at least in the first instance, in words and in full, of any date, sum of money, amount or quantity of things forming the subject matter of the act:



Requirements of notarial acts ... cont'd

- (f) (i) the precise description of the things forming the subject-matter of the act in a manner that they cannot be mistaken for others.
- (ii) in the case of an act *inter vivos* relating to immovable property, such property shall be designated, if urban, by the mention of the city or village and the street wherein it is situate and the street number thereof, or, if it has no number by the mention of at least three of its boundaries; if rural, by the mention of the place within the limits of which it is situate, its denomination, if any, (and possibly the denomination, of the district), its area, and at least three of its boundaries as well as a site plan of the property showing the juxtaposition of the property:
 - Provided that where the same site plan required to be so annexed is already annexed to another public deed, a reference thereto shall suffice:
 - Provided further that, all land shall be considered rural unless it is the whole roof and airspace overlying urban property;



Requirements of notarial acts ... cont'd

- (g) a mention of the titles and papers annexed to the act. Any annexe not mentioned in the act or not duly signed, shall not be considered as forming part of the act except in so far as the truth of its contents results from the act itself:
 - 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, the notary shall 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) a statement that the notary has duly explained to the appearers the contents of the act before the publication thereof;
- (i) a statement that the act has been published in the presence of the witnesses, where the presence of witnesses is required by law. Where the notary does not know whether the witnesses are related by consanguinity or affinity to any of the parties or the appearers in any of the prohibited degrees, it shall be lawful for him to assure himself of such fact from the witnesses themselves, and, in any such case, he shall state that the witnesses are not related as aforesaid according to their own statement.

Requirements of notarial acts ... cont'd

- (j) an indication of the island, the city or village and the house or other place wherein the act is published and, where it is a country or place other than Malta, the name of such country or such place;
- (k) (i) the signature, at the foot of the act, in the annexes and in the list, of the notary, the appearers, and, if attestor or an interpreter or witnesses shall have been employed, of such attestors, interpreter or witnesses,, the notary shall initial every sheet of the act and of every annexe thereto,
- (ii) the notary shall, immediately after his signature at the foot of the act declare his capacity of Notary Public of Malta in English or in Maltese, either in writing or by means of a stamp or a sealed stamp, and Notaries Public in Government employment shall also declare such capacity,
- (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,
- (iv) the signature on documents filed as vouchers of annexed accounts to which such accounts make reference, is likewise dispensed with,
- (v) if any of the appearers or any of the attestors does not know how to or cannot sign, he shall declare the cause of such inability or in capacity, and the notary shall make a mention of such declaration before the act is signed;

Requirements of notarial acts ... cont'd

- (l) In the case of a public will contained in several sheets, the signature of the testator, interpreter, witnesses and notary in the margin of each intermediate sheet. "Intermediate sheet" means every sheet which forms part of the act except that containing the final signatures.
- The signature of the witnesses in the intermediate sheets and annexes referred to in this article shall not be necessary if all the appearers are able to sign.

Use of *et caetera* clauses prohibited.

- Notaries may not make use of abbreviated clauses commonly called *et caetera* clauses, in any contract of sale, exchange, emphyteusis or letting and hiring, or in any other contract for constituting a pledge, or a privilege or a general or special hypothec.
- Nor may any notary, in any contract whatsoever, make use of any *et caetera* clause implying a derogation of any of the provisions relating to Title IV of Part II of Book Second of the Civil Code. (titled Of Obligations in General).
- Where the appearers, for the purpose of modifying the effects of the laws relating to contracts in general or to the contracts of sale, exchange, emphyteusis or letting and hiring, desire to make stipulations which heretofore were deemed to have been made by the use of an *et caetera* clause, the notary may express such stipulations either by writing out such clause in full and without abbreviations or by using other expressions signifying the will of the appearers.
- Any clause inserted in any contract in contravention to this, shall be void and of no effect.



Public vs secret wills

- Under Maltese law, wills can generally be classified into two main types: Public Wills and Secret Wills. These are governed by the Civil Code of Malta (Chapter 16 of the Laws of Malta) and must be executed following specific formalities to be legally valid.
- Public Will (Testament Pubbliku)
 - A public will is an open and official document received and recorded by a notary public in the presence of two witnesses. It is the most common type of will in Malta and offers transparency, security, and legal certainty.
- Secret Will (Testament Sigriet)
 - A secret will is a private and confidential will, where the testator keeps the contents undisclosed, even from the notary and witnesses. However, the existence of the will must still be formally acknowledged before a notary.

The way documents are formulated – How acts are to be written

- The original of every notarial act shall be written, typewritten or printed in dark, clear, easily legible and indelible characters, without blanks or spaces unless such blanks or spaces are lined, without abbreviations, corrections, alterations or additions in the body of the act and without erasures.
- Every original act shall have two margins, one on the right-hand side and the other on the left-hand side.
- All annotations and signatures as are required by law to be made in the margin shall be made in whichever of the said sides is the outer side.



How alterations in the act are to be made

- Where it is necessary to remove, vary or add any words before the act is signed by the appearers, the attestors, interpreter and witnesses, the notary shall make such removal, variation or addition by means of a numbered mark in the place where such removal, variation or addition is to be made and a note at the end of the act, but before the final signatures, numbered so as to correspond to the relative mark; and in any such case, the notary shall cancel the words which it is desired to remove or vary, in such manner as to leave the words cancelled still legible, and the note at the end of the act shall state the number of words so cancelled or, as the case may be, that other words are substituted for those cancelled, and containing immediately after, the words so substituted.



How alterations in the act are to be made ... cont'd

- In the case of a mere addition of words, the notary shall make a numbered mark in the place where the addition is to be made and a note at the end of the act, but before the final signatures, numbered so as to correspond to the relative mark, and containing "the expression "words added", "adde" or other similar expression and, immediately after, the words to be added.
- Any cancellation, addition or variation made otherwise than in the manner aforesaid shall be considered as if it had not been made.



The Documentation related to the Court of Revision of Notarial Acts

- All notarial acts shall be drawn up in the Maltese or in the English language as the appearers desire:
- Provided that where all the appearers declare that they are not Maltese-speaking persons nor English-speaking persons, they may require the use of any language other than Maltese or English which is known by the notary and the witnesses; in any such case the notary shall draw up by the side of the original text or at the end thereof a translation of the act into Maltese or English, and such translation shall be signed.
- The notary shall warn the appearers of the importance of the truthfulness of the said declaration and shall record in the act that he has complied with this requirement and that to the best of his knowledge and belief such declaration is true.

The Documentation related to the Court of Revision of Notarial Acts ... cont'd

- Any appearer to the act who makes a false declaration, and any notary who receives any act in any language other than Maltese or English when he knows or has reason to believe that any of the appearers is a Maltese-speaking or an English-speaking person, shall be liable to a fine (multa) not exceeding one hundred and sixteen euro and forty-seven cents (116.47) to be imposed by the Court of Revision of Notarial Acts.
- Any notary who receives any act without recording therein the said declaration of the appearers, or without recording the fact that he has warned the appearers of the importance of the truthfulness of such declaration, shall be guilty of an offence and shall be liable to a fine (multa) not exceeding eleven euro and sixty-five cents (11.65) to be imposed by the Court of Revision of Notarial Acts.
- Where any act is ordered by a judgment or decree of any court, the court shall in such judgment or decree specify the language, in accordance with the provisions, in which the act shall be drawn up by the notary.



The Documentation related to the Court of Revision of Notarial Acts ... cont'd

- The expressions "Maltese-speaking person" and "English-speaking person" shall have the same meaning as is assigned to them in article 7 of the Judicial Proceedings (Use of English Language) Act.
- The acts a notary is empowered to receive, perform or issue shall likewise be in the Maltese or the English language as the persons signing, approving, declaring or requiring such documents desire.
- All declarations, attestations, certifications, references or notes made by any notary in pursuance of Chapter 55 shall be in the Maltese language, except where the act to which they refer has been drawn up in the English language, in which case they shall be drawn up in the English language.



Notarial corrective acts

- In Malta, notarial corrective acts are legal instruments used to rectify errors, omissions, or inaccuracies in previously executed notarial deeds while ensuring compliance with the Notarial Profession and Notarial Archives Act (Chapter 55 of the Laws of Malta).
- These corrective acts may be necessary to amend mistakes in names, descriptions, property details, or legal clauses without altering the original intent of the document. Corrections can be made through a unilateral notarial act (if the error is clerical and does not affect third parties) or a supplementary deed signed by all involved parties if substantive changes are required.
- The Court of Revision of Notarial Acts oversees such amendments to prevent fraud and safeguard the integrity of public records, ensuring that any modifications are duly justified and properly documented.
- Failure to execute necessary corrections can lead to legal liability, disciplinary action against the notary, or disputes affecting property transactions and legal rights.

Notarial corrective acts – the law

- Without prejudice to the rights already acquired by third parties and subject to the provisions of Article 45A of Chapter 55, 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 anytime, 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.
- 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.



Notarial corrective acts – the law ... cont'd

- 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.
- 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.



The errors or omissions that may be the subject-matter of a notarial corrective act

- The errors or omissions that may be the subject-matter of a notarial corrective act are the following:
 - (a) typing or spelling errors;
 - (b) mistaken numbers in documents of identification;
 - (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



The Accuracy and adherence to timelines

- Notaries must ensure the correctness of legal documents, including contracts, wills, and property transfers.
- They are required to verify the identity of parties involved and ensure that agreements are made voluntarily.
- Any errors or omissions in notarial acts can lead to legal liability or disciplinary action.
- Notaries must maintain complete records of all notarial acts and transactions.
- Every act must be fully documented and archived, ensuring transparency and legal validity.
- The law mandates proper indexing and cataloging of notarial documents for future reference.



Completeness in notarial acts

- Completeness in notarial acts in Malta is a fundamental requirement to ensure that all legal, factual, and formal elements of a document are accurately recorded, leaving no ambiguity or omission that could compromise its validity or legal effect.
- Governed by the Notarial Profession and Notarial Archives Act (Chapter 55 of the Laws of Malta), a notarial act must fully reflect the intentions of the parties, include precise details of the subject matter (such as property descriptions, identities of signatories, and legal provisions), and comply with statutory formalities, such as proper signatures, witnessing, and registration when required.
- Any missing or incorrect information could lead to legal disputes, challenges to the document's validity, or disciplinary action against the notary.
- To uphold the public's trust and legal certainty, notaries are obligated to conduct thorough verifications, ensure clarity in drafting, and make necessary corrections or supplementary acts when errors or omissions are detected.



Adherence to timelines

- Chapter 55 sets strict deadlines for notaries to submit documents to public registries.
- Notaries must deposit acts related to property, wills, and contracts within the prescribed legal timeframe.
- Failure to meet deadlines can result in penalties, fines, or even suspension from practicing as a notary.
- The Notarial Council oversees compliance with Chapter 55, ensuring disciplinary measures are taken against any breaches.
- Notaries must regularly audit their records to maintain high professional standards.
- Any violations, such as falsification of documents or delays in submission, may lead to legal prosecution or professional sanctions



How to Infer and interpret the legal procedures and processes involved in the submission of acts for revision

- Submission of Notarial Acts
- Notaries are required to submit original notarial acts and their registers to the Notarial Archives at specific intervals.
- Public deeds and private wills must be deposited for public record within the timeframe prescribed by law.
- Failure to submit acts in a timely manner can lead to penalties or legal consequences.



Revision Process

- Once submitted, the notarial acts undergo a revision process to ensure:
- Accuracy – Checking for errors, inconsistencies, or omissions.
- Legality – Verifying compliance with Maltese legal requirements.
- Completeness – Ensuring all necessary signatures, seals, and stamps are present.
- A reviewing officer or official within the Notarial Archives examines the acts and may request clarifications or corrections from the notary.



Legal Timelines and Compliance Requirements

- Acts must be submitted within six months from the date they were executed (or as prescribed in the Act).
- Any irregularities or missing documentation must be rectified within a specified period after notification.
- Periodic inspections and audits are conducted to ensure compliance.
- Failure to comply may result in:
 - Administrative fines imposed on the notary.
 - Suspension from practice for repeated non-compliance.
 - Legal action for severe breaches.



Interpretation of the Legal Framework

- To interpret the legal procedures accurately:
 - Consider judicial precedents where courts have ruled on submission delays or errors.
 - The Notarial Council issues the guidelines on procedural compliance.



The submission of acts before the Court of Revision of Notarial Acts

- Role of the Court of Revision of Notarial Acts
- The Court of Revision of Notarial Acts is a specialized judicial body responsible for:
- Reviewing and verifying notarial acts to ensure they comply with legal requirements.
- Assessing the accuracy and completeness of submitted notarial deeds.
- Investigating irregularities or misconduct in the execution of notarial duties.
- Imposing penalties or corrective measures where necessary.
- This court operates under supervisory authority to maintain high professional standards in notarial practice.



Obligation of Notaries to Submit Acts

- Under Chapter 55, notaries are legally required to submit their acts for review within a set timeframe. The key requirements include:
- Mandatory deposit of notarial acts in the Notarial Archives.
- Periodic submission of records for revision and auditing by the Court of Revision.
- Ensuring compliance with documentation standards, including authentication and indexing.
- Failure to submit acts within the prescribed period may lead to disciplinary action.



Review and Examination Process

- Once acts are submitted, the Court of Revision follows a structured review process:
 1. Verification of Formalities – Ensuring that all legal formalities (signatures, seals, dates) are correctly applied.
 2. Examination for Errors – Checking for inconsistencies, misrepresentations, or omissions.
 3. Cross-checking with Notarial Archives – Ensuring that acts are properly recorded and registered.
- If irregularities or violations are found, the court may:
 - Order the correction or amendment of documents.
 - Issue warnings or fines against the notary.
 - Refer serious cases to higher legal authorities for disciplinary action.



Consequences of Non-Compliance

- Notaries who fail to submit acts or whose acts are found to be non-compliant may face:
- Fines and penalties as prescribed under Chapter 55.
- Suspension or revocation of their notarial license.
- Legal proceedings in cases of fraudulent or negligent conduct.



Interpretation of Legal Provisions

- To properly interpret the submission process:
- Chapter 55 Refers to specific sections of that outline submission deadlines and requirements.
- Case law on past disciplinary actions taken by the Court of Revision provides direction.
- The Notarial Council provide the necessary guidelines to ensure adherence to updated procedural rules.





Questions ???



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