

The Court of Revision of Notarial Acts

Preparing formal documentation vs the skills of the Notary

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Undergraduate Certificate in Notarial
Law Fundamentals for Office Assistants

Learning Outcomes

- The legal requirements when it comes to the submission of documents.
- The obligation of Notaries to refrain from harming the reputations of the profession.
- What are the skills, abilities, or the services provided by the notary.
- The requirement for Notaries to extend cooperation to their professional bodies.
- The responsibilities within the notarial = profession as a whole.



High level of legal expertise, precision, and ethical responsibility

- The preparation of formal documentation is one of the core responsibilities of a notary under Chapter 55 of the Laws of Malta, requiring a high level of legal expertise, precision, and ethical responsibility. A notary is entrusted with drafting, authenticating, and preserving various legal documents such as contracts, wills, public deeds, private agreements, powers of attorney, and sworn declarations, ensuring they comply with all legal requirements and statutory obligations.
- This process demands exceptional attention to detail, as errors or omissions could render documents legally invalid or lead to disputes. The skills of a notary play a crucial role in ensuring that formal documentation is prepared accurately, transparently, and lawfully.
- These skills include legal knowledge and expertise, allowing notaries to correctly interpret, apply, and draft documents in accordance with Maltese law. Additionally, analytical and problem-solving abilities are essential for identifying potential legal risks, inconsistencies, or conflicts within agreements before they are finalized.



Strong communication and interpersonal skills

- Strong communication and interpersonal skills enable notaries to **explain legal terms** clearly to clients, ensuring they fully understand their rights and obligations before signing any document.
- **Ethical judgment and integrity** are fundamental, as notaries must remain impartial, maintain confidentiality, and prevent conflicts of interest while drafting and witnessing legal documents.
- Furthermore, **organizational and time management skills** are necessary to ensure that documentation is completed and submitted within required legal deadlines, particularly for acts that must be registered with the Notarial Archives or government entities.
- The combination of technical legal expertise, ethical responsibility, precision, and effective client communication ensures that formal documentation prepared by a notary is **legally binding, accurate, and aligned with the highest professional standards**, ultimately safeguarding both the interests of the public and the credibility of the notarial profession.



The legal requirements when it comes to the submission of documents

- Important definition when it comes to notarial acts
- In Chapter 55:
 - "party" refers to the person who is a party to the *negotium* which is incorporated in the act and, in the case of a will, to the testator; and
 - "appearer" means the person who appears before the notary either as a party or as the representative or agent of a party.
- This leads to say that the notary shall not receive a notarial act except in the presence of the appearers.



Notary must be certain of identity of appearers, attestors, witnesses and interpreters

- The notary must personally be certain of the identity of the appearers, attestors, witnesses and interpreters.
- Such identity shall be ascertained by the production of the official identity card, passport or other similar official document and, where such document cannot be produced by any of the appearers, on the testimony of two attestors who may also be the witnesses appearing on the act.

Drawing up of documents

- It is the duty of the notary to direct the drawing up of the act from beginning to end, even when he causes it to be prepared by a person whom he deems trustworthy.
- The notary alone is competent to ascertain the will of the appearers and to inquire, after reading over and explaining the act to them, whether it is in accordance with their will.



Where no witnesses are required

- Provided no witnesses are required, where all the appearers on the act declare that they are fully cognizant of the contents of the act and its annexes, they may by an express declaration exempt the notary from reading over the act to them in which case the following formalities are required:
 - (a) at the foot of the act and before the final signatures, the notary records both declarations in his own handwriting and signs what he has recorded,
 - (b) immediately following the notary's signature, each appearer separately writes in his own handwriting "I confirm this exemption" to which he affixes his signature, and
 - (c) all the appearers sign every sheet of the act in the outer margin and every annexe, unless the annexes have already been signed.

Presence of witnesses

- The presence of two (2) witnesses shall be required only in the following cases:
 - (a) whenever any of the appearers so requests; and
 - (b) whenever any of the appearers does not know how or is unable to sign his name:
- Provided that in the case of public wills and in the case of acts of delivery of secret wills, the notary shall in all cases inform and explain to the testator about the testator's right to have two (2) witnesses present:
- Provided further that in the case of public wills if the testator chooses not to have two (2) witnesses present, the notary shall in the will declare that he has informed and explained to the testator about his right to have two (2) witnesses present and that the testator chose not to have two (2) witnesses present:
- Provided further that in case of acts of delivery of secret wills if the testator chooses not to have two (2) witnesses present, the notary shall in the act of delivery declare that he has informed and explained to the testator about the testator's right to have two(2) witnesses present and that the testator chose not to have two(2) witnesses present.



Competent witnesses

- No person shall be competent as witness unless such person has attained the age of eighteen years, was born or is residing in Malta and has no interest in the act.
- Saving the provisions of the Civil Code relating to public wills the following shall not be competent as witnesses:
 - (a) any person who is blind or deaf or dumb;
 - (b) any person who is related to the notary or to any of the parties or appearers, by consanguinity or affinity up to the third degree;
 - (c) the spouse of the notary or of any of the parties or
 - (d) any person who does not know how to or cannot sign.



Attestors

- The attestors (*fidem facientes*- a person who attests to the genuineness of a document or signature by adding their own signature) must have the same qualifications as are required for witnesses, but the relationship by consanguinity or affinity up to the third degree as mentioned in Chapter 55, or their inability or incapacity to sign, shall not disable them from acting as such.



Interpretation of notarial act into another language

- The interpretation of an act into any language, when required for the intelligence of all the appearers shall be made by the notary, or, if the notary does not know the language understood by the appearers, by an interpreter chosen by the appearers.
- The interpreter must have all the qualifications required for a witness and shall not be one of the attestors.
- The interpreter must take the oath before the notary to perform his duties faithfully, and a mention of the taking of such oath shall be recorded in the act.
- The interpreter shall sign the act.



Procedure when one of the parties is deaf

- Where any of the appearers is totally deaf, such appearer shall read the act, and a mention of the fact shall be recorded therein.
- If such appearer is illiterate, use shall be made of the services of an interpreter to be appointed by the Civil Court(Voluntary Jurisdiction Section), possibly from among the persons accustomed to communicate with him, and who can make himself understood by signs and gestures.
- The interpreter shall be present at the execution of the deed, saving as regards wills, the provisions of article 669 of the Civil Code.
- Such interpreter must possess the qualifications required for a witness and shall take the oath, and a mention of the taking of such oath shall be recorded in the act.
- Such interpreter may be chosen from among the parents or relatives of the deaf person, but shall not, at the same time, act as a witness or as one of the attestors.
- The interpreter shall sign the act.



Article 669 of the Civil Code

- Where a person who is totally deaf, but can read, desires to make a public will, he shall read such will himself in the presence of the notary and the witnesses, and the notary shall, before the will is signed by himself and the witnesses, enter, at the foot of the will, a declaration to the effect that the will has been so read by the testator.
- Where, however, such deaf person cannot read, he himself shall declare his will in the presence of the notary and the witnesses, and the notary shall, before the will is signed by himself and the witnesses, enter, at the foot of the will, a declaration to the effect that the will is in accordance with the will as declared by the testator.



Procedure when any of the appearers is dumb, or deaf and dumb

- Where any of the appearers is dumb, or deaf and dumb, besides the rule laid down as to the presence of the interpreter the following rules shall be observed:
 - (a) the appearer who is dumb, or deaf and dumb and can read and write shall himself read the act and write at the end thereof, before the signatures, that he has read it and found it to be in accordance with his will;
 - (b) if such appearer does not know how to or cannot read and write, it shall be necessary that his sign-language be understood also by one of the witnesses, or, otherwise, that a second interpreter be present at the execution of the act.

If the interpreter is not named the act is voidable

- Where, in the publication or the drawing up of an act an interpreter has been employed, the notary shall, before the act is signed, state that such interpreter was chosen with the consent of the appearers, or as the case may be, by the Civil Court (Voluntary Jurisdiction Section), and that he took the oath to perform his duties faithfully.
- In default of compliance, the act is voidable on the demand of the person in respect of whom the employment of an interpreter was required.
- The said demand shall no longer be competent after the lapse of one month from the date of the publication of the act, or if the said person shall have given execution to the act.



Procedure to be followed in case of death, cessation from exercise of office, suspension or absence of a notary

- On the death of a notary, or where a notary has ceased from the exercise of his office or has been suspended therefrom, or is about to leave Malta, the acts received by him with the respective registers and indexes shall be deposited in the Archives, unless the Court of Revision of Notarial Acts shall have appointed a notary to be the keeper or custodian of such acts or registers, on the demand of the heirs of the deceased notary, or of the lawful owners of his registers or, as the case maybe, of the notary himself who has ceased from exercising his office or has been suspended or incapacitated therefrom or is about to leave Malta.
- In the case of rehabilitation of the notary, or of cessation of the suspension, or of his return to Malta, the notary may apply to the said court for the restitution of the aforesaid registers and indexes.

The obligation of Notaries to refrain from harming the reputations of the profession

- the Notarial Profession and Notarial Archives Act, notaries have a strict legal and ethical obligation to refrain from harming the reputation of the profession, as their role is integral to ensuring legal certainty, public trust, and the proper administration of justice. As public officers entrusted with drafting, authenticating, and preserving legal documents, notaries must conduct themselves with utmost integrity, professionalism, and impartiality, both in their professional duties and personal conduct.
- Any actions, statements, or behaviours that damage the credibility of the profession, bring it into disrepute, or undermine public confidence are strictly prohibited. Notaries are expected to avoid misconduct, negligence, fraudulent practices, and unethical behavior, all of which could tarnish the profession's reputation. This includes engaging in unfair competition, making false or misleading statements about colleagues, soliciting clients dishonestly, or charging unlawful fees. Furthermore, notaries are required to maintain professional courtesy and respect towards their colleagues, ensuring that their interactions do not lead to hostility, defamation, or unnecessary disputes that could negatively impact the notarial community.

The notarial reputation

- The **Notarial Profession and Notarial Archives Act**, notaries have a **strict legal and ethical obligation** to refrain from **harming the reputation of the profession**, as their role is integral to ensuring legal certainty, public trust, and the proper administration of justice.
- As public officers entrusted with **drafting, authenticating, and preserving legal documents**, notaries must conduct themselves with **utmost integrity, professionalism, and impartiality**, both in their professional duties and personal conduct. Any **actions, statements, or behaviors** that **damage the credibility** of the profession, bring it into disrepute, or undermine public confidence are strictly prohibited.
- Notaries are expected to **avoid misconduct, negligence, fraudulent practices, and unethical behavior**, all of which could tarnish the profession's reputation.



The notarial reputation ... cont'd

- This includes **engaging in unfair competition**, making **false or misleading statements** about colleagues, **soliciting clients dishonestly**, or charging **unlawful fees**. Furthermore, notaries are required to **maintain professional courtesy and respect towards their colleagues**, ensuring that their interactions do not lead to **hostility, defamation, or unnecessary disputes** that could negatively impact the notarial community.
- The **Notarial Council**, as the regulatory body overseeing the profession, has the authority to **discipline notaries who fail to uphold the dignity of their office**, imposing penalties such as **fines, suspensions, or even revocation of the notarial warrant** in cases of severe misconduct.
- Additionally, compliance with **anti-money laundering (AML) regulations, data protection laws, and ethical guidelines** is essential to preventing reputational harm, as any failure in these areas could result in **legal consequences, public scandal, or loss of credibility** for both the individual notary and the profession as a whole.



Conflict of interest

- Notaries also have a duty to **refrain from engaging in conflicts of interest**, misusing confidential client information, or participating in activities that could create a **perception of bias or corruption**.
- By adhering to these principles and maintaining the **highest standards of ethical and legal practice**, notaries protect not only their own professional standing but also the **integrity, trust, and prestige of the notarial profession in Malta**.

What are the skills, abilities, or the services provided by the notary

- A notary in Malta, under Chapter 55 of the Laws of Malta (the **Notarial Profession and Notarial Archives Act**), possesses a wide range of **skills, abilities, and responsibilities** that enable them to provide essential legal services to individuals, businesses, and the public while ensuring **legal certainty, compliance, and ethical integrity**.
- Notaries must have an extensive understanding of **civil law, contract law, property law, succession law, and commercial law**, as well as proficiency in **legal drafting, authentication, and interpretation of legislation** to ensure that documents are legally binding and compliant with statutory requirements.



Exceptional service

- Their role requires exceptional **attention to detail, accuracy, and analytical skills** to identify potential errors or legal risks, as well as **strict ethical judgment and professional integrity** to maintain impartiality, avoid conflicts of interest, and protect confidential client information.
- Notaries must also demonstrate strong **communication and interpersonal skills** to explain complex legal matters in clear terms, guide clients through **legal formalities and obligations**, and provide mediation where necessary.



Time management

- Notaries require **organizational and time management skills** to efficiently handle multiple transactions, ensure timely submission of **notarial acts to the Notarial Archives**, and comply with **anti-money laundering (AML) regulations** and other statutory obligations.
- Notaries often handle multiple clients and transactions simultaneously, making it essential to allocate **sufficient time for consultations, due diligence checks, legal research, and document verification**.
- Failing to manage time efficiently can result in **delays, legal disputes, or regulatory penalties**, affecting both the **notary's reputation and the interests of their clients**. To optimize their workflow, notaries must implement **structured scheduling, digital record-keeping, and delegation strategies**, ensuring that tasks such as **client meetings, document drafting, and archiving processes** are conducted **seamlessly and without unnecessary delays**.



Further services

- The services provided by a notary are diverse and include **drafting and authenticating legal documents** such as **contracts, wills, public deeds, private agreements, and sworn statements**, as well as **certifying signatures and verifying the authenticity of documents**.
- In **real estate transactions**, notaries play a vital role in **drafting and registering deeds of sale, donation, emphyteusis (long-term lease), and exchange**, while also verifying **ownership and title documentation** before transferring property, ensuring compliance with **stamp duty and tax obligations**, and handling **hypothecs, mortgages, and other security instruments** over immovable property.
- In matters of **succession and estate planning**, notaries are responsible for **drafting and authenticating wills and testamentary dispositions**, handling **declarations of heirs and estate settlements**, and advising clients on **legal formalities and tax implications of inheritance**. Notaries also facilitate **commercial and business transactions** by **notarizing business agreements, company incorporation documents, and mergers**, **drafting powers of attorney**, and handling **assignment of shares, loan agreements, and corporate resolutions**.



Further services ... cont'd

- Additionally, they provide verification and certification services, including certifying copies of official documents as true copies, legalizing foreign documents through apostille certification, and verifying identities and signatures for contracts and financial transactions.
- Notaries are further responsible for ensuring the timely submission of public deeds and wills to the Notarial Archives, maintaining accurate records of notarized documents, and upholding compliance with anti-money laundering regulations to prevent fraudulent activities.
- Their ability to safeguard the integrity, validity, and security of legal documents and transactions is fundamental to maintaining public trust and confidence in the legal system.
- By adhering to the highest standards of accuracy, ethics, and professionalism, notaries in Malta ensure that their work contributes to legal certainty, transparency, and the efficient administration of justice, reinforcing the importance of their profession in both private and commercial affairs.



The requirement for Notaries to extend cooperation to their professional bodies

- Notaries are legally and ethically required to extend **full cooperation** to their **professional bodies**, particularly the **Notarial Council**, which serves as the regulatory and supervisory authority overseeing the profession. This obligation stems from the fundamental principle that the notarial profession operates in the **public interest**, ensuring the **authenticity, legality, and proper execution** of notarial acts while maintaining the **highest ethical and professional standards**.
- Cooperation with professional bodies is essential for the **effective regulation, discipline, and continuous development** of the profession, as it allows for the implementation of **best practices, adherence to legal obligations, and the protection of public trust**. Notaries are expected to comply with **directives, guidelines, and regulations** issued by the Notarial Council, including those related to **record-keeping, submission of acts to the Notarial Archives, anti-money laundering (AML) compliance, and ethical conduct**. They must also **participate in mandatory professional development programs**, ensuring that they stay updated on **legal reforms, procedural changes, and evolving best practices**.

Disciplinary proceedings

- Notaries have a duty to **collaborate in disciplinary proceedings**, responding promptly to any **investigations, audits, or inquiries** conducted by the Notarial Council regarding potential breaches of professional conduct, negligence, or misconduct.
- Failure to cooperate or comply with the Council's directives may result in **disciplinary measures**, including fines, suspension, or even the revocation of the notarial warrant. Additionally, notaries must **actively engage with their colleagues and professional bodies** to foster a **spirit of unity, ethical collaboration, and mutual respect**, which is crucial for maintaining the integrity and prestige of the **profession**.



Coordination

- By working in **close coordination** with their professional regulatory bodies, notaries contribute to **strengthening public confidence in notarial services**, **enhancing the efficiency of legal transactions**, and **ensuring that the profession continues to uphold the highest standards of legal accuracy, transparency, and accountability**.



The responsibilities within the notarial ; the profession as a whole

- The **Notarial Profession and Notarial Archives Act**, notaries bear a wide range of **responsibilities** that extend beyond their individual duties to encompass obligations towards the **profession as a whole**, ensuring its integrity, reliability, and public trust.
- As **public officers**, notaries are entrusted with the **drafting, authentication, and preservation** of notarial acts, and they must adhere to the **highest legal and ethical standards** to maintain the credibility of the profession.



Notarial responsibility

- Their responsibilities include ensuring the **accuracy, completeness, and legality** of all acts they execute, safeguarding **impartiality and confidentiality**, and preventing any actions that could bring the profession into disrepute.
- Notaries are required to **strictly comply with the provisions of Chapter 55**, including **timely submission of acts to the Notarial Archives**, adherence to **anti-money laundering (AML) regulations**, and proper record-keeping to prevent fraud and legal disputes.
- Moreover, they have a duty to **cooperate with the Notarial Council**, which regulates the profession, ensuring that they follow **professional directives**, **participate in ongoing training**, and **uphold ethical principles**.
- Notaries must also foster **collegiality and respect** among their peers, refraining from **unfair competition, defamation, or conduct that undermines the profession's reputation**.



Objectivity, diligence, and fairness

- Notaries are responsible for **guiding clients through legal procedures with objectivity, diligence, and fairness**, ensuring that legal transactions are conducted in a **transparent, lawful, and efficient manner**. By fulfilling these obligations and maintaining **professionalism, integrity, and compliance**.
- Notaries contribute to the **credibility, trustworthiness, and proper functioning** of the notarial profession as a whole, reinforcing its essential role in the **legal and commercial framework of Malta**.



Questions
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