

The Court of Revision of Notarial Acts

The Interpretation of the role of the Court of Revision of Notarial Acts

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**Undergraduate Certificate in Notarial Law
Fundamentals for Office Assistants**

Learning Outcomes

- **Interpretation the role of the Court of Revision of Notarial Acts.**
- **How does it supervises all Notaries, Notarial archives, and the Public Registry.**
- **How is this Court composed.**
- **The sittings held before the Court of Revision of Notarial Acts**



How is this Court composed

- Supervision over all notaries, the Notarial Archives and the Public Registry shall be exercised by the Court of Revision of Notarial Acts.
- The court shall be presided by a retired Judge or a retired Magistrate or a retired advocate who has practised his profession for over twelve years.
- In case of abstention or challenge, any Magistrate in office shall take cognizance of the case.
- The court shall be a court of law having the functions set out in Court of Revision of Notarial Act and such other functions as may be assigned to it under any other law.



Interpretation of the role of the Court of Revision of Notarial Acts

- **The Court of Revision of Notarial Acts in Malta is a specialized judicial body responsible for overseeing and ensuring the proper administration and accuracy of notarial acts.**
- **This court reviews and examines the work of notaries, ensuring that their acts comply with legal requirements, follow proper procedures, and maintain high professional standards.**
- **It plays a crucial role in supervising notarial practices, correcting errors or irregularities in notarial acts, and upholding the integrity of public records.**



Decisions to be notified to the State Advocate, the President of the Notarial Council, the archivist or the notary concerned

- The Registrar shall, within one month of the date of any decision, decree or order given or made by the said court or of the award of any disciplinary punishment cause a copy of such decision, decree or order or a written notice of such award to be served on the State Advocate and on the archivist or other notary concerned therein, even though such decision, decree or order shall have been given or made, or such punishment awarded, in their presence.
- A copy of such decision, decree, order or written notice of an award shall also be served on the President of the Council.



Right of appeal

- In every case, the State Advocate may, within **thirty days** from the day on which he is served with the copy or notice, enter an appeal to the Court of Appeal (Inferior Jurisdiction), by an application, against any decision, decree or order given or made by the said Court of Revision, as well as against the award of any disciplinary punishment.
- A similar right of appeal shall be competent to the notary or archivist in respect of whom any such decision, decree or order shall have been given or made.
- An appeal by the archivist or notary shall be made only against the State Advocate.
- A copy of the appeal application and of all the subsequent records of the case shall, except where the appellant or respondent is the archivist, be also served on the President of the Council.



Procedure

- **Proceedings before this court shall be held in camera.**
- **Such court shall, for the exercise of its functions, the execution of its orders under the Act, the maintenance of the respect due to it and the good order of its sittings, have the same powers as are by law given to the Court of Magistrates, and the laws relating to the service of summonses in connection with, and the conduct of proceedings before the Court of Magistrates shall, in every other respect, apply to the service of sworn applications and to all other proceedings of the said Court of Revision.**
- **In the case, however, of suspension from or deprivation of office, the said court shall have power to order the proceedings to take place in public.**
- **The Registrar of the Court of Magistrates shall act as Registrar of the Court and shall take part in its sittings.**



Inspections without previous notice

- The court, whenever it considers it expedient, may, and, at the request of the State Advocate, shall, without giving any previous notice, visit and inspect the Archives, the Public Registry or the office of any notary and any place where he keeps the notarial acts, registers and indexes:
- Provided that with regard to a notary, the powers exercisable by the State Advocate shall *mutatis mutandis* be exercisable independently by the President of the Council.
- In making the request, the State Advocate or, as the case may be, the President of the Council may –
 - (a) indicate the day and the time or the period of time on, at, within or as from which the visits and inspections are to be made;
 - (b) indicate the particular acts, registers and indexes which are to be inspected



Inspection of Notarial Archives

- The inspections of the Notarial Archives must be carried out by the said court in such a manner that a general inspection of the Archives be carried out every year.
- In the course of such inspections the said court shall examine whether the service is being performed according to law, whether the respective officers have the requisite qualifications for the office occupied by them, whether such officers attend to their duties with the due regularity and diligence, and particularly-
 - (a) whether the service of the inspection of acts and the issue of copies and extracts proceeds in accordance with the prescribed rules;
 - (b) whether the registers and the indexes are regularly kept in accordance with the provisions of the law;
 - (c) whether the premises are fit for the purpose for which they are intended and are kept with all due care.



General inspection of acts to be made every year

- A general inspection of the notarial acts of every notary, their respective indexes and registers shall be made by the Court once a year following the review carried out.
- Where the Court has dealt with a report, the notarial acts shall be deemed to have been regularly inspected.
- The originals, together with the respective indexes shall, on the termination of such inspection and following the Court's order, be deposited in the Archives by a review officer or the Chief Notary, as the case may be.



Record of the inspection

- Following the inspections made, the court shall draw up in duplicate a special procès-verbal of each inspection, one copy to be kept in the records of the said court and the other to be transmitted to the State Advocate.
- Such procès-verbal shall also be signed by the archivist or the notary, as the case may be.
- If the archivist or the notary refuses to sign, mention of such refusal shall be made in the procès-verbal stating the grounds thereof.



How does it supervises all Notaries, Notarial archives, and the Public Registry

- Each volume of original notarial acts, registers and indexes, and every book and register which the notaries and the archivist are bound to keep shall be countersigned by the review officer or the Chief Notary who reviewed the notarial acts, and by the court in all other cases.
- Where a notary fails to appear before a review officer or the Chief Notary as required or where he appears but does not produce what is required by the aforesaid, he shall, on an application filed by the review officer or the Chief Notary, as the case may be, be called to do so by means of a formal writ of subpoena issued by the Registrar in the name of the said Court, which must be served on the notary at least seven days before the new date fixed for presentation before the review officer or the Chief Notary as the case may be and must specify the acts or wills, registers and indexes, as well as other documents which the notary is to produce and payments he is to make, the place where and the day and hour in which he is to attend.
- No previous notice shall be given for the inspection of the Archives and the Public Registry.
- The court may for a just cause call upon the notary or the Archivist, to produce the acts, registers, books and indexes of any period.



The court may issue warrants of escort or seizure

- If any person, summoned, fails to appear before the court, the review officer or the Chief Notary, as the case may be, and produce the notarial acts, registers, books, documents and indexes specified in the subpoena, the court may issue a warrant of escort against such person and it may also order the seizure of the documents specified in the writ of subpoena.



Duties of the court

- The court shall examine whether the notary, the archivist and the Director of the Public Registry have performed the duties imposed upon them by this Act or by any other law, and, in case of any contravention, the court may award punishment and give any other directions which it may deem expedient according to law.
- When the contravention consists in any omission on the part of the notary or the archivist, the court shall order such notary or archivist to do that which he has omitted, within such time as the court shall fix in its discretion.
- Where the order is made to the archivist, the court shall direct the registrar to see whether such order is punctually carried out.
- If the archivist fails to comply with any such order, the court may suspend the archivist from his office for such time as the default continues.



Duties of the Court ... Cont'd

- Where the order is made to a notary, the court shall direct one of the review officers if the order refers to acts, or the Chief Notary if the order refers to wills, to ensure that such order is punctually carried out.
- If the notary fails to comply with such order, the court may in its discretion order the partial incapacitation of the notary until such time as he complies, and all the provisions on partial incapacitation shall mutatis mutandis apply.



Seizure of acts and deposit thereof in the Archives in case of death, etc., of a notary

- On the death of any notary, or, in default of appointment of a keeper in the case of absence of any notary from Malta or of the cessation, suspension or incapacitation of any notary from the exercise of his office in any case under the Act, the Court of Revision shall order the acts, registers and indexes existing in the estate of the deceased notary or in the possession of the notary who is absent or has ceased to exercise his functions or has been suspended or incapacitated, even if such acts, registers and indexes were or are in his possession as keeper thereof, to be seized and deposited in the Archives.
- For the enforcement of such seizure, the said court may order the search of any place where it has reason to believe that the said acts, registers and indexes may be found.



Seizure of acts and deposit thereof in the Archives in case of death, etc., of a notary ... cont'd

- The said court shall have the powers whenever it has sufficient reason to believe that any notary, on account of insanity or other infirmity, is unable to exercise his office, notwithstanding that such notary shall not have yet been incapacitated.
- In any of the cases, the said court shall proceed ex officio upon information given by any person, after having, summarily and without delay, ascertained the truth of the facts brought to its notice, and shall have for such purpose the power to call witnesses and to examine them on oath.



The sittings held before the Court of Revision of Notarial Acts

- **The Court of Revision of Notarial Acts is typically responsible for reviewing and correcting errors or disputes related to notarial acts.**
- **The sittings of this court are held to examine appeals against decisions made by notaries, assess the validity of notarial deeds, and ensure compliance with legal formalities.**



Key Aspects of the Sitzings:

Jurisdiction & Purpose:

- 1. The court reviews challenges to notarial acts, including issues of formality, legality, and procedural correctness.**
- 2. It may be called upon when a party disputes the content or execution of a notarized document.**



Procedure of the Sitzings

- **Cases are brought before the court by individuals or entities affected by a notarial act.**
- **Evidence and legal arguments are presented to support the appeal or challenge.**
- **The court may summon the notary responsible for the act in question to provide explanations.**



Decisions & Outcomes

- **The court can confirm, modify, or annul the notarial act.**
- **If errors are found, the court may order corrections or require the act to be redone properly.**
- **The decisions may be subject to further appeal in higher judicial bodies**



Frequency & Location of Sitzings

- **The sittings are held periodically, depending on the case load.**
- **They may take place in specialized places such as the Public Registry or otherwise at the Courts of Justice.**



Public registry Documents

- Any correction, cancellation or registration ordered by the court shall be made by the Director within the time of ten days from the day on which the judgement shall have become res judicata and shall be made on the strength of a true copy of the judgement to be supplied to him by the Registrar.
- A reference of such judgment shall be made by means of a note in the margin of the register at the Public Registry.



Corrections consist of:

- **Correction of a registration consisting in the rectification of the erroneous indication of any one or more of the particulars specified, in respect of each act, in Part III of the First Schedule to the Civil Code, may also be effected upon an order made in writing by the retired Judge or retired Magistrate or retired advocate of the Court of Revision of Notarial Acts; and**
- **Where the registration of an Act of Birth of a person may give rise to the creation of a double identity or to lack of clarity regarding the identity of the said person due to the fact that the said person would not still be registered by the said name and, or surname in the official acts and, or documents of another country, the retired Judge, the retired Magistrate or the retired advocate of the Court of Revision of Notarial Acts shall have the power upon the application of that person to order that the necessary annotations be made on the Act of Birth of that person as well as any other act of civil status wherein the name and, or surname of the said person appears for the purpose of making the said changes in the name and, or surname known.**



Procedure

- The demand for any such correction shall be made by an application filed in the Court of Revision of Notarial Acts, accompanied by a full copy of the registration in respect of which the correction is required.
- A copy of any such application shall be served on the Director of the Public Registry within three (3) working days of its being filed.
- The applicant shall be required to produce such evidence as the said retired Judge or retired Magistrate or retired advocate may deem necessary and, before making any order, he shall give to the Director of the Public Registry an opportunity of being heard.



Order in the Government Gazzette

- As soon as may be after the date of any order made as aforesaid by the said retired Judge or retired Magistrate or retired advocate and, in any case, not later than ten (10) days from such date, the registrar of the said court shall, at the expense of the applicant, serve a copy thereof on the Director of the Public Registry and shall cause a notice of the effect thereof to be published in the Gazette.
- The Director of the Public Registry or any person interested may, within six (6) days of the publication of the said notice in the Gazette, enter an appeal from such order by means of an application to the Court of Appeal.



What is an appeal ?

- **An appeal is a legal process in which a party who is dissatisfied with a court's decision requests a higher court to review and potentially overturn or modify that decision.**
- **The purpose of an appeal is to ensure that justice is served by correcting legal errors, misinterpretations, or procedural mistakes made in the original ruling.**



Notice of appeal

- Notice of any appeal so entered by any person other than the Director of the Public Registry shall be given to the latter by the Registrar of Courts not later than two (2) days from the date of filing of the application of appeal.
- Any correction or annotation ordered by such retired Judge or retired Magistrate or retired advocate shall be made by the Director within ten (10) days of the publication of the order in the Gazette or, where an appeal against such order has been entered, within six (6) days of the day on which the matter is finally disposed of by the Court of Appeal.
- Where the correction or annotation on the Act of Birth is in respect of a person who is not yet a citizen of Malta, such registration with the correction or annotation as ordered by the Court of Revision of Notarial Acts shall be made by the Director only after the applicant is confirmed to be registered as a citizen of Malta.
- A reference to the order made by such retired Judge or retired Magistrate or retired advocate or to the judgment of the Court of Appeal shall be entered in the margin of the register against the entry affected.



Correction of errors after declaration

- Where it is found after the Director shall have signed the declaration referred to in article 246 of the Civil Code, that an error has been made, and such error had been incurred in transcribing an act in the register, the correction of such error shall be made by the Director by means of a note at the foot of the entry.
- Such correction shall be dated and signed by the Director.



Inspection of registers by Court of Revision of Notarial Acts

- **The Court of Revision of Notarial Acts in Malta has the authority to inspect registers and records maintained by notaries to ensure compliance with legal standards and the proper administration of notarial acts. This process is essential for maintaining transparency, accuracy, and accountability in notarial practice.**
- **The registers as well as the acts and documents annexed thereto shall be inspected twice in every year by the Court of Revision of Notarial Acts.**
- **The first inspection shall take place during the months of March and April, and the second during the months of September and October.**



Duties of the court

- The court shall in the course of such inspection, as certain whether the provisions of the Civil Code have been complied with by the Director or one of the Assistant Directors or of the officers mentioned in sub-article (1) of article 306, as the case may be, and it shall be lawful for the court, in respect of any contravention, to inflict upon the Director or an Assistant Director or an officer mentioned in sub-article (1) of article 306, as the case may require, a fine (ammenda) not exceeding eleven euro and sixty-five cents(11.65):
 - Provided that, where the contravention consists in the omission of anything which is required to be done under the Civil Code and it is not possible for the court to ascertain who was responsible for such omission, the contravention shall be deemed to have been committed by the Director and the punishment shall be inflicted accordingly.



Persons refusing to give information

- **Any person who refuses to provide information when legally required by this court may be held in contempt of court, which can lead to penalties, particularly imprisonment.**
- **Any person required by the competent officer to give information concerning the particulars required for the drawing up of any of the acts referred to in this Title, who refuses to answer any question put to him by such officer relating to such particulars, or falsely states that he does not know such particulars, shall, on conviction by the competent court, be liable to imprisonment for a term not exceeding three months.**



Making a false declaration

- **Making a false declaration under the Court of Revision of Notarial Acts in Malta is a serious offense that can lead to severe legal consequences, as it undermines the integrity of notarial and judicial processes.**
- Any person who, either of his own accord or when questioned by the competent officer, knowingly makes any false declaration concerning any particulars required for the drawing up of any of the said acts, shall, on conviction by the competent court, be liable to imprisonment for a term not exceeding three months.



Disobeying any order

- **Disobeying any order of the Court of Revision of Notarial Acts in Malta can lead to serious legal consequences, as this court has the authority to regulate notarial practices and enforce compliance with its rulings.**
- Whosoever shall, offend against any of the provisions of the Civil Code or disobey any order given to him under the same title of the code, on conviction by the competent court, be liable to detention for a term not exceeding one month or to a fine (ammenda) not exceeding eleven euro and sixty-five cents (11.65)





**Questions
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