

The Court of Revision of Notarial Acts

The notary vs the Court of Revision of Notarial Acts

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

Learning Outcomes

- **Understanding of the legal framework governing the Court of Revision of Notarial Acts**
- **The court's role in overseeing and reviewing notarial acts.**
- **Manage the procedures and processes involved in submitting acts for revision to the Court of Revision of Notarial Acts,,**
- **Compliance with documentation requirements, timelines, and submission criteria.**
- **Organisation of the necessary documentation and evidence to support a successful submission of acts to the Court of Revision of Notarial Acts**



The qualifying examination

- (1) The qualifying examination shall be held in March of each year or at such other date during that year as the Board may, after due deliberation, deem necessary to establish.
- (2) A person who satisfies or, by the time the qualifying examination is held, will have satisfied the requisites may apply to sit for the examination on paying the prescribed fee.
- (3) The qualifying examination shall consist of one or more written papers, and it may be held on one or more dates. The Board shall also hold an oral examination within two months from the date of the last written examination.
- (4) Candidates shall be examined on the formalities of notarial acts, fiscal laws associated with the transfer of immovable property, the laws of registration, the law and practice regarding examination of title to immovable property, applications to a Court of Voluntary Jurisdiction, professional ethics, and any other aspect of substantive and procedural law relative to the notarial profession.
- 5) A majority of votes of the examiners is necessary for a candidate to pass the examination.
- (6) A pass in the qualifying examination shall be valid for a period of five years from the date of the report. In case of failure a candidate shall have the right to be admitted once to the qualifying examination held on the following or any subsequent year.



Pass or Fail

- Where a candidate passes the qualifying examination, the Board of Examiners shall report this to the Minister responsible for notarial affairs who shall, submit his name to the President of Malta for appointment as notary public.
- Where a successful candidate does not comply with the provisions of article 10 of Chapter 55 (the taking of the Oaths of allegiance and office), when he so complies and provided the five years has not elapsed, apply to the Minister responsible for notarial affairs requesting him to submit his name to the President for appointment as notary public.



Entering the profession

- The notary, before entering upon the exercise of his functions, shall -
 - (a) take before the Court of Appeal the oath of allegiance in terms of article 10 of the Code of Organization and Civil Procedure and the oath of office as prescribed by Chapter 55.
 - (b) write in a book kept for the purpose in the office of the Attorney General his specimen signature as he is thereafter to use it in signing deeds;
 - (c) cause to be registered in the office of the Attorney General the act of his appointment, as well as the date on which he took the oaths;
 - (d) submit to the Notarial Council proof that he has adequate insurance cover for professional liability;
 - (e) submit to the Notarial Council the personal details and other information required.
- A notary shall not enter upon the exercise of his functions before notice of his appointment has been published in the Gazette.



Insurance Cover

- It shall be the responsibility of every notary, (with limited exceptions to particular notaries), to be adequately insured against all risks of professional liability during the time he is exercising his profession.
- The insurance company providing such insurance shall each year issue a certificate to the notary attesting that he is covered.
- A notary may apply to the Court of Revision of Notarial Acts to exempt him from having an insurance cover for any particular calendar year.



Change in the notary's name or surname

- A notary whose name/surname has changed either by court order, which has become final, or through marriage shall, not later than two months from the date of such court order or the celebration of the marriage, file a note in the Court of Revision of Notarial Acts informing the court of such change and shall also write his specimen signature in the book at the Attorney General's office.
- The note shall be served on the Chief Notary to Government and on the President of the Notarial Council.
- The Chief Notary to Government shall forthwith cause the note to be published in the Gazette and he shall update the electronic list.
- A notary who publishes a notarial act before the note appears on the Gazette in terms of this article shall be liable to a fine (*ammenda*) of five hundred euro (€500) for each act so published.
- The Notarial Council shall ensure compliance with the law and may apply to the Court of Revision to order the notary to comply and/or to award the appropriate disciplinary punishment.

Disciplinary punishments

- The disciplinary punishments to which notaries maybe liable for any breach of duty are:
 - (a) admonition and reprimand;
 - (b) fine (ammenda);
 - (c) suspension;
 - (d) deprivation of office.
- Such punishments shall be awarded independently of any other punishment imposed by any other law and, in all cases, without prejudice to any action for damages and interest which maybe competent under any other law.
- The punishment of admonition and reprimand consists in reproaching the notary for the offence committed by him, and cautioning him against committing another offence.



Contraventions punishable with a fine

- **A notary who –**
 - (a) is a recidivist in any contravention under articles 68, 68A, 68B and 69; or**
 - (b) offends against any of the provisions of article 12(a), (c)(i), (c)(ii) and (d), article 25(6) or article 26,****shall be liable to a fine (ammenda) of five hundred euro (€500).**
- **A notary or archivist who contravenes the provisions of articles 11, 28(1)(a), (i) and (k), 34, 35, 36, 37, 38, 44, 55, 58, 60, 62, 64, 68, 68A, 68B, 69, 100, 103 and 105 shall be liable for every contravention, to a fine (ammenda) of fifty euro (€50).**
- **The notary who during his suspension or incapacitation (except for partial incapacitation), issues any copy, extract or declaration shall be liable to a fine (ammenda) of thirty euro (€30).**
- **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.**

Contraventions punishable with a fine ... cont'd

- **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.**
- **A notary who breaches the provisions of article 12(k) shall incur an administrative penalty, for each breach, of not less than five hundred euro (€500) and not more than five thousand euro (€5,000).**
- **Saving the provisions of articles 88, 89 and 143, the notary who contravenes any other provision of this Act for which there is no specific disciplinary punishment shall be liable for each such contravention to a fine (ammenda) of ten euro (€10).**
- **Where, with reference to the same notarial act, a notary is guilty of more than one contravention punishable with a fine (ammenda), he shall be awarded the higher or highest applicable punishment or, if they are all punishable with a similar fine, to one such fine.**

Contraventions punishable with suspension

- Any notary who –
 - (a) through negligence, fails to preserve the acts received by him as provided in this Act; or
 - (b) opposes the inspection or otherwise renders the same impossible; or
 - (c) is, for a second time, a recidivist in any of the contraventions; or
 - (d) is a recidivist in any of the contraventions, shall be liable to suspension for a period from one to six months.



Causes which entail temporary incapacitation from exercise of notarial functions

- Any notary –
 - (a) against whom any warrant of arrest has been issued; or
 - (b) who has been sentenced for any of the offences mentioned in paragraph of article 14(1)(f) by a judgment which has not yet become *res judicata*, or who has been sentenced to be deprived of his office by a judgment or order which is not yet final and absolute; or
 - (c) who is undergoing any punishment restrictive of personal liberty on conviction for any other offence, shall be temporarily incapacitated from the exercise of his office.



The incapacitation of the notary shall be declared in judgment

- In the case of any of the judgments, the incapacitation of the notary from the exercise of his office shall be ordered in the judgment and, in default, in an order of the Court of Revision either of its own motion or at the instance of the Attorney General or the President of the Notarial Council.
- Any notary against whom proceedings for a contravention against the notarial laws punishable with deprivation of office or for any of the offences mentioned in article 14(1)(f) have been commenced, may be incapacitated from the exercise of his office by order of the Court of Revision at the instance of the Attorney General or the President of the Notarial Council.
- Any sentence ordering the suspension of any notary from the exercise of his office shall be enforceable notwithstanding appeal, whether such suspension is imposed as an accessory penalty or as a principal penalty.



Deprivation of office

- A notary shall be liable to be deprived of his office if –
 - (a) he continues to practise during his suspension or temporary incapacitation, saving the provisions of article 131(3); or
 - (b) he publishes a notarial act while he is partially incapacitated; or
 - (c) he has wilfully failed to preserve the acts received by him or the registers thereof or any other acts or the registers whereof he is the keeper; saving any heavier punishment prescribed in the Criminal Code; or
 - (d) is, for a second time, a recidivist in any of the contraventions mentioned in 132(b).
- Any notary who has been sentenced for any of the offences mentioned in article 14(1)(f), may be deprived of his office by the President of Malta unless the deprivation of office has been ordered in the sentence itself.

Extenuating circumstances

- If in the facts with which the notary is charged there are extenuating circumstances, the court, having regard to the particular circumstances of the case, may apply any of the lesser punishments or even exempt the notary from any punishment.
- The offender shall be deemed to be a recidivist if the second or subsequent contravention is committed by him within five years of the previous conviction.
- **Any notary whose conduct in his practice shall be in any manner derogatory to the honour and dignity of the profession, shall be liable to admonition and reprimand, and, if he is a recidivist, to suspension for a time not exceeding one year.**
- **Any order made against any notary in criminal matters shall be communicated to the Attorney General.**
- **Every order given by any competent judicial Authority against any notary in criminal matters shall be communicated to the Attorney General by the Registrar of the Criminal Court.**
- **The disciplinary punishments mentioned in this Part shall be applied by the Court of Revision, saving the provisions of article 89.**



Understanding of the legal framework governing the Court of Revision of Notarial Acts

- The legal framework governing the **Court of Revision of Notarial Acts** is primarily rooted in the regulations and statutes that oversee notarial practice and the mechanisms for reviewing and correcting notarial acts. This specialized court functions as an appellate or supervisory body, ensuring that notarial acts comply with legal standards and principles of fairness, authenticity, and accuracy.
- The framework is often established by national or regional laws governing notaries, such as **notarial codes, civil codes, or specialized statutes** that define the authority, responsibilities, and procedural rules applicable to notarial acts. These laws typically outline the **jurisdiction of the Court of Revision**, specifying the types of notarial acts subject to review—such as wills, contracts, property transfers, and other legally binding instruments executed before a notary. The court is generally empowered to **annul, modify, or confirm** notarial acts when challenges are raised based on alleged errors, fraud, undue influence, procedural irregularities, or misinterpretations of the law.



Procedural aspects

- **The procedural aspects of the court's operation are dictated by rules of civil procedure or specific administrative guidelines, ensuring due process, transparency, and the right of appeal.**
- **,The parties involved—such as notaries, signatories, heirs, or interested third parties—are granted legal standing to bring a case before the court, often subject to prescribed time limits and evidentiary requirements. The decisions of the Court of Revision may, in some jurisdictions, be subject to further appeal before higher administrative or judicial bodies, ensuring a layered review process for the protection of legal certainty and public trust in notarial acts.,**
- **Additionally, the framework may incorporate disciplinary provisions, allowing the court to refer cases of serious professional misconduct to notarial oversight bodies or bar associations for potential sanctions. In many legal systems, the functioning of the Court of Revision reflects the broader principles of notarial law, which emphasize legal certainty, authenticity, and impartiality, ensuring that notarial acts serve their fundamental role as instruments of public trust.**



The court's role in overseeing and reviewing notarial acts

- **Inspection of Notarial Acts:** The court conducts regular inspections to verify the accuracy and authenticity of notarial acts. This process ensures that all acts comply with prescribed legal formalities and that any discrepancies are promptly addressed.
- **Oversight of Notarial Archives and Public Registry:** Ensuring the proper maintenance and preservation of notarial records is paramount. The court monitors these repositories to guarantee that records are accurately kept and accessible, thereby safeguarding the integrity of public documents.
- **Disciplinary Measures:** The court holds the authority to initiate disciplinary proceedings against notaries who violate legal or ethical standards. This includes the power to impose sanctions, suspend, or even revoke a notary's license in cases of misconduct.



Procedural Authority

- **Beyond its supervisory role, the court possesses the authority to:**
- **Summon Notaries:** It can require notaries to present their records for examination, ensuring compliance with legal obligations.
- **Issue Directives:** The court can mandate specific actions to rectify identified issues, such as correcting errors in notarial acts or improving archival practices.
- **Enforce Compliance:** In situations where a notary fails to adhere to the court's directives, it can impose measures such as partial incapacitation, restricting the notary's ability to practice until compliance is achieved.



Manage the procedures and processes involved in submitting acts for revision to the Court of Revision of Notarial Acts

- **The Court of Revision of Notarial Acts in Malta serves as a supervisory body ensuring the integrity and legality of notarial acts, as established under the Notarial Profession and Notarial Archives Act, Chapter 55 of the Laws of Malta.**
- **The procedures and processes for submitting acts for revision to this court are meticulously structured to uphold the authenticity and accuracy of public deeds and wills.**

Annual Submission and Review Process

- **Notaries in Malta are mandated to submit all notarial acts, including public deeds and wills, executed during the preceding calendar year for review.**
- **This submission is typically coordinated in collaboration with the Notarial Council and involves a team of reviewers appointed to examine the acts. The primary objective is to ensure that all contracts comply with legal requirements and are duly registered as stipulated by law.**



Role of the Court and Review Officers

- **The Court of Revision of Notarial Acts, presided over by a retired judge, magistrate, or an advocate with over twelve years of practice, exercises supervision over all notaries, the Notarial Archives, and the Public Registry.**
- **Review Officers, acting under the court's authority, conduct thorough inspections of the submitted acts. Their responsibilities include verifying the proper execution, registration, and preservation of notarial acts, as well as ensuring adherence to the formalities prescribed by law.**



Inspection Procedures

- **The inspection process involves a meticulous examination of each notarial act to confirm its compliance with legal standards. Review Officers assess whether the acts have been accurately recorded, appropriately registered, and properly archived.**
- **This process is crucial for maintaining public confidence in notarial transactions and for the prevention of fraudulent activities**



Addressing Irregularities

- **Upon identifying any irregularities or breaches, the Court of Revision of Notarial Acts is empowered to take disciplinary actions. These actions may include suspending the notary's warrant until the identified shortcomings are rectified.**
- **Such measures underscore the court's commitment to upholding the highest standards of notarial practice and ensuring that notaries adhere strictly to their professional obligations.**



Public Notifications

- **The court maintains transparency in its proceedings by issuing public notices regarding its decrees and orders.**
- **These notifications, often published in the Government Gazette, inform the public of any corrections or annotations made to notarial acts, such as amendments to birth or marriage records.**
- **This practice ensures that the public record remains accurate and that any changes are communicated effectively to all interested parties.**



Compliance with documentation requirements, timelines, and submission criteria

- **This comprehensive legislation delineates the responsibilities of notaries, emphasizing strict adherence to documentation standards, submission protocols, and prescribed timelines. Such measures are pivotal in ensuring the authenticity, legality, and public trust associated with notarial acts.**



Documentation Requirements

- **Notaries are entrusted with the preparation and preservation of various legal instruments, including public deeds, wills, and contracts. The Act mandates that each notarial act must encompass specific elements to be deemed valid:**
 - 1. Date and Place:** Every act must clearly state the date and location of its execution, ensuring temporal and geographical context.
 - 2. Parties Involved:** Comprehensive identification of all parties is essential. This includes full names, addresses, identification numbers, and any other pertinent details that establish the parties' legal capacities.
 - 3. Content Specificity:** The subject matter of the act must be detailed with precision, outlining the terms, conditions, and obligations of the involved parties.
 - 4. Signatures:** The act requires the signatures of the parties and the officiating notary. In instances where a party cannot sign, the Act provides guidelines for alternative validation methods.
 - 5. Witnesses:** Certain acts necessitate the presence and signatures of witnesses, especially when dealing with wills or when a party is unable to sign.
- **Adherence to these documentation standards is non-negotiable, as any deviation can render the act null and void, leading to potential legal disputes and undermining public confidence in notarial services.**



Timelines and Submission Criteria

- The Act imposes specific timelines to ensure the prompt processing and archiving of notarial acts:
 1. **Registration of Acts:** Notaries are obligated to register certain acts, such as property transfers, with the Public Registry within a stipulated period, typically within 15 days from the date of the act. This prompt registration safeguards public interest and maintains an up-to-date public record.
 2. **Submission to Notarial Archives:** All original notarial acts must be submitted to the Notarial Archives for preservation. The Act specifies that notaries deposit these acts within a set timeframe, ensuring their availability for future reference and legal verification.
 3. **Annual Returns:** Notaries are required to submit an annual return to the Notarial Council, detailing the acts executed within the year. This return must be filed by a specific date, usually by the end of January of the following year, facilitating oversight and regulatory compliance.
 4. **Notification of Wills:** Upon the execution of a will, notaries must notify the Public Registry within a prescribed period, ensuring that the existence of the will is recorded, while its content remains confidential until the testator's demise.
- Failure to comply with these timelines can result in disciplinary actions, including fines or suspension, as they are crucial for the legal efficacy of the acts and the protection of stakeholders' interests



Oversight and Compliance

- **The Notarial Council**, established under the Act, serves as the regulatory body overseeing notarial practices in Malta. It ensures that notaries adhere to the stipulated documentation requirements and timelines. The Council is empowered to:
- **Conduct Inspections:** Regular audits of notarial records and practices are carried out to ensure compliance.
- **Investigate Complaints:** Any grievances against notaries are thoroughly investigated, with appropriate actions taken based on findings.
- **Enforce Disciplinary Measures:** Non-compliance can lead to sanctions, ranging from reprimands to the revocation of the notarial warrant.
- In essence, the **Notarial Profession and Notarial Archives Act** establishes a robust framework that governs the operations of notaries in Malta. By mandating strict documentation standards, enforcing precise timelines, and outlining clear submission criteria, the Act upholds the integrity of notarial acts, ensuring they serve as reliable and authoritative records in legal and civil matters.



Organisation of the necessary documentation

- **The Notarial Profession and Notarial Archives Act**, notaries are responsible for the proper organization, management, and preservation of documentation to ensure legal validity, accessibility, and compliance with regulatory requirements.
- **Notaries must verify the identity and legal capacity of all parties before drafting and executing notarial deeds, which must conform to established legal formalities.**



Organisation of the necessary documentation ... cont'd

- **Once executed, these documents must be registered with the Public and Land Registries within the prescribed timeframes, while original notarial acts are archived to maintain their integrity and future accessibility. Notaries are also tasked with collecting and remitting any applicable taxes and duties arising from executed transactions.**
- **They must adhere to strict professional and ethical standards, maintaining impartiality, independence, and confidentiality in their practice. Their activities are regulated and overseen by entities such as the Notarial Council and the Court of Revision of Notarial Acts, ensuring compliance with legal and professional obligations.**



Regular audits

- Regular audits and reviews safeguard adherence to best practices in documentation management.
- Failure to comply with these regulations can result in disciplinary action or legal consequences.
- The **Notarial Profession and Notarial Archives Act** give the relevant guidelines issued by regulatory authorities.
- Regular audits are a fundamental mechanism to ensure that notaries adhere to their legal and professional obligations regarding the proper execution, registration, and archiving of notarial acts.
- The **Court of Revision of Notarial Acts** is responsible for overseeing the work of notaries through systematic inspections, ensuring that all acts are duly registered within statutory timeframes, properly formatted, and free from irregularities. These audits involve a thorough examination of notarial registers, repertories, and original deeds, verifying their compliance with retention and archival obligations. Notaries must also ensure that all taxes, duties, and fees associated with their acts are correctly collected and remitted to the appropriate authorities.
- Any discrepancies, omissions, or breaches of procedure identified during an audit may result in disciplinary action, fines, or legal proceedings, depending on the severity of the infraction. In cases of serious non-compliance or suspected misconduct, the Court may impose additional inspections, demand corrective measures, or, in extreme cases, recommend the suspension or revocation of a notary's warrant.
- These audits serve as a safeguard to uphold the integrity of the profession, protect public trust, and ensure that notarial acts remain legally valid and accessible for future reference. Notaries are expected to cooperate fully with auditors, maintain meticulous records, and promptly address any concerns raised during the review process, as failure to do so may be deemed contumacy, carrying severe legal consequences. Ultimately, regular audits reinforce accountability, ensuring that all documentation meets the highest legal standards and preventing the administration of justice from being undermined.



Evidence to support a successful submission of acts to the Court of Revision of Notarial Acts

- To support a successful submission of acts to the **Court of Revision of Notarial Acts** under Chapter 55 of the **Notarial Profession and Notarial Archives Act**, a notary must ensure that all documentation is meticulously prepared, organized, and compliant with legal requirements.
- First and foremost, the notary must verify that the acts being submitted are duly executed, signed, and registered within the stipulated timeframes as required by law. The original acts must be presented in a legible, properly formatted manner, ensuring that all pages are securely bound and numbered sequentially to prevent tampering or loss of information.



Successful submission

- **Additionally, supporting evidence, such as identity verification records, proof of payment of applicable taxes and duties, registry acknowledgments, and any supplementary affidavits, must be included to substantiate the authenticity and validity of the submitted documents.**
- **The notary must also provide an accurate, up-to-date schedule of acts and registers to demonstrate compliance with mandatory record-keeping obligations. Furthermore, any rectifications or annotations to the acts must be clearly documented, with justifications provided where necessary to address any potential discrepancies. A certification statement from the notary, attesting to the completeness and correctness of the submission, enhances credibility and ensures transparency.**



Timely submission

- **Timely submission is crucial, as delays or failure to comply with deadlines may result in penalties or legal repercussions. In cases where the Court requests clarifications or additional documentation, the notary must respond promptly with well-documented justifications to facilitate an efficient review process.**
- **Finally, adherence to the ethical and professional standards governing notarial practice, including impartiality, confidentiality, and diligence in record preservation, serves as further evidence of a notary's commitment to legal compliance and procedural accuracy, reinforcing the credibility of the submission before the Court of Revision of Notarial Acts.**



Timely submission and contumacy

- **The Notarial Profession and Notarial Archives Act**, timely submission of notarial acts and registers is a fundamental obligation for notaries, ensuring legal certainty, public trust, and compliance with statutory requirements. Notaries are required to submit registers, original deeds, and other mandated documents within the prescribed deadlines to the **Court of Revision of Notarial Acts** and relevant public authorities, such as the Public Registry and the Land Registry. Failure to adhere to these deadlines can result in legal consequences, including fines, disciplinary action, or suspension from practice.
- **Contumacy**, which refers to the deliberate failure or refusal to comply with legal obligations, is a serious offense under this law. A notary who fails to submit acts within the required timeframes, ignores requests from the Court, or persistently neglects duties may be subjected to **disciplinary proceedings** before the Notarial Council or the Court of Revision of Notarial Acts.
- In severe cases, contumacy may lead to the **suspension or revocation of a notary's warrant**, especially if the failure to comply results in financial loss, legal uncertainty, or obstruction of justice. The Court has the power to impose **sanctions, fines, and orders for compliance**, ensuring that all notarial acts are properly archived and made accessible when needed. To avoid such consequences, notaries must maintain meticulous record-keeping practices, regularly audit their submissions, and respond promptly to any directives from regulatory authorities, reinforcing their duty to uphold the integrity of the notarial profession.



**Questions
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