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L.N. 121 of 2023

NOTARIAL PROFESSION AND NOTARIAL ARCHIVES ACT (CAP. 55)

Notarial Profession and Notarial Archives Act (Substitution of Schedule) Regulations, 2023

IN EXERCISE OF the powers conferred by article 146(2) of the Notarial Profession and Notarial Archives Act, the Minister responsible for notarial affairs has made the following regulations:

Citation and commencement.

1. (1) The title of these regulations is the Notarial Profession and Notarial Archives Act (Substitution of Schedule) Regulations, 2023, and these regulations shall be read and construed as one with the Schedule to the Notarial Profession and Notarial Archives Act, hereinafter referred to as "the Schedule".

Cap. 55.

(2) These regulations shall be deemed to have come into force on the 1st of January 2023.

Substitutes the Schedule.

2. The Schedule shall be substituted by the following new Schedule:

"**SCHEDULE**
(Articles 81(3), 101(1), 104(1) and 146(1))

TARIFF RELATING TO THE NOTARIAL PROFESSION AND NOTARIAL ARCHIVES

PART I

Fees and accessory charges payable to Notaries

1. The notary shall, for acts received or authenticated by him, and of other professional services, be entitled to the following fees and accessory charges and the reimbursements of the following expenses:

(a) a fixed fee for acts of indeterminable value;

(b) a fee proportionate to the value of the act;

(c) a fee for acts prepared at the request of the parties and which are not published;

(d) a fee for copies, extracts, declarations, searches, translations, inspections, reading and collation of acts;

(e) a fee for other services rendered by the notary at the request of the parties or in pursuance of an order of any judicial authority;

(f) a fee for the examination of the title conducted by the notary at the request of any person, or where so required by law;

(g) accessory charges and reimbursement of expenses.

I. Fixed Fees

		€
2.	Public Wills:	
	For provisions containing the institution of an heir and customary provisions, at the discretion of the notary having regard to the circumstances of the testator and the complexity of the testamentary dispositions,	
	……..……from	58.47
	……..…….. to	292.35
	in addition to the following fees charged on the basis of their value:	
	For every legacy; or for every property placed in a testamentary trust –	
	up till €1000,	
	……..…… from	5.85
	……..……to	11.29
	For every €1000 or part thereof, in excess of the first €1000,	
	……..….. from	1.46
	……..……to	2.92
	For the appointment of a tutor, curator, or executor,	
	……..……. from	11.29
	……..…….to	23.39
	Testamentary trust where the value is either nominal or indeterminable having taken into consideration the circumstances of the testator and the complexity of the provisions	
	….. from	175.41
	……..……. to	1169.40
3.	Secret Wills:	
	For the drawing up of a secret will by the notary, the fees shall be the same as those specified in item 2 relating to Public Wills.	
	For the act of delivery of a secret will,	

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	……from	35.08
	…….....…… to	70.16
	For the publication of a secret will,	
	……from	146.17
	……...……....to	292.35
4.	Notarial trust deed or a deed of foundation, where the value is either nominal or indeterminable, depending on the deed's complexity, the time for preparing it and other circumstances,	
	……from	292.35
	……....…… to	2338.80
5.	Act of emancipation or acknowledgment of a child.	
	For each person emancipated or acknowledged,	
	…….....……..from	87.70
	……. to	175.41
6.	Marriage contract, variation or counter-declaration in connection with marriage contract, or cessation of the community of acquests,	
	……from	87.70
	……. to	175.41
7.	Act of Personal Separation, Act of Cohabitation and Act of Civil Union,	
	…….....from	116.94
	…….....……..to	233.88
8.	Donation, compromise, community or partition of movable or immovables where value is indeterminable,	
	…… from	58.47
	……to	292.35
9.	Deposit of movable things of an indeterminable value, receiving back same from the depository,	
	…… from	40.93
	…….....……..to	87.70
10.	Nomination to a particular benefice or donation of the right of advowson, irrespective of the number of patrons taking part on the act,	
	……...……....from	35.08
	……..to	58.47
11.	Act of partnership where the value is indeterminable,	
	…….....…..from	175.41
	…….....……..to	526.23
12.	Act of acknowledgement of the grantee in any emphyteutical or subemphyteutical grant,	

	……..…from	35.08
	……to	70.16
13.	Protest of bill of exchange:	
	For any amount up to €1000,	
	……from	29.23
	……..……..to	58.47
	For any amount exceeding €1000 but not exceeding €10,000	
	……..…….....…from	58.47
	…….....……..to	116.94
	For any amount exceeding €10,000,	
	……...…….…from	116.94
	……..to	233.88
14.	Appointment of arbitrators, saving the provisions of the Arbitration Act (Cap. 387)	
	……....…from	58.47
	……..to	116.94
15.	Act of ratification, correction, validation or convalidation, where the value is indeterminable, and unless the fee exceeds the fee which was due for the original act, in this case the fee shall be reduced to such a figure,	
	…….....from	87.70
	…….....……..to	175.41
16.	"Act of notoriety",	
	……from	29.23
	…….....……..to	58.47
17.	Enrolment of documents (in addition to the fees in respect of the annexes)	
	……..……..from	35.08
	…….....…..to	70.16
18.	Certificate of proof of life or existence of a person,	
	…….....from	29.23
	……..……to	58.47
19.	Total cancellation of hypothecary rights,	
	…….....……..from	35.08
	……..……to	70.16
	Reduction or postponement of hypothecary rights,	
	…….…….....….from	58.47
	……..……to	116.94
	Subrogation of hypothecary rights,	
	…… ……..……..from	87.70

……..……to 175.41

These fees shall apply whether the values are determinable or otherwise.

20. For the drawing up of a declaration to be confirmed on oath,

…….....……from 11.69

…….……to 116.94

21. For every jurat and administration of the oath,

…….....from 11.69

……..……to 23.39

22. Act of consent,

…….....…from 11.69

…….....….to 23.39

23. For the drawing up of a power of attorney, including any necessary authentication of signatures or marks,

…….....….from 17.54

……..to 58.47

24. Act of discharge in general terms, where the value is indeterminable,

……...……..from 29.23

…….....…….to 58.47

25. For every other act where the value is indeterminable,

…….....….from 29.23

……..……to 116.94

26. For authentication of signatures or cross-marks affixed on any document containing any act or agreement of any indeterminable value,

…….……...…….from 5.85

……..to 11.69

II. Fees according to the Value

27. For each act of transfer, under any title, of any immovable property, creation of an annuity, usufruct, use, habitation, easement, assignment, declaration regarding transmission *causa mortis*, emphyteusis or sub-emphyteusis, fees shall be charged according to the value as follows:

For the first sum not exceeding €11,694: 1.0%

For any additional sum not exceeding €584,700: 0.50%

For any additional sum over €584,700: 0.25%

Two-thirds of the said fees shall be charged for any act of transfer of movable property, loan, acknowledgement of debt, surety, hypothecation by separate act, or substitution of hypothec.

The said fees shall be due even if the act is subject to a suspensive condition.

In the case of an act of exchange, the said fees shall be assessed on the portion of immovables or movables exchanged which has the greater value.

In the case of acts of creation of an annuity or of emphyteusis or sub-emphyteusis, the said fees shall be calculated on the value resulting on capitalising the annual amount of the annuity or ground-rent respectively at three per cent (3%):

Provided that in the case of a temporary emphyteusis or sub-emphyteusis, such fee shall be reduced by one-half where the period for which the emphyteusis or sub-emphyteusis is being granted or extended does not exceed thirty (30) years.

In the case of an act of suretyship or hypothecation accessory to any obligation arising from a separate act, the said fees shall be calculated on the value of such obligation:

For any act of grant of any grave, site or space in a cemetery,

…… ……..……from	58.47
……..……to	116.94

Unless a higher fee is due on its price or value, for each act of transfer of any grave, site or space in a cemetery excluding what has just been mentioned in the preceding provision, a fee

……..……from	116.94
……...……to	233.88

28. The fees specified in item 27 shall also be due in respect of:

Any act of reduction or redemption of an annuity, on the value of the amount reduced or redeemed, capitalised at three per cent (3%);

Any act of reduction or redemption of ground-rent, or of emphyteutical renunciation, on the value of the amount of ground rent reduced or redeemed, capitalised at three per cent (3%), or on the value determined for such renunciation;

Any act of partnership or community of property, on the value of the things brought into the partnership or placed in community, provided that in no case shall the fee be less than 175.41.

Any act of partition of immovable property including community property following its cessation, on the value of the mass without deduction of the debts;

Any act of compromise, on the value of the things forming the subject matter thereof;

Any act of contract of work or *locatio operis*, on the price of the works reduced to one-third, provided that in no case shall the fee be less than 233.88.

Any act of liquidation or inventory, on the value of the mass without deduction of the debts. In any such case, the fee shall be reduced to one-half, provided that in no case shall the fee be less than 233.88.

Any act of leasing, on the total amount of rent payable (any increase according to the rate of inflation, percentage increase or any other form of increase shall not be considered), reduced by one-half or, at the notary's discretion, the equivalent of one (1) month's rent in the first (1) year, provided that in no case shall the fee be less than 292.35.

Any act of pledge or antichresis, on the amount of the credit secured by the pledge or antichresis reduced by one-half provided that in no case shall the fee be less than 58.47.

Any act of deposit or delivery of any sum, stock, or other things, payment, extension of the time for payment, receipt, or delivery of possession of a legacy, rectification, rescission or dissolution of any other act, acknowledgement of an assignment of a debt, promise of alienation or loan; in any of these cases, the fee shall be reduced to one third of the value, provided that it shall in no case be less than 70.16.

29. Where any matter referred to in items 27 and 28 can form the object of a private writing, for the drawing up by the notary of such writing and the authentication of signatures thereon, the notary shall be entitled to from one half to two thirds of the fee which would have been due to him for the execution of such act, provided that it shall not be less than 58.47.

III. Fees for Acts or Private Writings prepared at the request of the parties which are not published or signed

30. For any act or private writing prepared by the notary at the request of the parties and which is not published or signed for any cause not attributed to him, the notary shall be entitled to two thirds of the fee which would have been due to him for the execution of such act or for the drafting and signing of such private writing, in addition to the reimbursement of any expense incurred by him.

IV. Fees for Copies, Extracts, Declarations, Searches, Translations, Inspections, Reading and Collation of Acts

31. For copies and extracts legalised by the notary, there shall be charged a fee of from one euro and seventeen cents (€1.17) to two euro and thirty-four cents (€2.34) for every page.

If they are not legalised, a fee of from fifty-eight cents (€0.58) to one euro and seventeen cents (€1.17) for every page shall be charged.

32. For the certification or attestation of the accuracy of copies or extracts from books or documents produced by the parties as provided in article 2(2)(g) of the Act there shall be charged a fee of from one euro and seventeen cents (€1.17) to two euro and thirty-four cents (€2.34) for every page or part thereof.

33. For every certificate attesting any translation in accordance with article 2(2)(h) of the Act, there shall be charged a fee of seventeen euro and forty-one cents (€17.41) in addition to the fee of from eleven euro and seventy cents (€11.70) to twenty-three euro and thirty-nine cents (€23.39) for every page of about one hundred (100) words to be translated.

34. For every declaration in accordance with the proviso to article 68(2) of the Act, there shall be charged a fee of twenty-nine euro and twenty-three cents (€29.23) in addition to a fee of from two euro and ninety cents (€2.90) to five euro and eighty-five cents (€5.85) per page.

35. For a search of an act where only the year in which it was received is indicated, a fee of from two euro and ninety-two cents (€2.92) to five euro and eighty-five cents (€5.85) shall be payable to the notary; where the search extends over two (2) or more years, a fee of from one euro and seventy-five cents (€1.75) to two euro and ninety-two cents (€2.92) for every year to which the search extends shall be payable to the notary.

36. For the inspection and reading of an act, a fee of from two euro and ninety-two cents (€2.92) to five euro and eighty-five cents (€5.85) shall be due.

If the act is read out by the notary to the person making the request, the said fee shall be doubled.

No fee shall be charged for the inspection of the act, if the party orders a copy thereof or an extract therefrom.

The said fees as aforesaid shall be due for the collation of the copy or extract with the original act where such collation is required by the parties after the copy or extract has been authenticated by the notary.

Where the collation, at the request of the parties, is to be made with an act deposited in the Archives, in addition to the said fee, the notary shall be entitled to an extra fee for attendance and to another fee calculated at the rate of from eleven euro and sixty-nine cents (€11.69) to twenty-three euro and thirty-nine cents (€23.39) for every half an hour of the time employed in the work.

For the drawing up of an act in a language other than the Maltese or English language, including the translation of such act into Maltese or English as required by law, the notary shall be entitled to the fee payable in respect of the act increased by from thirty per cent (30%) to fifty per cent (50%).

V. Fees for other services rendered by a notary at the request of the parties or in pursuance of an order of any Judicial Authority

37. For the drawing up and the signing of applications to be filed in the court of voluntary jurisdiction, the notary shall be entitled to the same fees as are payable to advocates in accordance with Tariff E of the Schedule to the Code of Organization and Civil Procedure.

38. For the examination of title to immovable property in terms of article 84C of the Act, unless otherwise specified in a contract of engagement, the notary shall be entitled to the same fees as an advocate would be entitled to in accordance with Tariff E of the Schedule to the Code of Organization and Civil Procedure.

39. For any other work or service performed by the notary at the request of the parties or in pursuance of any order of any judicial authority, the fee due to the notary shall, in case of a dispute, be taxed by the court of voluntary jurisdiction or, as the case may be, by the court making the said order, regard being had to the nature of the work or services performed by the notary.

VI. Accessory Charges

40. (a) Where for the performance of his duties the notary has to leave his office or any of his offices, he shall be entitled to the reimbursement of all travelling and board and lodging expenses.

(b) In addition to what is stated in paragraph (a):

(i) if the notary has to travel between two islands, he shall be entitled to the fee of seventy euro and sixteen cents (€70.16) together with the fee in respect of the service given; or

(ii) if for any service the attendance of the notary is required between 10pm and 7am, the fee in respect of the service given shall be increased by 50%.

(c) No fee shall be due for attending at the Public Registry, the Land Registry or the courts of justice for the purpose of filing any note, application or act.

41. For the registration of acts and annexes in accordance with article 58 of the Act, the notary shall be entitled to a fee of one euro and seventeen cents (€1.17) for every page.

42. For the drawing up of any note of enrolment of a public will, of the opening of a secret will, of a donation, of an endowment of a marriage contract without the conveyance of immovables, of a counter-declaration to a marriage contract, of personal separation and cessation of the community of acquests, and for any other note relating to any notarial act where the value involved is not ascertainable, and where there is no provision in this Tariff, the notary shall be entitled to a fee of from two euro and ninety-two cents (€2.92) to five euro and eighty-five cents (€5.85).

For the drawing up of any note of reference to an assignment, subrogation, reduction or postponement, the notary shall be entitled to a fee of from two euro and ninety-two cents (€2.92) to five euro and eighty-five cents (€5.85).

For the drawing up of any note of total cancellation, the notary shall be entitled to a fee of from one euro and seventeen cents (€1.17) to two euro and thirty-four cents (€2.34).

For the drawing up of any note of enrolment of any act, when the value is ascertainable, or of any note of registration or renewal of registration of any privilege or hypothec, the notary shall be entitled to the following fees on the basis of the value involved in the case of enrolment, or of the amount of the debt in the case of registration or renewal of registration: from one fifth to one third of the fee due to the Public Registry in accordance with the Public Registry Act or any Act substituting that law.

For entering any marginal note or note at the foot of the original act in accordance with article 47(1) of the Act following an act of rescission, cancellation, variation, validation, convalidation, or of a notarial corrective act or subsequent corrective act, the notary shall be due a fee of from two euro and ninety-two cents (€2.92) to five euro and eighty-five cents (€5.85).

For submission in accordance with sub-articles 47(2) or (3) of the Act to the Archivist or to a notary or notary keeper of a copy of the note filed in accordance with article 50 of the Act, or if the act is not so registerable, a copy of an act of rescission, cancellation, variation, validation, convalidation, a notarial corrective act or a subsequent corrective act, the notary submitting such document shall be due a fee of from five euro and eighty-five cents (€5.85) to eleven euro and sixty-nine cents (€11.69).

A similar fee shall be due to the notary or notary keeper who enters in the margin or at the foot of the original act and of its registration in the register a reference in accordance with article 47(4) of the Act to an act of rescission, cancellation, variation, validation, convalidation of a notarial corrective act, or subsequent corrective act and, where the original is deposited in the Archives, the fee shall also be due to the Archivist.

VII. General Provisions

43. In any case not expressly provided for in the foregoing provisions of the Tariff, the fee payable shall be assessed by analogy to other cases expressly mentioned in those provisions.

The fees chargeable in accordance with this Tariff shall not be subject to rebate by reason that the acts were not drawn up by the notary by whom they are received or were drawn up on printed forms.

44. The Minister shall, at the end of every ten (10) year period from the coming into force of this Part, revise the provisions of the said Part, on the basis of the cost-of-living index for the particular period of ten (10) years and shall, before implementing such revision, be bound to seek the views of the Notarial Council regarding said implementation.

PART II

Fees payable in the Notarial Archives

45. (a) For every informal photocopy of any notarial act or part thereof deposited in the Archives, there shall be charged a fee of seventy cents (€0.70) for every page; provided that informal photocopies of any such acts which are requested by persons who are making researches exclusively for a historical, literary or scientific purpose and who are authorised to do that by virtue of item 48. shall be charged at the reduced rate of ten cents (€0.10) per page, up to a maximum of three hundred (300) pages of copies in any one (1) year.

(b) For every informal copy, to be executed in handwritten or type-written form whenever this is deemed possible by the Archivist, of any notarial acts or part thereof deposited in the Archives, there shall be charged a fee of one euro and twenty cents (€1.20) per page of about one hundred (100) words.

(c) When any such photocopies or copies are to be authenticated by the Archivist, the fee payable shall be increased by fifty cents (€0.50) per page in all cases:

Provided that when copies to be authenticated are prepared by third parties, the fee to be charged for their authentication shall be one euro and twenty cents (€1.20) per page of about one hundred (100) words.

(d) When in the preparation of handwritten or type-written copies, experts are needed for the transcription and, or deciphering of the original document, the fees payable to such experts shall be charged in addition to the fees abovementioned.

(e) For every digital copy of any notarial act or part thereof deposited in the Archives. there shall be charged a fee of twenty-five cents (€0.25) per digitised page. The provision of digital copies of notarial acts by the Archives does not imply the transfer of any copyright therein to the recipients. Any commercial use of such images requires the written permission of the Archivist:

Provided that digital copies of any acts which are requested by persons who are making researches exclusively for a historical, literary or scientific purpose and who are authorised to do so by virtue of item 48, shall be charged at the reduced rate of ten cents (€0.10) per digitised page.

46. For the inspection or reading of any notarial act kept in the Archives, a fee of sixty cents (€0.60) shall be charged, whereof fifty cents (€0.50) shall be kept by the Archives and the remaining amount shall be payable to the notary or keeper of such act in accordance with the provisions of article 104(1).

No fees shall be levied for the inspection of any act if the party orders its copy or extract:

Provided that if at the request of a person. a notarial act is read to that person by a member of the staff of the Archives, a fee of seventy cents (€0.70) shall be charged for every half-hour or part thereof in which the exercise is carried out.

No fee shall be payable by a notary who inspects or reads acts received by him or by a notary of whose acts he is keeper. but such notary shall pay the fee due for copies if he orders a copy thereof.

47. For the search of any act whereof the Archivist is keeper, a fee of twenty-five cents (€0.25) shall be payable to the Archivist in respect of each year to which the search extends.

48. No fee shall be charged for the inspection or reading of any act or for any search made exclusively for a historical, literary or scientific purpose by any person specially authorised for that purpose by the Minister responsible for notarial affairs, with the advice of the Notarial Council and the Archivist.

49. Where the Archivist is required to attend at any place outside the Archives, in connection with the removal of any act therefrom, a fee of twenty euro (€20) shall be paid to the Archives by the person in whose interest the act shall have been so removed.".

VERŻJONI ELETTRONIKA

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