

SUBSIDIARY LEGISLATION 331.05

**TRUSTS AND TRUSTEES ACT (REGISTRATION OF
NOTARIES TO ACT AS QUALIFIED PERSONS)
REGULATIONS**

6th January, 2015

LEGAL NOTICE 14 of 2015.

1. (1) The title of these regulations is the Trusts and Trustees Act (Registration of Notaries to act as Qualified Persons) Regulations. Citation and scope.

(2) The purpose of these regulations is to establish a registration framework with the Authority for notaries intending to act as a qualified person in terms of article 43(9) of the Trusts and Trustees Act. Cap. 331.

2. (1) In these regulations, unless the context otherwise requires - Interpretation.

"the Act" means the Trusts and Trustees Act; Cap. 331.

"the Authority" means the Malta Financial Services Authority established in terms of the Malta Financial Services Authority Act; Cap. 330.

"depository notary" refers to the person as defined in article 43A of the Act;

"publishing notary" means the notary public who publishes a will containing a testamentary trust or receives a notarial trust deed *inter vivos*, irrespective of any other functions such notary may carry out in terms of article 43A of the Act, whether as a trustee or as a depository notary.

(2) Words and expressions used in these regulations which are also used in the Act but which are not defined herein shall have the same meaning as in the Act.

3. (1) Any person acting as a publishing notary or depository notary in terms of article 43A of the Act may also act as a qualified person in terms of article 43(9) of the Act, provided that such notary is so registered in terms of these regulations. Application for registration.

(2) Whenever a notary intends to act as a qualified person, such notary shall apply in writing to the Authority for registration to act as such qualified person in terms of article 43(9) of the Act, and for this purpose shall provide the Authority with:

(a) a duly completed application form for registration to act as a qualified person in the form and manner determined by the Authority; and

(b) a duly completed personal questionnaire in the form and manner determined by the Authority.

(3) An application for registration to act as a qualified person

shall be accompanied by such fee as may be prescribed by the Authority from time to time.

(4) The Authority may require a notary applying for registration in terms of these regulations to provide any additional information it deems appropriate for the purposes of determining whether the said notary may be registered to act as a qualified person.

Power to refuse or
grant registration.

4. (1) Registration to act as a qualified person shall be subject to a determination in writing by the Authority on whether to grant or refuse such registration under these regulations.

(2) The Authority may grant registration subject to such conditions as it may deem appropriate.

(3) Furthermore, the Authority may vary or revoke any condition so imposed or impose new conditions from time to time.

(4) The Authority shall not proceed to register a notary to act as a qualified person unless it is satisfied that:

Cap. 55.

(a) the notary is in possession of a warrant in terms of the Notarial Profession and Notarial Archives Act;

(b) the notary is fit and proper to carry out the duties of a qualified person; and

(c) the notary shall comply with and observe the provisions of the Act and any rules and regulations issued thereunder.

(5) Upon being satisfied that the conditions prescribed in sub-regulation (4) have been complied with, the Authority shall proceed to register such notary in a register kept for the purpose of these regulations and the notary shall thereafter comply with the provisions of article 43(9) and (10) of the Act.

Notification to the
Authority.

5. (1) Where the Authority registers a notary in the register referred to in regulation 4(5), such notary shall thereafter notify the Authority every time such notary is appointed to act as a qualified person in terms of article 43(9) of the Act in respect of relevant property settled on trust in terms of article 43A of the Act.

(2) The notification referred to in sub-regulation (1) shall be accompanied by such information as may be required by the Authority from time to time.

(3) A notary registered to act as a qualified person in terms of these regulations shall notify the Authority of any change or circumstance which would have a bearing upon such notary's registration as a qualified person.

Power of the
Authority to cancel
registration.

6. (1) The Authority may, at any time, cancel a registration granted in terms of this Act where:

(a) the registered notary is no longer deemed to be a fit and proper person;

(b) the registered notary has contravened any of the provisions of the Act or any rules or regulations made

thereunder or has failed to satisfy or comply with any obligation or condition to which such registered notary or the registration is subject by virtue of the Act and any rules and regulations made thereunder;

- (c) the registered notary or someone acting on behalf of such registered notary has knowingly supplied the Authority with information that is false, inaccurate or misleading;
- (d) the cancellation of such registration is considered desirable for the protection of the general public or the reputation of Malta;
- (e) the registered notary has so requested; or
- (f) there are other circumstances under which the Authority would have otherwise refused the granting of such registration under the Act or these regulations.

(2) The Authority may make public the fact that the registration of a notary has been cancelled.
