

MEMORANDUM BY THE HON. MINISTER OF JUSTICEAn Act to amend the Notarial Profession and  
Notarial Archives Act, Cap. 92.

In a parliamentary question (LAQ No. 2221) the Hon. Dr S. Abela asked whether the Hon. Minister of Justice would consider introducing a Bill which would, inter alia, enable women to act as witnesses on notarial deeds. The answer was that this proposal would be favourably considered.

2. Incidentally the Notarial Council also made various suggestions for reforms, but after careful consideration, it has not been considered advisable to accept any of those suggestions which involved amendment to the Notarial Profession and Notarial Archives Act, Cap. 92.

3. The attached Bill makes provision for amending Cap. 92 in such a way as to remove the disqualification of women for acting as witnesses on notarial acts. As the law extends the same disqualification to their acting as attestors (fidem facientes), also this disqualification has been removed. Indeed, apart from the principle involved, the disqualification is also a matter of some practical inconvenience. It often happens in practice that two male witnesses or attestors are not readily available. In that case even if there is a female advocate available in a notary's office, the notary would still have to call the fatiguelman as witness in preference to her.

4. When all this was being considered by the Attorney-General a correlated question claimed his attention, i.e. whether, especially now that these disqualifications are being removed, one should perpetuate the wider disqualification of women for appointment as notaries. It is rather incongruous that a woman should be qualified to be a Minister, a Member of Parliament, an advocate, a physician, but not a notary. The matter had in fact to be raised in replies to a questionnaire forwarded some time ago by a U.N. agency.

The attached Bill therefore provides also for the removal of this disqualification. It is true that notaries appear to be complaining that they are too many already; but it is considered that the proposed reform in this field will by no means flood the ranks of the profession, and even in the unlikely event of this happening, resort could always be had to the provision of section 5(1) of Cap. 92, which envisages the possibility of control over the number of notaries.

Hon. Ministers are asked to approve the attached Bill.

5th November, 1963.

A B I L L  
entitled

AN ACT further to amend the Notarial Profession and Notarial Archives Act, Cap. 92.

ENACTED by the Legislature of Malta:-

Short title.

1. This Act may be cited as the Notarial Profession and Notarial Archives (Amendment) Act, 1963, and shall be read and construed as one with the Notarial Profession and Notarial Archives Act, hereinafter referred to as "the principal Act".

Amendment of section 12 of the principal Act.

2. Section 12 of the principal Act shall be amended as follows:-

(a) for the words "is his wife, or is related to him" in paragraph (b) of section 12 there shall be substituted the words "is the notary's spouse or is related to the notary".

(b) for the words "concerning himself, his wife or any person related to him" there shall be substituted the words "concerning the receiving notary, the notary's spouse or any person related to the notary".

Amendment of section 27 of the principal Act.

3. Section 27 of the principal Act shall be amended as follows:-

(a) in subsection (1) thereof the words "is of the male sex" shall be deleted; and

(b) in paragraph (c) of subsection (2) thereof, immediately after the word "mart" in the Maltese text, there shall be added the words "jew żewg".

Objects and Reasons

This Bill removes the existing disqualification of women for acting as witnesses or attestors on notarial acts. It often happens that two male witnesses or attestors are not readily available and in any event it is considered that there is no case for perpetuating this old and rather odd disqualification. Another antiquated disqualification /which .....

which is being removed by this Bill is that  
which excludes women from appointment as  
notaries.