

MEMORANDUM BY THE HON MINISTER OF JUSTICE AND PARLIAMENTARY
AFFAIRS RELATING TO THE TARIFF OF THE NOTARIAL PROFESSION

1. The Tariff relating to the Notarial Profession and Notarial Archives was last revised on the 10th May, 1954.

2. By Legal Notice No.7 of 1958, the fees of Advocates, Legal Procurators and Architects and Civil Engineers, as established in the Code of Organization and Civil Procedure, were revised and increased to take account of the changed economic circumstances in the Island.

3. The Consiglio Notarile has represented to the Minister of Justice and Parliamentary Affairs that the same reasons which have justified a revision of the fees payable to other members of the legal profession and to Civil Engineers justify a revision of the fees payable to notaries and the Consiglio Notarile has accordingly submitted proposals for the implementation of such revision.

4. Discussions were held between the Minister of Justice and Parliamentary Affairs, assisted by the Crown Advocate-General, and representatives of the Consiglio Notarile, as a result of which it was agreed that the Tariff of 1954 of the Notarial Profession and Notarial Archives should be substituted by the Tariff attached to this Memorandum.

5. Many of the changes in the Tariff refer to services rendered by Notaries in respect of which a small fee, running into shillings, or £1 or £2, is involved: for such services it may be generally stated that an increase of 50% has been introduced in the new Tariff.

6. The provision in the old Tariff whereby a Notary was entitled in respect of the drawing up of a secret will to two-thirds of the fee which would have been payable to him in the case of the drawing up and publication of a public will with the same content has been substituted by a provision establishing equal fees in both cases, since there seems to be no reason for any difference.

7. On the other hand, the representatives of the Camera Notarile have accepted a new provision whereby, in the case of a temporary emphyteusis or subemphyteusis, the fee of the Notary shall be reduced by one-half where the period for which the emphyteusis or subemphyteusis is being granted or extended does not exceed thirty years.

8. The most important increase in the new Tariff concerns fees which may be charged by Notaries for the publication of deeds in respect of which the fee is to be assessed on the value involved. The claim for increase originally made by the Consiglio Notarile in this regard was unreasonably high, but, during the discussions referred to above, agreement was reached on a reasonable basis and the Table of Fees shown under paragraph 30 of the attached Tariff was drawn up accordingly. Admittedly, even the increases agreed upon as aforesaid and contained in the new Tariff are substantial increases, but, nevertheless, they are reasonable in the changed economic circumstances of the country, the more so in the light of the very recent increases allowed in the fees of Advocates, Legal Procurators and Architects and Civil Engineers.

9. The Table given below gives some instances of how the new rates "ad valorem" compare with the old rates "ad valorem":-

<u>Value of deed</u>	<u>Fee on old rate</u>	<u>Fee on new rate</u>
£100	£1. -s. -d.	£1. -s. -d.
200	2. - -	3. - -
500	4. - -	9. - -
1,000	7. - -	19. - -
5,000	15. - -	49. - -
10,000	25. - -	86.10. -
14,000	31. - -	108.10. -
20,000	40. - -	133.10. -
50,000	70. - -	211.10. -
100,000	120. - -	336.10. -
200,000	223. - -	585.10. -
500,000	526. - -	1,330.10. -

10. The new Tariff will have to be made by the Minister of Justice and Parliamentary Affairs and it will come into force when it is approved by Resolution of the House of Representatives. Hon. Ministers are asked to agree that action be taken accordingly.

24th February, 1969.

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4. Discussions were held between the Minister of Justice and Parliamentary Affairs, assisted by the Crown Advocate-General, and representatives of the Consiglio Notarile, as a result of which it was agreed that the Tariff of 1954 of the Notarial Profession and Notarial Archives should be substituted by the Tariff attached to this Memorandum.

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8. The most important increase in the new Tariff concerns fees which may be charged by Notaries for the publication of deeds in respect of which the fee is to be assessed on the value involved. The claim for increase originally made by the Consiglio Notarile in this regard was unreasonably high, but, during the discussions referred to above, agreement was reached on a reasonable basis and the Table of Fees shown under paragraph 30 of the attached Tariff was drawn up accordingly. Admittedly, even the increases agreed upon as aforesaid and contained in the new Tariff are substantial increases, but, nevertheless, they are reasonable in the changed economic circumstances of the country, the more so in the light of the very recent increases allowed in the fees of Advocates, Legal Procurators and Architects and Civil Engineers.

9. The Table given below gives some instances of how the new rates "ad valorem" compare with the old rates "ad valorem":-

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£100	£1. -s. -d.	£1. -s. -d.
200	2. - -	3. - -
500	4. - -	9. - -
1,000	7. - -	19. - -
5,000	15. - -	49. - -
10,000	25. - -	86.10. -
14,000	31. - -	105.10. -
20,000	40. - -	133.10. -
50,000	73. - -	211.10. -
100,000	126. - -	336.10. -
200,000	228. - -	593.10. -
500,000	528. - -	1,333.10. -

10. The new Tariff will have to be made by the Minister of Justice and Parliamentary Affairs and it will come into force when it is approved by Resolution of the House of Representatives. Hon. Ministers are asked to agree that action be taken accordingly.

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R E S O L U T I O N

Whereas it is provided in subsection (2) of section 148 of the Notarial Profession and Notarial Archives Act (Chapter 92) that the Minister responsible for Justice may add to or amend the Tariff relating to the Notarial Profession and Notarial Archives in the Schedule annexed to that Act or may make another Tariff in substitution therefor, provided that any such addition, amendment or new tariff shall not come into operation until it is approved by resolution of the House of Representatives;

Whereas on the day of , 1969, the Minister of Justice and Parliamentary Affairs approved that Part I of the Schedule annexed to the Notarial Profession and Notarial Archives Act be repealed and re-enacted in the form hereunder;

Now, therefore, this House of Representatives hereby resolves and it is hereby resolved that Part I of the Schedule annexed to the Notarial Profession and Notarial Archives Act be repealed as from the day of , 1969, and that as from that day there shall be substituted for it the new Part I hereunder and that the progressive numbers from 48 to 54 of the items contained in Parts II and III of the said Schedule shall be changed to numbers from 46 to 52.

S C H E D U L E

Sections 79(3), 99(1), 103(4) and 148(1)
Tariff relating to the Notarial Profession and Notarial Archives.

PART I

Fees and Accessory Charges payable to Notaries

1. The notary shall, in respect of acts received or authenticated by him, and of other professional services, be entitled to the fees and accessory charges and to the

reimbursement/....

reimbursement of expenses as hereunder:-

- (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 remaining unexecuted;
- (d) a fee for copies, extracts, 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) accessory charges and reimbursement of expenses.

I. FIXED FEES

£. s. d.

2. Public Wills:-

For dispositions containing the institution of heir and the customary dispositions for the funeral rites, at the discretion of the notary having regard to the circumstances of the testator from

1. 0. 0.

to

3. 0. 0.

in addition to the following fees:-

Where the will contains more than one institution or substitution, for each ...	5. 0.
For every foundation	10. 0.
For every foundation secured by hypothec ...	15. 0.
For the repeal of previous dispositions ...	5. 0.
For every legacy of an indeterminable value	6. 0.

For/....

For every legacy -	
Where the value does not exceed £20	6. 0.
where the value exceeds £20 but does not exceed £50	10. 0.
where the value exceeds £50 - for every further £20 or part thereof	3. 0.
where the legatees are two or more, as many fees are due as there are legatees.	

For the appointment of an executor	5. 0.
For the appointment of a tutor or curator	5. 0.
For every declaration	5. 0.
For every declaration verified on oath by the testator	5. 0.

3. Secret Wills

For the drawing up of a secret will by the notary, the fees shall be the same as those specified in No.2 in respect of Public Wills.	
For the act of delivery of a secret will including the copy to be kept in the minute-book of the notary's acts.	2. 0. 0.
For the publication of a secret will (in addition to the expenses and necessary charges)	2. 0. 0.

4. Deed of foundation, where the value is indeterminable	1. 10. 0.
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5. Deed of adoption, emancipation or acknowledgment of an illegitimate child - For each person adopted, emancipated or acknowledged	1. 10. 0.
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6. Marriage contract containing settlement of dowry of an indeterminable value, variation or counter-declaration in connection with a marriage contract, personal separation or separation of property between husband and wife, cessation of the community of acquests	2. 5. 0.
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	4.
	£. s. d.
7. Marriage contract without any settlement of dowry or promise of dowr	1. 10. 0.
8. Donation, compromise, community or partition of movables or immovables, where value is indeterminable	1. 10. 0.
9. Deposit of movable things of an indeterminable value, receiving back same from the depositary	1. 10. 0.
10. Presentation to a particular benefice on donation of the right of advowson, whatever the number of patrons taking part in the deed	1. 10. 0.
11. Renunciation on the taking of religious vows.	2. 5. 0.
12. Deed of partnership where value is indeterminable from	1. 10. 0.
	to 4. 10. 0.
13. Acknowledgement of the grantee in any subemphyteutical grant	15. 0.
14. Protest of Bill of Exchange :	
For any amount to £100	15. 0.
For any amount exceeding £100 but not £500	1. 4. 0.
For any amount exceeding £500	1. 10. 0.
15. Appointment of arbitrators	18. 0.
16. Deed of ratification, where value is indeterminable	1. 2. 6
17. "Act of notoriety"	15. 0.
18. Enrolment of documents (in addition to the fees in respect of the annexes)	15. 0.
19. Promise of marriage	15. 0.
20. Certificate in proof of life or existence of a person	12. 6.
21. Renunciation or postponement of hypothecary rights, where value is indeterminable	12. 6.
22. (a) Any declaration or covenant	15. 0.
(b) Any declaration verified on oath	12. 6.

	5.
	£. s. d.
23. For every jurat	12. 6.
24. Act of consent	15. 0.
25. For the drawing up of a power of attorney, including any necessary authentication of signatures or marks	
from	1. 0. 0.
to	3. 0. 0.
26. Authorisation or consent -	
if it relates to only one matter	12. 6.
if it relates to several matters	18. 0.
if given in general terms by husband to wife or by father to son exercising trade	1. 10. 0.
27. Deed of discharge, in general terms, where value is indeterminable	1. 10. 0.
28. For every other act, where value is indeterminable	1. 10. 0.
29. For authentication of signatures or cross-marks affixed on any writing containing any act or agreement of any indeterminable value	5. 0.

Where the writing is drawn in two or more originals or contains two or more distinct authentications, the said fee shall be increased by five shillings for each additional original or authentication

II Fees proportionate to the value

30. For any deed of transfer, under any title, of any immovable property, creation of an annuity, usufruct, use, habitation, easement, assignment, settlement of dowry, emphyteusis or subemphyteusis, fees shall be charged according to the value as follows:-

For the first amount not exceeding £100	1. 0. 0.
For any additional amount over £100 but ^{not exceeding} under £1000: on such amount	two per cent
For any additional amount over £1000 but ^{not exceeding} under £10,000 on such amount	three-fourths per cent

For/....

<i>not exceeding</i>	For any additional amount over £10,000 but under £20,000. on such amount	one half per cent
	For any additional amount over £20,000: on such amount	one fourth per cent

Two-thirds of the said fees shall be charged for any deed of transfer of movable property, loan, acknowledgment of debt, suretyship, hypothecation by separate deed or substitution of dowry.

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

In the case of deeds 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 deeds 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: provided that in the case of a temporary emphyteusis or sub-emphyteusis, such fee will be reduced by one-half where the period for which the emphyteusis or subemphyteusis is being granted or extended does not exceed thirty years.

In the case of a deed of suretyship or hypothecation necessary to any obligation arising from a separate deed, the said fees shall be calculated on the value of such obligation.

For any deed of transfer of any grave, site or space at a Cemetery.

1. 0. 0.

31. The fees specified in number 30 shall also be due in respect of -

any deed of reduction or redemption of an annuity, on the value of the amount reduced or redeemed capitalised at 3%;

any deed 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 3% or on the value of the consideration for such renunciation;

any deed of partnership or community of property, on the value of the things brought into the partnership or placed in community, but so that in no case shall the fee be of less than £1;

any deed of partition, on the value of the mass without deduction of the debts;

any deed of compromise, on the value of the things forming the subject matter thereof;

any deed of settlement of dowry, on the value of the dowry;

any deed of contract work or "locatio operis", on the price of the work reduced to one-third, but so that in no case shall the fee be of less than £1;

any deed of promise of dower or of securement of the dower or dowry, on the amount of the dower or, as the case may be, on the value of the things assigned in securement of the dower or dowry;

any deed of liquidation or inventory, on the value of the mass without deduction of the debts. In any such case, however, the fee shall be reduced to one-half, but so that in no case shall the fee be of less than £1;

any deed of letting and hiring, on the total amount of rent payable reduced by one-half, but so that in no case shall the fee be of less than £1;

any deed of pledge or antichresis, on the amount of the debt secured by the pledge or antichresis reduced by one half but so that in no case shall the fee be of less than £1;

any deed of deposit of any sum, stock, or other things or of delivery of same, payment, enlargement of the time for payment, receipt, consent for the postponement, subrogation, reduction or cancellation of a hypothec, payment or delivery of possession of a legacy, rectification, rescission or dissolution of any other deed, 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 but shall in no case be of less than ten shillings provided that in the case of deeds of cancellation of hypothec relative to deeds of contract of works or "locatio operis", such fee shall in no case exceed £1.

32. Where any matter referred to in paragraphs 30 and 31 can form the object of a private writing, for the authentication of signatures or cross-marks affixed on any such writing there shall be charged the fee specified in those paragraphs reduced to one-half, provided that no extra fee shall be charged for the drawing up of the private writing, if it was drawn by the Notary, and that the fee shall not in any case be less than five shillings.

Provided also that if the writing is drawn up in two or more originals, or contains two or more distinct authentications, there shall be charged in addition to the said fee, a fee of five shillings for each additional original or authentication.

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III. Fees for Acts or Private Writings prepared at the request of the parties and remaining unexecuted or unsigned.

33. For any act or private writing prepared by the notary at the request of the parties and remaining unexecuted or unsigned for any cause not attributable 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 signing of such private writing, in addition to the reimbursement of any expense incurred by him.

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

34. For copies and extracts legalised by the notary, there shall be charged a fee of one shilling and six pence for every page containing about one hundred written words besides a transcription fee of one shilling for every such page.

Every page whereon five lines have been written (exclusive of the date and signatures) shall be deemed to be a full page.

The said fee shall in no case be less than five shillings.

For any copy or extract not legalised by the notary, even though prepared by the parties, and for any precis of an act, the said fee shall be reduced to one-half, provided that it shall in no case be of less than two shillings and six pence.

35. For the certifying or attesting of the accuracy of copies or extracts from books or documents produced by the parties as provided in paragraph (g) of subsection (2) of section 2 of the Notarial Profession and Notarial Archives Act there shall be charged a fee

of five shillings in addition to the fee under the last preceding paragraph.

36. For any certificate attesting any translation in terms of paragraph (n) of subsection (2) of section 2 of the said Act, there shall be charged a fee of seven shillings and six pence in addition to the fee of ten shillings for every page of about one hundred words to be translated.

37. For a search of a deed where only the year in which it was received is indicated, a fee of sixpence shall be payable to the notary; where the search extends over two or more years, a fee of sixpence shall be due in respect of the first year, and a fee of fourpence in respect of each subsequent year to which the search extends.

If the search extends to all acts received by the notary, there shall be charged a fee of twospence for each year.

38. For the inspection and reading of an act, a fee of one shilling shall be due.

If the act, at the request of the parties, is read over to them by the notary, the said fee shall be doubled.

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

The same 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 2s/- 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 the 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 30%.

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.

39. 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 under Tariff "G" in the schedule annexed to the Code of Organization and Civil Procedure (Chapter 15).

40. For the drawing up of the notice of any succession or other transfer chargeable with duty under the Succession and Donation Duties Ordinance (Chapter 70), the notary shall be entitled to the same fees as an advocate would be entitled to under Tariff "G" in the Schedule annexed to the Code of Organization and Civil Procedure (Chapter 15).

41. 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 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.

42. Where for the performance of his functions the notary has to leave his office or any of his offices, in addition to the reimbursement of all travel-

ling and board and lodging expenses, he shall be entitled to the following fees:-

£. s. d.

If the place to which he has to travel is at a distance not exceeding five miles from his office or, as the case may be, his nearest office - 10. 0.

If the distance exceeds five miles, but does not involve travelling between two islands 1. 0. 0.

If the Notary has to travel between two islands 3. 0. 0.

If the notary's attendance is required at night-time, the said fee shall be doubled.

"Night-time" means the time between the hours of 7 p.m. and 8 a.m. during the period from the 1st day of October to the 31st day of March, and the time between 8 p.m. and 7 a.m. during the period from the 1st day of April to the 30th day of September.

No fee shall be due for attending at the Public Registry or the Court of Justice for the purpose of filing any note.

43. For the registration of acts and annexes as provided in section 56 of the Act already referred to, the notary shall be entitled to a fee of one shilling for every page.

44. For the drawing up of any note of enrolment of a public will, of the opening of a secret will, of a renunciation made on the taking of monastic vows, 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 acquiescence, and for any other note relating to any notarial deed where the value involved

is not ascertainable, the notary shall be entitled to a fee of 5s/-.

For the drawing up of any note of reference in respect of an assignment or reduction, the notary shall be entitled to a fee of 15s/-, in addition to a transcription fee of 1s/- for every 100 words copied in such note.

For the drawing up of any note of cancellation, the notary shall be entitled to a fee of 5s/-, in addition to a transcription fee of 1s/- for every 100 words copied in such note.

For the drawing up of any note of enrolment of any deed, where 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:-

	£.	s.	d.
where the value or the amount of the debt does not exceed £50	-	3.	0.
where it exceeds £50 but does not exceed £100	-	4.	0.
Where it exceeds £100 but does not exceed £250	-	5.	0.
where it exceeds £250 but does not exceed £500	-	6.	0.
where it exceeds £500 but does not exceed £750	-	10.	0.
where it exceeds £750 but does not exceed £1,000	-	12.	0.

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£. s. d.

where it exceeds £1,000 but does not exceed £2,500	- 15. 0.
where it exceeds £2,500 but does not exceed £5,000	1. 0. 0.
where it exceeds £5,000 but does not exceed £7,500	1. 2. 6.
where it exceeds £7,500 but does not exceed £10,000	1. 10. 0.
where it exceeds £10,000 an initial fee of	1. 10. 0.

and in addition three shillings in respect of each £1,000 or part of £1,000, over and above the first £10,000.

For every note for enrolment relating to an annuity or a pension or for registration or renewal of registration of a privilege or hypothec in respect of a debt which is an annuity or pension, the fees laid down in the foregoing scale shall be levied in the following manner, viz:-

(a) if the annuity is constituted in perpetuity or for twenty years or more, or for an indefinite period, the fee is to be assessed on the total amount payable during ~~such~~ period *of 20 years;*

(b) if the annuity is constituted for a definite period under twenty years, the fee is to be assessed on the total amount payable during such period;

(c) if the annuity is constituted for the life or lives of any person or persons, the fee is to be assessed on the total amount payable during the period of twelve years.

For the drawing up of any note referred to in sections 47 and 49 of the Act already mentioned or of any other note, a fee of three shillings shall be due to the notary.

For every annotation in the margin of an act required or ordered under the provisions of the said act, the notary may charge a fee of two shillings.

VII. General provisions.

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

The fees chargeable under this Tariff shall not be subject to rebate by reason of the acts not having been drawn up by the notary by whom they are received or of their being drawn up on printed forms.