

CHAPTER 390

PERITI ACT

To regulate Periti and to provide for matters connected therewith or ancillary thereto.

ACT XIV of 1996, as amended by Act XVIII of 2002 and Legal Notice 248 of 2004 and 425 of 2007; Act XXIII of 2009; and Legal Notice 335 of 2010.

Short title

1. (1) The short title of this Act is the Periti Act.
- (2) The provisions of this Act shall come into force on such date as the Minister responsible shall by notice in the Gazette establish. The Minister may establish different dates for different purposes of this Act.

Interpretation

2. (1) In this Act unless the context otherwise requires -
 - “adaptation period” shall have the meaning assigned to it in the Recognition of Professional Qualifications Regulations;
 - “administration fee” shall mean the fee that a Warrant Holder must pay to the *Kamra tal-Periti* when submitting proof of the professional indemnity insurance policy or any other means of personal or collective protection with regard to professional liability;
 - “Annex V” and “Annex VI” shall mean Annex V and Annex VI of the Directive 2005/36/EC and any subsequent amendments;
 - “aptitude test” shall have the meaning assigned to it in the Recognition of Professional Qualifications Regulations;
 - “Continued Professional Development” shall mean a structured and organized activity, planned and carried out by warrant holders so as to maintain and update their knowledge of the art and science of their profession, and enhance their ability to exercise their profession, in the context of an ever-expanding body of professional expertise, as well as to keep abreast of regulatory and ethical developments, and to motivate professionals to engage in lifelong learning relevant to the safe and effective practice of their profession;
 - “Designated Authority” shall have the same meaning assigned to it in the Mutual Recognition of Qualifications Act;
 - “establishment” shall mean the actual pursuit of an economic activity through fixed establishment for an indefinite period, in conformity with 2006/123/EC; “established” and “place of establishment” shall be construed accordingly;
 - “European Credit Transfer and Accumulation System (ECTS credits)” shall mean the credit system for higher education used in the European Higher Education Area;
 - “European Union” has the same meaning assigned to it in the Treaty;
 - “Gazette” shall mean the official Gazette published by the Government of Malta;
 - “IMI” shall mean the IT-based Internal Market Information System in operation within the European Economic Area;
 - “insurance policy” shall mean a Professional Indemnity Insurance Policy issued according to documented terms and conditions, provided by an insurance provider to a *Perit* or *Periti* or other service providers

rendering services in Malta under this act, or any other means of personal or collective protection with regard to professional liability;

"Kamra tal-Periti" or "Kamra" means the "Chamber of Architects and Civil Engineers" as established by [Article 12](#) of this Act;

"lifelong learning" shall have the meaning assigned to it by the Recognition of Professional Qualifications Regulations;

"Member State" shall mean a state member of the European Union;

"Migrant" shall have the same meaning assigned to it in the Recognition of Professional Qualifications Regulations.

"Minister" shall mean the Minister responsible for Works and, to the extent of any functions delegated to them by the Minister, includes the Periti Warranting Board and the Periti Professional Conduct Board;

"Perit" shall mean the generic professional title, given to indicate to society that the holder of the title is suitably qualified and authorised to practice the profession; for this purpose, all references in the Laws of Malta to the word "architect" shall be taken to mean "Perit";

"Perit Arkitett" shall mean the title given to the professional who is established in Malta, and whose name has been entered into the Register under the list of Perit Arkitett, in accordance with the procedures outlined in [Articles 4 and 5](#);

"Perit Inġinier Ċivili" shall mean the title given to the professional who is established in Malta, and whose name has been entered into the Register under the list of Perit Inġinier Ċivili, in accordance with the procedures outlined in [Articles 4 and 6](#);

"Perit Arkitett u Inġinier Ċivili" shall mean the title given to the professional who is established in Malta, and whose name has been entered into the Register under both the list of Perit Arkitett and the list of Perit Inġinier Ċivili, in accordance with the procedures outlined in [Articles 4, 5 and 6](#);

"Periti" shall mean the generic title given to a group of individuals, each of whom have the right to the title of "Perit", who agree, by private deed, to form a joint entity, which, for the purposes of the liabilities assumed by the profession, as defined below, acts as one, and who shall be entered into the Register under the list of Periti as outlined in [Article 16](#);

"Periti Professional Conduct Board" shall mean the Board established by [Article 13](#);

"Periti Warranting Board" or "Warranting Board" shall mean the Board established by [Article 10](#);

"prescribed" shall mean prescribed by regulations under this Act by the Minister, after consultation with the Kamra tal-Periti;

"profession" shall mean the regulated profession assuming the responsibilities, personally or collectively, that are defined, from time to time, in the Laws of Malta, and including services related to architecture and civil engineering reserved by law to warrant holders;

"professional traineeship" shall mean a period of professional practice undertaken under supervision, after the completion of the appropriate programmes of academic training, in accordance with the regulations established in this Act;

"professional experience" shall mean the actual and lawful full-time or equivalent part-time pursuit of the profession, in a Member State;

“regulated profession” shall have the meaning assigned to it in the Mutual Recognition of Qualifications Act;

“service provider” shall mean a person from any Member State or any country in the European Economic Area who exercises the profession on a temporary and occasional basis in Malta, in accordance with the provisions of Directive 2006/123/EC;

“temporary and occasional basis” shall have the meaning assigned to it in the Recognition of Professional Qualifications Regulations;

“Treaty” has the same meaning assigned to it in the European Union Act;

"warrant" means a warrant granted under **article 3**, and "warrant holder" shall be construed accordingly;

(2) Where the word ‘he’ or ‘his’ appears in the text it shall also refer to the female gender.

Warrant to practice as a *Perit*

3. (1) The practice of architecture and of civil engineering is a regulated profession, in view of the over-riding need to protect public interest, particularly in relation to issues of public health and safety, protection of the environment, protection of cultural heritage, and of structural integrity of buildings and structures, arising from the design, and supervision of the construction of buildings and engineering works; and therefore various Laws of Malta reserve relative tasks to be undertaken only by a holder of a warrant.

(2) The warrant to practise the profession shall be granted by the President on the advice of the Minister following the recommendation of the Warranting Board to any person who satisfies the requirements of this Article and of Articles 5 or 6.

(3) A warrant holder may use the designation *Perit*, ‘*Perit Arkitett*’ or ‘*Perit Inġinier Ċivili*’ or ‘*Perit Arkitett u Inġinier Ċivili*’ in accordance with the description as stated in the warrant certificate.

(4) Any person who is granted such a warrant shall, before entering upon the exercise of his profession, take the Oath of Allegiance referred to in Article 10 of the Code of Organisation and Civil Procedure and the Oath of Office in the following terms:

I swear that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution. So help me God

I do swear that I will faithfully and with all honesty and exactness perform the duties of a Perit to the best of my knowledge and ability. So help me God.

Or in the following terms:

I solemnly affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution.

I solemnly affirm that I will faithfully and with all honesty and exactness perform the duties of a Perit to the best of my knowledge and ability

(6) Every warrant holder shall be responsible for his own actions and omissions in the performance of his duties, the maintenance of the

required professional standard and conduct, and generally in the fulfillment of his obligations under this Act or any other applicable law.

(7) The professional services, which are reserved to the profession by virtue of any Law of Malta, shall be exclusively performed by a Warrant Holder even if performed under an employment contract, without undue influence by non-professional employers.

(8) A warrant holder shall refuse to undertake such professional services where his professional independence is compromised.

Register of Warrant Holders

4. (1) The Warranting Board shall maintain a register of all holders of a warrant issued under this Act and who are established in Malta to practice the profession. The register shall comprise a number of lists, as defined in this Act, which shall have the purpose of making available to the public the names of the persons who are qualified to undertake the services as defined by the respective lists.

(2) Every warrant holder registered with the Warranting Board shall have a unique registration number, which shall be used to identify the warranted professional. This registration number shall be used to confirm all formal documentation issued by the warranted professional in the course of execution of his profession, under his responsibility.

(3) A candidate will qualify for registration in the appropriate list if:

(a) he is a citizen of Malta, or of a member state of the European Union, or a third-country family member of European Union citizens, or a citizen of a third country entitled to live and work in Malta, by virtue of any other legislation;

(b) without prejudice to the provisions regulating service providers and specifically **Article 9 (8)**, the candidate seeks to practice **in Malta**;

(c) he is of good conduct, as can be confirmed by a valid conduct certificate from the relative national authority, issued not more than three months before the date of submission of his request for registration to the Warranting Board;

(d) he is of full legal capacity;

(e) he has sufficient knowledge of one of the official languages of Malta, to the extent necessary for the practice of the profession;

(f) he satisfies the academic training requirements as defined in **Articles 5 and 6** of this Act;

(g) he has undertaken at least one year's professional traineeship, from the publication of results confirming successful completion of the relative programme of academic training, under the supervision of a warrant holder, who has been so warranted for at least five years prior to undertaking such supervision, in accordance with regulations as may be prescribed.

For the purposes of this clause, professional traineeship undertaken in a Member State shall be accepted, for a duration not exceeding six months, provided that the Warranting Board is satisfied that the supervision of the professional traineeship was undertaken by a professional of equivalent qualifications and experience.

(h) he has been duly examined and approved by the Warranting Board in an examination or examinations for the purpose, at the end

of the period of professional traineeship, in accordance with regulations as may be prescribed.

(4) A professional stamp, carrying his name, and the registration number, to a design as shall be prescribed, shall be issued for this purpose by the Warranting Board at the time of the entering of the name of the warranted professional in the relative list or lists.

Such stamp shall be used in all documentation produced by the warrant holder where a stamp is required to confirm all formal documentation r

Perit Arkitett

5. (1) There shall be a list of all warrant holders who have been admitted to the title of Perit Arkitett, in accordance with regulations as may be prescribed.

(2) A candidate shall be entitled to use the title of Perit Arkitett, and consequently entered in the relative list, provided that in addition to the requirements of **sub-Article 4(3)(a) through to (h)**:

(a) he has undertaken academic training in Malta, at least at **level (e)** as defined in the Recognition of Professional Qualifications Regulations, at a university or comparable teaching institution, for a minimum full-time duration of five years, or the equivalent of 300 ECTS, and successfully completed university level final examinations, with architecture as the principal component of study, guaranteeing that the candidate has reached proficiency at least in those disciplines as may be prescribed,

Provided that an EU National who has the right to the title of "Architect" in accordance with Annex V or Annex VI of the Mutual Qualifications Recognition Act, and who wishes to establish himself in Malta, shall be automatically deemed as qualified to be entered in the list of Perit Arkitett;

Provided that in the case of an applicant where the profession in the home state is not regulated, the applicant has pursued the profession on a full-time basis for one year or for an equivalent overall duration on a part-time basis during the previous 10 years in another Member State which does not regulate the profession, and who possesses one or more attestations of competence or evidence of formal qualifications issued by another Member State which does not regulate the profession, provided that any minimum training conditions laid down in Directive 2005/36/EC are respected,

Provided that evidence of formal qualifications issued by a third country shall be regarded as evidence of formal qualifications if the holder has three years professional experience in the field of architecture on the territory of the Member State that recognised that evidence of formal qualification certified by that Member State.

Provided also that all warrant holders, whose names appear in the existing register of Warrant Holders as on the **31st December 2017** shall be entitled to be entered in this list. Nationals of Member States, or third countries, who have been registered in the existing register of Warrant Holders as on the **31st December 2017**, on the basis of Annex V or VI, shall be entitled to registration in the list of

Perit Arkitett, in accordance with the conditions imposed by the Warranting Board.

(b) Alternatively to the requirements of **sub-article 6(2)(a)** hereof,

(i) he has undertaken academic training in Malta at least at level (e) as defined in the Mutual Qualifications Recognition Act, at a university or comparable teaching institution, for a minimum full-time duration of four years, or the equivalent of 240 ECTS, and successfully completed university level final examinations, with architecture as the principal component of study guaranteeing that the candidate has reached proficiency at least in those disciplines as may be prescribed;

and,

(ii) he has undertaken a period of formal professional traineeship for a minimum period of two years full-time, under the supervision of, and evaluated by, a body authorized for this purpose by the Warranting Board, and undertaken not earlier than after the successful completion of the third year of studies, in accordance with regulations as may be prescribed; at least one year of this training shall be dedicated to the consolidation of knowledge, skills, and competences required for the practice of the profession;

Perit Inġinier Ċivili

6. (1) There shall be a list of all warrant holders who have been admitted to the title of Perit Inġinier Ċivili.

(2) A candidate shall be entitled to use the title of Perit Inġinier Ċivili, and consequently entered in the relative list, provided that in addition to the requirements of **sub-Article 4(3)(a) through to (h)**:

(a) he has undertaken academic training in Malta at least at **level (e)** as defined in the Recognition of Professional Qualifications Regulations, at a university or comparable teaching institution, for a minimum full-time duration of five years, or the equivalent of 300 ECTS, and successfully completed university level final examinations, with civil engineering as the principal component of study guaranteeing that the candidate has reached proficiency at least in those disciplines as may be prescribed;

Provided that a national of a Member State, who is registered as a civil engineer in his home state, where such profession is regulated, and who wishes to establish himself in Malta, shall be deemed as qualified to be entered in the list of Perit Inġinier Ċivili; except that in the case that the remit of the profession, for which there is a professional registration in the home state, does not fully correspond to the prescribed remit, such candidate may be granted partial access to the profession in accordance with **Article 8**.

Provided that in the case of an applicant where the profession in the home state is not regulated, the applicant has pursued the profession on a full-time basis for one year or for an equivalent overall duration on a part-time basis during the previous 10 years in another Member State which does not regulate the profession, and who possesses one or more attestations of competence or evidence of formal qualifications issued by another Member State which does

not regulate the profession, provided that any minimum training conditions laid down in Directive 2005/36/EC are respected,

Provided that evidence of formal qualifications issued by a third country shall be regarded as evidence of formal qualifications if the holder has three years professional experience in the field of civil engineering on the territory of the Member State that recognised that evidence of formal qualification certified by that Member State.

Provided that all warrant holders, whose names appear in the existing register of Warrant Holders as on the 31st December 2017 shall be entitled to be entered in this list. Nationals of Member States, or third countries, who have been registered in the register of Warrant Holders as on the 31st December 2017, on the basis of their registration as a civil engineer in their home state shall be entitled to registration in the list of Perit Inġinier Ċivili, in accordance with the conditions imposed by the Warranting Board.

(b) Alternatively to the requirements of sub-article 6(a) hereof:

(i) he has undertaken academic training in Malta at least at level (e) as defined in the Mutual Qualifications Recognition Act, at a university or comparable teaching institution, for a minimum full-time duration of four years, or the equivalent of 240 ECTS, and successfully completed university level final examinations, with civil engineering as the principal component of study, guaranteeing that the candidate has reached proficiency at least in those disciplines as may be prescribed;

and,

(ii) he has undertaken a period of formal professional internship for a minimum period of two years full-time, under the supervision of, and evaluated by, a body authorized for this purpose by the Warranting Board, and undertaken not earlier than after the successful completion of the third year of studies, in accordance with regulations as may be prescribed; at least one year of this training shall be dedicated to the consolidation of knowledge, skills, and competences required for the practice of the profession.

Alternative Access to the Profession

7. (1) Notwithstanding the foregoing, in the case of a candidate who satisfies the requirements of Sub-Articles 4(3)(a) to (e), but whose academic training does not fulfill the requirements of sub-article 4(3)(f),

(i) either because it covers substantially different matters of which knowledge, acquired skills and competence are essential for pursuing the profession, as defined by the evidence of formal qualifications listed in Articles 5 or 6 and the respective prescribed regulations,

(ii) or because such academic training was of a lesser duration than that indicated in Articles 5 or 6, the Warranting Board may admit the person to the appropriate list, as appropriate, provided that the person undertakes to fulfil compensatory measures, in accordance with regulations that may be prescribed.

Provided that any decision shall be clearly justified, so as to enable the applicant to understand his situation.

(2) Compensatory measures shall include an adaptation period of up to three years, or aptitude tests in those matters where a deficiency,

compared to the prescribed academic requirements, has been identified, at the candidate's choice.

(3) When a candidate national of a third country submits evidence of professional and academic qualifications obtained in a third country, and provided that any minimum training conditions laid down in Directive 2005/36/EC are respected, the Warranting Board may request that the candidate undertake three years of professional traineeship in the discipline concerned, under the supervision of, and evaluated by, a body authorised for this purpose by the Warranting Board, in accordance with regulations as may be prescribed; following which the Warranting Board may certify that such professional qualifications have been taken as evidence of formal qualifications in Malta.

Partial Access

8. (1) Where a national of a Member State has professional qualifications, recognized by another Member State, but where the scope of professional activities is narrower than those in Malta, and the differences between the fields of activity are so large that a full programme of education and training would be required from the professional to compensate for the shortcomings, the Warranting Board may grant the candidate partial access to the profession, if the professional so requests.

Provided that such qualified professional activity can be objectively separated from the other activities falling under the profession.

(2) In this case, the exercise of the profession will be carried out under the professional title of the home Member State, as long as this does not create confusion for the consumers of the service in Malta.

(3) The Warranting Board shall keep a list of those professionals that have been granted partial access, and a proper description of the professional activity that they have the authorization to undertake in Malta.

Temporary and Occasional provision of services

9. (1) Without prejudice to the Mutual Recognition of Qualifications Act and notwithstanding the provisions of this article and of **articles 4, 5 and 6** of this Act, any person legally established in another Member State, where the practice of the profession is regulated, may practice the profession in Malta on a temporary and occasional basis, without being required to follow the procedures prescribed for entering into the register of warrant holders, subject to further requirements as may be provided under this Act.

(2) In this regard, such person shall advise the Warranting Board in advance, and submit:

- (i) proof of nationality;
- (ii) attestation certifying legal establishment in a Member State;
- (iii) evidence of professional qualifications;
- (iv) evidence that he is not prohibited from practising, even temporarily, in the Member State in which he is established;

(v) a written declaration including details of professional indemnity insurance cover or other means of personal or collective protection with regard to professional liability, once a year, for every year that he intends to offer services in Malta

(3) In cases where the profession is not regulated in the Member State of establishment, the Warranting Board shall, in addition to sub-article (2) hereof, require evidence of at least two years professional experience during the previous ten years preceding the provision of services, before allowing the professional to practice in Malta on a temporary and occasional basis, without being required to follow the procedures prescribed for entering into the register of warrant holders.

(4) The Periti Warranting Board shall assess the temporary and occasional nature of the provision of service on a case by case basis, in relation to duration, frequency, regularity and continuity. The Warranting Board shall have the right to request information, on an annual basis, about the services provided in Malta.

(5) Declarations from service providers shall be processed by the Warranting Board within one month of receipt. It can either allow the provision of the service, or, if there are significant differences between the professional qualifications of the service provider and the training requirements in Malta, it may require the candidate to sit for an aptitude test or undertake an adaptation period, unless such differences can be compensated by professional experience, skills and competences acquired through formally validated lifelong learning. The aptitude test shall take place within one month of such decision.

Provided that when a service provider has the right to the title of "Architect" in accordance with Annex V or Annex VI of the Mutual Qualifications Recognition Act, this shall automatically indicate a complete correspondence with training requirements in Malta.

Provided also that any decision shall be clearly justified, including a comparison of the level of qualification in the host Member State and the level of qualification held, the substantial differences which matter for the pursuit of the profession in terms of subjects and contents, and the reasons for which such differences cannot be compensated by knowledge, skills, and competences gained in the course of professional experience or acquired through lifelong learning and formally validated to this end, and hence explain why due to these substantial differences the applicant cannot perform his profession in a satisfactory manner in the host Member State.

In the case of difficulties arising from differences in professional qualifications as outlined above lead to a delay in the Board's decision, the Board is to notify the service provider of the reason for the delay within one month. The Board is to resolve the difficulty within one month of its notification and is to finalise its decision within two months of resolving the difficulty.

(7) A service provider practicing the profession under the basis of this Article shall remain subject to the professional rules of a professional, statutory or administrative nature, directly linked to professional qualifications, definition of the profession, use of titles, serious professional malpractice, directly and specifically linked to consumer

protection and safety, as well as subject to disciplinary provisions which are applicable to Warrant Holders.

[(7a) Professionals who have their professional qualifications accepted by the Board, are entitled to use the relevant professional title;]

(8) In accordance with the requirements of EC Directive 2005/36/EC, a national of a Member State where the practice of architecture is regulated on the basis of Annex V or Annex VI of the Qualifications Recognition Act, who is authorized to offer such services on a temporary and occasional basis as outlined above, shall have the right to use the title of Perit Arkitett in Malta; the Warranting Board shall enter the name of such professional in the list of Perit Arkitett, as outlined in **Article 4**, on a temporary basis, subject to renewal of such registration on an annual basis.

(9) After having completed all procedures as outlined in the preceding sub-articles, the Warranting Board shall, within fifteen (15) days, inform the Kamra tal-Periti of the details of such person together with a copy of the declaration referred to in **sub-article 9(2)(v) hereof**.

Periti Warranting Board

10. (1) There shall be a Board, to be known as the *Periti Warranting Board* which shall consist of:

(a) a chairman to be appointed by the Minister, in consultation with the Kamra, from among persons who are or have been qualified to be appointed judges in Malta;

(b) two members appointed by the Minister from among warrant holders, who have held their warrant for at least eight years, one from the list of "Perit Arkitett" and the other from the list of "Perit Inġinier Ċivili"; (c) two members appointed by the Kamra from among warrant holders who have held their warrant for at least eight years, one from the list of "Perit Arkitett" and the other from the list "Perit Inġinier Ċivili"; and

(d) two members who shall be elected by secret ballot held electronically among warrant holders from among themselves provided that such elected members shall have held their warrant for at least eight years.

(2) The chairman shall be appointed for a term of three years, and under such conditions as may be set out in the letter of appointment.

(3) The other members of the Board shall hold office for a term of two years, and under such conditions as may be set out in their letter of appointment:

Provided that in the first year, one of each of the members, appointed or elected under **sub-article (1)(b), (c) and (d) hereof**, shall be appointed or elected for a period of one year, so that, thereafter, half of the said members other than the chairman shall vacate their office each year.

(4) When any vacancy in the Board occurs, the Minister shall, as soon as practicable, in the case of the chairman, or a member appointed by him, appoint another person to fill the vacancy; in the case of a member appointed by the *Kamra*, request the *Kamra* to appoint another person to

fill the vacancy, and in the case of an elected member cause an election to be held to fill the vacancy.

(5) The number of members necessary to form a quorum shall be four, but, subject to the presence of a quorum one of which shall be the chairman, the Board may act notwithstanding any vacancy among its members.

(7) The Minister shall ensure that the Warranting Board has the necessary resources to fulfill the duties indicated in this Act, including the setting up of a permanent secretariat, and shall also delegate a public officer to act as Board Secretary, and such secretary shall attend meetings of the Board but shall not have a vote.

(8) The Warranting Board shall be the Designated Authority for the profession, and it shall have the responsibilities, duties, powers and authority as prescribed by regulations.

(9) Save as aforesaid, the Board may make its own rules and otherwise regulate its own procedure. The Board shall exercise its functions independently and according to its own judgement. In the exercise of its functions, the Board may:

- (a) consult with such persons as it may deem appropriate, and
- (b) may also appoint sub-Committees, of which the Chairman of the Board, or his delegate, shall also be Chairman, for the purpose of carrying out such duties and tasks as the Board may assign to them.

Functions of the Warranting Board.

11. The functions of the Warranting Board shall be those as shall be prescribed in regulations in accordance with this Act.

Establishment of the *Kamra tal-Periti*

12. (1) The Kamra tal-Periti is constituted in continuation of the Chamber of Architects and Civil Engineers established by Ordinance No. XIV of 1919 (Government Notice No. 202 of the 12 June 1920) and continued in Article 8(1) of Act XIV of 1996.

(2) The Kamra tal-Periti shall be the recognized and approved national, regulatory and representative body for the profession whose purpose is that of:

- (i) advancing the practice of architectural and civil engineering professional activities in Malta;
- (ii) corresponding with Government, and vice-versa, on all matters concerning the profession, including advice to Government on the formulation of public policy related to the built environment;
- (iii) ensuring that its members act responsibly and ethically, having due regard for sustainable development practices, the protection of the national, cultural, social and environmental heritage, the upholding of public health and safety and structural integrity before, during and after construction processes, and the adherence to the Code of Professional Conduct, as may be prescribed by regulation.

(3) The Kamra tal-Periti has jurisdiction in terms of this article over all service providers rendering service in Malta under this Act. All warrant holders shall form part of the Kamra upon inclusion in the Register held

by the Warranting Board, and shall abide by its rules and regulations and any directives issued by it, and be entitled to participate in its activities. Moreover, all such warrant holders shall have the right to apply for and become 'Paid-up Members' of the Kamra, and consequently have a vote at its General Meetings subject to a yearly membership fee as the Kamra itself shall determine.

(4) The Minister shall prescribe the conditions and rules required for the legal establishment and administration of the Kamra, its maintenance, and the validity of its decisions, and for determining its functions and powers;

(5) The Kamra shall be represented by a Council which shall be constituted in accordance with prescribed regulations.

(6) The Minister shall, after consulting the Council of the *Kamra*, make regulations:

(i) vesting the Council of the Kamra with the power and duty of conducting enquiries into any charge of professional misconduct or malpractice or abuse or failures made by or against any warrant holder in connection with the exercise of his profession or in connection with professional affairs, to establish whether these are in violation of the Code of Professional Conduct, or inconsistent with the dignity and good practice of the profession, in such manner as prescribed by regulations;

Upon completion of such investigations the Kamra shall draw up a report of its findings and recommendations and forward such report to the Periti Professional Conduct Board for further consideration in accordance with those provisions as outlined in Article 14 hereof.

(ii) making provisions for securing the enforcement of the of the decisions of the Council of the Kamra;

(iii) vesting the Council of the *Kamra* with the power and responsibility to collate and the right to request information from Warrant Holders relating to Professional Indemnity Insurance;

(iv) vesting the Council of the *Kamra* with power to collect from Warrant Holders an administration fee;

(v) vesting the Council of the Kamra with the power to issue on a yearly basis a Certificate to Practice to each Warrant Holder upon being satisfied that the provisions of **article 18** have been satisfied.

Periti Professional Conduct Board

13. (1) For the purposes of **sub-articles 12(2)(iii)** and **(6)(i) to (iii)**, the Kamra shall refer the investigation into any alleged breach of the Professional Code of Conduct or any alleged breach of this Act by a Warrant Holder to a Board, to be known as the Periti Professional Conduct Board which shall consist of:

(a) a Chairman to be appointed by the Minister in agreement with the *Kamra tal-Periti* from retired judges or from among persons who are or have been qualified to be recommended for appointment as judges in Malta;

(b) two members appointed by the Minister from among warrant holders, who have held their warrant for at least eighteen years;

(c) two members appointed by the Kamra from among warrant holders who have held their warrant for at least eighteen years.

(2) The Chairman shall be appointed for a term of three years, and under such conditions as may be set out in his letter of appointment.

(3) The other members of the Board shall hold office for a term of two years, and under such conditions as may be set out in their letter of appointment:

(4) When any vacancy in the Board occurs, the Minister shall, as soon as practicable, in the case of the Chairman, or a member appointed by him, appoint another person to fill the vacancy; in the case of a member appointed by the *Kamra*, request the *Kamra* to appoint another person to fill the vacancy.

(5) The number of members necessary to form a quorum shall be three, but, subject to the presence of a quorum one of whom shall be the Chairman, the Board may act notwithstanding any vacancy among its members.

(6) The Minister shall also delegate a public officer to act as secretary to the Board, but such secretary shall not have a vote.

(7) The Board shall be listed under the First Schedule of the Administrative Justice Act, and hence the provisions of article 3 of the said Act shall be applicable, except that the sittings of the Board shall not be held in public.

(8)

The Professional Conduct Board shall not, out of its own initiative or upon the receipt of a complaint from any person commence any investigation thereon. Such cases or complaints that come to its knowledge shall be referred to the Council of the *Kamra* for examination and if the Council, after making the necessary investigations finds that there is a case for action it shall refer such case to the Board.

Disciplinary action by the Periti Professional Conduct Board

14. (1) The *Periti* Professional Conduct Board may, following due procedure, take disciplinary action against any warrant holder who is found guilty of professional misconduct or in any way breaching the Code of Professional Conduct or any provisions of this Act, whereby such disciplinary action shall be as established by the Minister from time to time by means of regulations.

Provided that no punishment shall be awarded by the Board until full opportunity has been given to the warrant holder charged to make his defence, saving his right to appeal against the decision of the Board to the Court of Appeal within such time and in such form as shall be prescribed from time to time.

Provided that any decision of disciplinary action is supported by at least three members of the Board.

(2) Where a warrant holder is in breach of **article 18** of the Act, the *Periti* Professional Conduct Board may, after due process in accordance to this Act and to the relevant regulations impose a fine of up to five thousand Euro (€5,000) payable to the *Kamra* or suspend the warrant for up to a period not exceeding six months, or both such fine and suspension.

(3) Disciplinary action taken by the *Periti* Professional Conduct Board against any warrant holder shall not take effect before all due process, including the warrant holders right to submit an appeal as per **sub-article 14 (1) hereof**, have been exhausted.

(4) Whenever disciplinary action which includes suspension or revocation of the Warrant, the Warranting Board shall be formally advised by the

Periti Professional Conduct Board, so that the notifications required under sub-articles 12(4) and 12(5) can be made.

Use of Professional Titles

15. (1) The titles of Perit, Perit Arkitett, Perit Inginier Civili, Perit Arkitett u Inginier Civili and Periti are regulated protected titles, and anybody making unauthorised use of these titles, or of acting in such a way as to suggest the authority to use the titles, shall be subject to police action, and to the penalties prescribed by regulations.

(2) Those professionals who are entered in the list of Perit Arkitett shall have the right to use the title of Perit Arkitett. Those professionals who are entered in the list of Perit Inginier Civili shall have the right to use the title of Perit Inginier Civili. Those professionals who are entered in both lists shall have the right to use the combined title Perit Arkitett u Inginier Civili. Only partnerships who are entered in the list of Periti shall have the right to use the title of Periti.

(3) For the purposes of this article, the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device or electronic means, instrument or document, of the word/s Perit, Perit Arkitett, Perit Inginier Civili, Perit Arkitett u Inginier Civili and Periti or either of those words used in combination, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said word is used, unless such person proves that the use of such word was made without his knowledge and that upon becoming aware of it, adequate steps were taken.

Partnerships of periti

16. (1) Two or more warrant holders may enter into an agreement, by means of a private deed, hereinafter referred to as a "partnership of periti", having for its exclusive object to practice the profession collectively.

(2) No person other than a warrant holder may be a partner in a partnership of warrant holders.

(3) Any such partnership shall, when duly formed, be registered with the Warranting Board, and upon such registration, the partners shall, for as long as it is so registered, be authorised to act in the name and on behalf of the partnership, which shall be entitled to the designation Periti.

(4) As a result of the deed referred to in sub-article (1) hereof, the signatories shall agree to be jointly and severally responsible for the actions and omissions of each and every one of them in the performance of their professional duties, the maintenance of the required professional standards and conduct, and generally in the fulfilment of the obligations under this Act or any other applicable law; they shall also be jointly and severally liable for any loss or damage resulting therefrom.

Any act or thing that may be done by a warrant holder may be done by one or more of the signatories in the name of all the signatories, and any act or thing done in the name of the signatories shall be done by one or more of the signatories.

The responsibilities and liabilities for anything done or omitted to be done during the period in which a warrant holder was a signatory to such an Agreement shall not cease, in respect of such person, by his retirement, death or other cause by which he ceases to be a signatory.

(5) There shall be a list of all partnerships who have been registered by the Warranting Board in accordance with sub-clause 16 (3) hereof and the Warranting Board shall enter into this list the operational name of such partnership, as well as the names of the individual Warrant Holders signatories to the Agreement referred to in sub-article (1) hereof, after having verified the said agreement, and the professional status of the individual signatories, in accordance with regulations that may be prescribed.

(6) Every such partnership registered with the Warranting Board shall have a unique registration number, which shall be used to identify the partnership. This registration number shall be used to confirm all formal documentation issued by the partnership in the course of execution of the profession, under the terms of the agreement referred to at sub-article 16 (1) hereof.

(7) Upon registration, and for as long as it is so registered, each signatory shall be authorised to act in the name, and on behalf, of all signatories.

(8) Every such partnership shall give to the Warranting Board such information as it may reasonably require or as may be prescribed, and shall give notice to the Board of any relevant changes in any information previously given to them, within fifteen days after the date on which the change occurs failure to do so shall be considered to be an offence and shall, on conviction, be liable to a fine (*multa*) of xxxx

(9) A professional stamp, carrying the partnership registered name, the name of each of the warrant holders constituting the partnership, and the registration number, to a design as shall be prescribed, shall be issued for this purpose by the Warranting Board at the time of the entering of the name of the partnership in the relative list.

Such stamp shall be used in all documentation produced by the partnership or by a warrant holder constituting such partnership where a stamp is required.

Forms of Practice

17. (1) Notwithstanding the provisions of Article 16, any legal personality recognised by or registered in accordance with the Laws of Malta and established in Malta, or the laws of the Member State in which it is established in the case of cross-border services offered in accordance with the Services Directive, can undertake the provision of architectural and civil engineering services, provided that for those professional services reserved by any Law of Malta to a warrant holder, the names of the Perit or Periti, or the professionals undertaking such services in accordance with Article 10 and who shall carry the prescribed liabilities as outlined in Schedule ..., shall be clearly identified in any formal communication or contract of services or marketing material; and provided that appropriate professional insurance policies in accordance with Article 18 is held in the names of such professional

or professionals, which insurance policies shall be made available for inspection by any person wishing to use the relative professional services.

Professional Indemnity Insurance

18 (1) For services delivered in Malta, every warrant holder or partnership registered under this Act shall be required to be covered by a professional indemnity insurance and that such insurance is to provide adequate cover for all those services provided by the warrant holder which present a direct and particular risk for the health or safety of the recipient or of a third person or to the recipient's financial security. The indemnity insurance shall cover the warrant holder or the partnership against any liability which the warrant holder or the partnership may incur for compensation in respect of loss or damage to any person or thing as a result of any negligent act, error or omission committed by the warrant holder, the partnership, any partner thereof, or any of the employees, as well as against any claim in respect of any loss or damage brought about or contributed by a criminal or malicious act or omission of any of their employees:

Provided that in the case of nationals of Member States offering services on a temporary and occasional basis, in accordance with **Article 9**, the professional indemnity insurance cover or other means of personal or collective protection with regard to professional liability in the home Member State, as declared to the Warranting Board in terms of **sub-article 9(2)(v)**, and sufficient to cover the liabilities for the work undertaken as defined above, shall be deemed to satisfy the requirements of this Article.

(2) Professional liability carried by a Perit under the Laws of Malta is unlimited for the period prescribed in the relative law, or, where the period is not prescribed in the specific law, for the period as prescribed by **(contract law as specified in Chap.)** if it is not otherwise prescribed. Professional Indemnity Insurance shall be held by every Warrant Holder undertaking professional services, individually or collectively, to cover such liability, **in accordance with prescribed regulations**.

(3) The Minister may, following consultation with the Kamra, issue regulations which will specify the services which, for the purpose of this article, are considered to present a direct and particular risk for the health or safety of the recipient or of a third person or to the recipient's financial security and which would therefore be required to be covered by an indemnity insurance cover.

Such Professional Indemnity Insurance shall be subject to the following provisions:

- (i) The indemnity insurance shall be appropriate to the nature and extent of the risk.
- (ii) The warrant holder or partnership shall retain an indemnity insurance cover for liabilities which are still pending in accordance to **article 18** of this Act. This is also applicable to warrant holders who, for whatever reason, no longer practice the profession in Malta.

(4) A warrant holder shall be exempt from the provisions of sub-article 18(1) if he submits a letter to the Kamra declaring that he is not providing any service which presents a direct and particular risk for the health or safety of the recipient or of a third person or to the recipient's financial security subject to the following provisions.

(i) The Kamra shall accept the warrant holder's declaration and is not authorised to question or to seek any further clarifications on this declaration.

(ii) Immediately upon being commissioned work which would fall under the provisions of sub-article 18 (1), he shall duly inform the Kamra in writing and thereby he shall no longer be exempt from the provisions of the article.

(5) (i) For registered partnerships, in the case of the death of one of the partners the responsibilities and liabilities for anything done or omitted to be done when the partner was practicing shall become jointly and severally effective for each and every remaining partner.

(ii) For sole warrant holders, the indemnity insurance shall include a provision to cover the eventuality of the death of the warrant holder and that such provision shall cover insurance claims made by the heirs of the deceased warrant holder within five years of the warrant holder's death.

(6) The provisions of this sub-article shall not apply to warrant holders who are, and for as long as they are, employed with the Government, in a civil or military capacity, in respect of their official duties.

Surrender of warrant or registration of a partnership.

19. (1) A warrant or a registration of a partnership of warrant holders issued, granted or made under the provisions of this Act may be withdrawn or cancelled by the Minister, at the request of the warrant holder, or the partnership, as the case may be.

(2) Notwithstanding the provisions of sub-article (1) hereof, a fresh warrant or registration of a partnership of warrant holders may be issued, granted or made at any time provided that a period of ten years has not elapsed from the date that such warrant or registration was withdrawn or cancelled; if the conditions for such issue or registration are satisfied; that the Warranting Board is consulted and finds no objection.

(3) If the time period of ten years referred to in sub-article (2) hereof has elapsed then the applicant would have to satisfy the requirements set out in sub-article 3(2).

(4) The responsibilities and liabilities for anything done or omitted to be done during the period in which a partnership was in existence shall not cease following the surrender of the warrant or registration of that partnership and shall continue to be jointly and severally effective for each and every partner in accordance with this Act and other relevant laws.

Suspension or revocation of warrant or registration of a partnership

20. (1) On the recommendation of the Kamra tal-Periti, on the advice of the Periti Professional Conduct Board, the Minister shall without undue delay,

by order in writing, suspend or revoke a warrant, if the warrant holder, as the case may be -

(a) has been found guilty, after an inquiry by the *Periti* Professional Conduct Board, subject to an appeal before the Court of Appeal, of the following acts or omissions:

- (i) dishonesty, misconduct or gross negligence in the exercise of the profession;
- (ii) conduct discreditable to the profession;
- (iii) failure to comply with regulations with respect to professional standards or practices;
- (iv) failure to comply with any condition attached to a warrant issued under the provisions of **article 3**;
- (v) acted in violation of any provisions of the Code of Conduct;

or

(b) has been found guilty by a competent court of an offence under the provisions of this Act or of any regulations made thereunder; or

(c) without prejudice to the provisions of article 24, has been found guilty by a competent court of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud.

(2) The recommendation by the *Periti* Professional Conduct Board shall include the reasons for the suspension or revocation of the warrant and the relevant minutes of the meetings and/or sittings of the said Board.

(3) [to insert re partnerships]

Effects of revocation or suspension of warrant, or registration of a partnership

21. (1) Where a warrant issued under this Act is suspended or revoked, the person to whom the warrant was issued shall cease to be the holder of such warrant, or shall be suspended from the exercise of his profession as the case may be, and he shall cease or suspend the use of the designation *Periti*;

(2) Notwithstanding such suspension or revocation of warrant as provided for in the preceding sub-clause, the responsibilities and liabilities for anything done or omitted to be done during the period that the warrant was active shall continue to be in effect in accordance with this Act and other relevant laws.

(3) Upon the revocation or suspension of the registration of a partnership of warrant holders the members of that partnership and the partnership shall cease to act in the name and on behalf of the partnership and the partnership shall cease to use the designation *Periti*.

Minister may issue fresh warrant **Do we still need to review this**

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Appeals from decisions of the Boards

23. (1) Decisions of the Warranting Board shall be subject to appeal before the Administrative Review Tribunal established by article 5(1) of the [Administrative Justice Act](#).

When any person is dissatisfied with any decision of the Board taken in his regard, he may appeal to the said Tribunal against such decision not later than twenty days of service upon him of the Board's decision.

The Administrative Review Tribunal may, in its determination on any appeal entered in accordance with [sub-article \(1\) hereof](#), confirm, reverse or vary, in whole or in part, the original decision.

- (2) Decisions of the Periti Professional Conduct Board shall be subject to appeal before the Court of Appeal as contemplated at [sub-article 14 \(1\)](#).

Disqualification of warrant holder.

24. (1) A conviction by any competent tribunal for any crime liable to imprisonment for a term exceeding one year, other than involuntary homicide or any other crime against the person excusable in terms of the Criminal Code shall be a cause of [perpetual prohibition](#) to obtain or retain the warrant.

(2) Such prohibition shall in the case of a warrant holder be declared by the Minister by notice published in the Gazette and shall be communicated to the person thus disqualified, unless he has been interdicted by the judgment itself.

Limit of Liability

25. (1) If a building or other structure designed by or erected under the supervision of a *Perit*, shall in the course of [eight](#) years from the day on which the construction of the same was completed, perish, wholly or in part, or be in manifest danger of falling to ruin, owing to a defect in the construction, or even owing to some defect in the ground, the *Perit* who was responsible for executing the works shall be liable therefor.

(2) The relative action for damages must be brought within two years from the day on which any of the cases shall have occurred.

[Note: It was opined in the past that Article 1638 of Chapter 16 of the Laws of Malta should be deleted from there and incorporated in the Periti Act. Alternatively, if this is not accepted, we can just state "The limit of responsibility of the *Perit* for any buildings and/or structures erected under his responsibility shall be that as established by Article 1638 of Chapter 16 of the Laws of Malta". This will then depend on effecting an amendment to the said Article in order to reduce the limit of liability from 15 years to 8/10 years. This will, however, need a political decision].

Prohibited agreements.

26. Any agreement or arrangement purporting to exempt a warrant holder or a partnership of warrant holders from any liability, responsibility or duty under this Act or under any other law, or to relieve them there from, or, except under any indemnity insurance as provided under article 18, to

indemnify them against any such liability, responsibility or duty shall be null and void.

Offences

27. (1) Any person who, for the purpose of obtaining the warrant, or registration of a partnership of warrant holders, under the provisions of this Act, gives wrong information or otherwise acts in a deceitful or fraudulent manner shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two thousand five hundred Euro (2,500 Euro) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) Any person who, not being the holder of a warrant, assumes or uses the designation *Perit*, or in any manner indicates that he is entitled to exercise the profession shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand two hundred fifty Euro (1,250 Euro) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and in respect of a second or subsequent offence to a fine (*multa*) of not more than twelve thousand five hundred Euro (12,500 Euro) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) Any person who uses the designation *Periti* in relation to a partnership of warrant holders, knowing that such partnership is not registered in accordance with the provisions of this Act, or in any manner whatsoever knowingly makes use of a name falsely implying the existence of a partnership of warrant holders registered as aforesaid shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand two hundred fifty Euro (1,250 Euro) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and in respect of a second or subsequent offence to a fine (*multa*) of not more than twelve thousand five hundred Euro (12,500 Euro) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(4) Any person who, not being the holder of a warrant in accordance with the provisions of this Act, practices the profession shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand two hundred and fifty Euro (1,250 Euro) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and in respect of a second or subsequent offence to a fine (*multa*) not exceeding twelve thousand five hundred Euro (12,500 Euro) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(5) Any person who is found practicing without being covered by an Insurance Policy in terms of article 11 of this Act shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than five hundred Euro (500 Euro) but not exceeding five thousand Euro (5,000 Euro) or the revocation of the warrant for up to six months or both such fine and revocation, and in the case of a continuing offence to an additional fine (*multa*) of one hundred Euro (100 Euro) for each day during which the offence continues.

Additional provisions with respect to offences.

28. (1) The provisions of this Act establishing offences and punishments in respect thereof shall not affect the operation of any other law establishing

offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishment under any other law.

(2) The provisions of the Probation Act shall not apply to this Act.

(3) (i) For the purposes of article 27(2) and (3), the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device or electronic means, instrument or document, of the word/s “*Periti*” or “Architect” or “Civil Engineer” or “Structural Engineer” or “Architectural services” or “Civil Engineering Services” or “Structural Engineering Services” or either of those words used in combination, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said word is used, unless such person proves that the use of such word was made without his knowledge and that upon becoming aware of it, he took adequate steps to stop it.

Power of the Minister to make regulations

29. The Minister may, in agreement with the Kamra, make regulations to give better effect to any of the provisions of this Act and generally to regulate the profession, provided that such regulations are not inconsistent with the provisions of this Act and without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to:

(a)

(b) the fees that may be charged for the issue of a warrant or for the registration of a partnership of warrant holders, or for copies thereof or for the submission of a complaint to the Kamra and for the processing of such complaint by the Periti Professional Conduct Board;

(c) the bringing into effect of the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the mutual recognition of qualifications of *Periti*;

(c) the standards of professional conduct and practice expected of warrant holders in a Code of Professional Conduct, in order to maintain a high standard of service and professional conduct, to maintain the prestige and status of the profession and to safeguard the interests of the community;

(e) the procedures of the Professional Conduct Board;

(f) setting out the disciplinary actions which the Professional Conduct Board may impose upon a warrant holder where it is established that the warrant holder has infringed the Code of Professional Conduct;

(g) the procedures of continued professional development (CPD);

(h) making provisions relating to the Professional Indemnity Insurance to be held by warrant holders in accordance to **article 18**.

(i) the Administration Fee that shall be payable by Warrant Holders to the Kamra subject to the regulations issued by the Minister in accordance with **sub article** of this Act.

(j) any matter which is required or is authorized by this Act to be prescribed.

Saving provisions Cap 44 Repealed

30. (1) Any regulations made under the Architects Ordinance, hereinafter referred to as "the Ordinance", shall continue to apply as in force before the coming into force of this article, until revoked or amended, with such modifications, adaptations and limitations as may be necessary in accordance with the provisions of this Act.
- (2) Any warrant granted before the coming into force of this Act under the provisions of the Ordinance shall, notwithstanding anything contained in this Act, remain in force after the coming into force of this Act and shall be deemed to have been granted under this Act and shall be governed by the provisions of this Act.
- (3) The Chamber of Architects established by the Ordinance shall continue as the *Kamra tal-Periti* referred to in **article 12**.

Cap. 390 Repealed

31. The Periti Act, 1999 and any regulations made under the Periti Act, 1999 are hereby being repealed.
32. The Schedules to this Act may be amended from time to time by Legal Notice.
33. Wherever the term 'architect' is used in any other law this shall mean 'perit arkitett' or 'perit inginier civili' or 'perit arkitett u inginier civili' as referred to in this Act.

Transposition of the *Kamra tal-Periti* Regulations

34. (1) By virtue of this Act the *Kamra tal-Periti* Regulations are hereby being transposed.
- (2) The *Kamra tal-Periti* shall retain the same composition as that established in the *Kamra tal-Periti* Regulations.