

CHAPTER 390

PERITI ACT

To regulate Periti and to provide for matters connected therewith or ancillary thereto. Substituted by: XVIII. 2002.10.

1st October, 1999

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

1. The short title of this Act is the Periti Act.

Short title.
Substituted by:
XVIII. 2002.10.

2. In this Act unless the context otherwise requires -

Interpretation.
Amended by:
XVIII. 2002.10;
XXIII. 2009.79.

"Board" means the *Bord tal-Warrant tal-Periti* established by article 6;

"competent authority" shall have the same meaning the Mutual Recognition of Qualifications Act;

Cap. 450.

"Kamra" means the *Kamra tal-Periti*;

"Member State" and "citizen of a Member State" shall have the same meaning assigned to them in the Mutual Recognition of Qualifications Act;

Kap. 450.

"Minister" means the Minister responsible for works and, to the extent of any functions delegated to it by the Minister, includes the Board;

"prescribed" means prescribed by regulations under this Act;

"profession" means the profession assuming responsibility for the design and, or, construction of building works, under the generic title of *Perit* and includes works in architecture and civil and structural engineering;

"service provider" means a person from any Member State or any country in the European Economic Area who exercises the profession on a temporary basis in Malta;

"Treaty" means the Treaty establishing the European Community;

"warrant" means a warrant granted under article 5, and "warrant holder" shall be construed accordingly.

3. (1) No person shall practise the profession unless he is the holder of a warrant under article 5.

Qualifications for
warrant.
Amended by:
XVIII. 2002.10;
L.N. 248 of 2004;
XXIII. 2009.80.

(2) A person shall not qualify for the award of a warrant unless -

- (a) he is a citizen of Malta or of a Member State otherwise permitted to work in Malta under any law;
- (b) he is of good conduct;
- (c) he is of full legal capacity; and

(d) he satisfies the Board that -

- (i) he is in possession of academic qualifications obtained after successful completion of a course of study of at least four years full-time duration, or the equivalent part-time duration, at the University of Malta or such other university or academic institution as may be recognised for the purpose by the Board after having consulted the Kamra, which course contains those minimum core subjects in the fields of architecture and civil engineering, as the Minister may, after consulting the Kamra, prescribe;
- (ii) for a period of not less than two years after obtaining the academic qualifications referred to in sub-paragraph (i), he has trained in Malta under the supervision of a practising warrant holder, in accordance with such guidelines as the Minister may, after consulting the Kamra, prescribe:

Provided that where the academic qualifications referred to in sub-paragraph (i) are obtained after a course of five years full-time duration or more, or its part-time equivalent, the period of training referred to in this sub-paragraph shall be of one year:

Provided further that with the approval of the Board such training may, for a period not exceeding one year, in the said period of two years, be undergone in a State outside Malta with a professional in related disciplines, duly qualified to practise in such State;

- (iii) he has been duly examined and approved by the Board in an examination or examinations for the purpose, as the Minister may, after consulting the Kamra, prescribe:

Provided that the Board may exempt a person who obtained the academic qualifications from the University of Malta or from such other university or academic institution approved for the purpose by the Board after consulting the Kamra, from all or part of such examination or examinations.

L.N. 422 of 2007. (3) Subarticle (2) shall be interpreted in accordance with the Recognition of Professional Qualifications Regulations, 2007.

Special
circumstances.
Amended by:
XVIII. 2002.10.

4. Notwithstanding the provisions of article 3, a person who possesses the qualifications listed in paragraphs of sub-article of article 3(2)(a), (b) and (c), and in paragraph (d)(ii) and (iii) of the said sub-article, may be granted a warrant, if the Board is satisfied that such person is in possession of an academic degree obtained after the successful completion of a course of studies in

architecture, civil engineering or related disciplines at a university or equivalent academic institution, and such person has, where the course of studies in the opinion of the Board,

- (i) was of a lesser duration than four years' studies, or equivalent part-time duration, or
- (ii) did not contain those minimum subjects in the fields of architecture and civil engineering as are prescribed by the Minister in accordance with article 3(2)(d)(i),

undergone practical training for a period of not less than six months and not more than three years as the said Board may establish from case to case, under the certified supervision of a practising warrant holder, in accordance with such guidelines as the Minister, after consulting the Kamra, may prescribe:

Provided that the Board may also require such person to undergo such tests in such subjects which it may deem necessary.

5. (1) The warrant to practise the profession shall be granted by the Minister on the recommendation of the Board to any person who satisfies the requirements of articles 3 or 4.

Warrant to practise as a building professional (*Perit*).
Amended by:
XVIII. 2002.10.

(2) A warrant holder may use the designation *Perit* with his name.

(3) Any person who is granted such a warrant shall, before entering upon the exercise of his profession, take before the Court of Appeal, in a public sitting, 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:

Cap. 12.

I do swear/solemnly affirm that I will faithfully and with a/I hones and exactness perform the duties of a Perit to the best of n knowledge and ability. So help me God.

5A. Without prejudice to the Mutual Recognition of Qualifications Act and notwithstanding the provisions of articles 3 and 4 of this Act, any person established in another Member State may practice the profession in Malta on a temporary and occasional basis subject to further requirements as may be provided under this Act.

Temporary provision of services.
Added by:
XXIII. 2009.81.
Cap. 451.

6. (1) There shall be a Board, to be known as the *Bord tal-Warrant tal-Periti* which shall consist of:

Bord tal-Warrant tal-Periti.
Amended by:
XVIII. 2002.10.

- (a) a chairman to be appointed by the Minister 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;
- (c) two members appointed by the Kamra from among warrant holders who have held their warrant for at least eight years; and
- (d) two members who shall be elected by secret ballot by

warrant holders from among themselves.

(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:

Provided that in the first year, one of each of the members, appointed or elected under sub-article (1)(b), (c) and (d), shall be appointed or elected for one year, so that, thereafter, half 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 three, but, subject to the presence of a quorum, the Board may act notwithstanding any vacancy among its members.

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

(7) Save as aforesaid, the Board may make its own rules and otherwise regulate its own procedure.

Functions of the Board.
Amended by:
XVIII. 2002.10;
L.N. 248 of 2004;
XXIII. 2009.82.

7. (1) The functions of the Board are:

- (a) to consider applications for the issue of a warrant, and make its recommendations thereon to the Minister;
- (b) organise and regulate, and determine requests for exemptions from, the professional warrant examination in accordance with articles 3 and 4;
- (c) regulate the conditions of practical training abroad, in accordance with the provisions of article 3;
- (d) approve universities or academic institutions in accordance with article 3;
- (e) advise the Minister, and organise and regulate the appropriate tests and periods of practical training, as provided for in article 4; and
- (f) issue a certificate stating that the person wishing to practise the profession in a Member State is lawfully pursuing the activities in the field of architecture and civil engineering in Malta where he is established.

(2) The Board shall exercise its functions independently and according to its own judgment. In the exercise of its functions the Board may:

- (a) consult such persons as it may consider necessary; and
- (b) appoint committees under the chairmanship of a

member of the Board for the purpose of the carrying out of such duties and tasks as the Board may assign to them.

(3) The Board shall keep a register of warrant holders and shall, not later than three months after the end of each year, publish in the Gazette a list of persons who, on the 31st December of the said year, were registered as holders of a warrant issued under this Act. In the same manner and at the same time the Board shall publish a list of partnerships registered in accordance with article 9.

7A. Decisions of the Board shall be subject to appeal before the Administrative Review Tribunal established by article 5(1) of the Administrative Justice Act.

Appeals.
Added by:
XXIII. 2009.83.
Cap. 490.

8. (1) All warrant holders shall have the right to belong to the Kamra and to participate in its activities.

Kamra tal-Periti
and the power of
the Minister to
make regulations.
Amended by:
XVIII. 2002.10.

(2) The Minister shall have the power to make regulations -

- (a) prescribing 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;
- (b) assigning to the Kamra the duty of enquiring into any charge of professional misconduct or abuse made against any warrant holder in connection with the exercise of his profession or with professional matters;
- (c) vesting the Kamra with disciplinary powers in connection with any misconduct, or abuse referred to it in paragraph (b) hereof, by such means and in such form as prescribed by regulations:

Provided that no punishment shall be awarded by the Kamra 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 Kamra to the Court of Appeal within such time and in such form as shall be prescribed from time to time;

- (d) making provision for securing the enforcement of the Kamra's and the Board's decisions.

9. (1) Two or more warrant holders may form a civil partnership, hereinafter referred to as a "partnership of warrant holders", having for its exclusive object to practice the profession and having such powers as are necessary for the attainment of the objects of the partnership.

Partnerships of
warrant holders.

(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 according to law and on payment of the prescribed fee, be registered with the 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) Every such partnership shall give to the Minister or to the

Board such information as they may reasonably require or as may be prescribed, and shall give notice to the Minister or 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.

Provisions
applicable to
partnerships of
warrant holders.

10. Notwithstanding the provisions of any other law or other agreement to the contrary, the following provisions shall apply to a partnership of warrant holders under this Act:

- (a) the partners shall be jointly and severally responsible for the actions and omissions of each and everyone of them in the performance of their professional duties, the maintenance of the required professional standard and conduct and generally in the fulfilment of their obligations under this Act or any other applicable law, and shall also be jointly and severally liable for any loss or damage resulting therefrom;
- (b) any act or thing that may be done by a warrant holder may be done by one or more of the partners in the name of the partnership, and any act or thing done in the name of the partnership shall be done by one or more of the partners;
- (c) the responsibilities and liabilities for anything done or omitted to be done during the period in which a warrant holder was a partner in a partnership of *Periti* shall not cease, in respect of such person, by his retirement, death or other cause by which he ceases to be a partner.

Indemnity
insurance by
warrant holder or
by partnership of
warrant holders.

11.* (1) Every warrant holder or partnership registered under this Act may be required to be covered by an indemnity insurance by such company, in such manner and for such amount as may be prescribed, 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 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.

(2) Every warrant holder or partnership of warrant holders bound to be covered by an indemnity insurance under this article shall each year within a week of taking out or renewing such indemnity insurance inform the Board in writing of the name of the insurance company and the relative number of the insurance policy.

Prohibited
agreements.

12. Any agreement or arrangement purporting to exempt a

*Not yet in force.

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 therefrom, or, except under any indemnity insurance as provided under article 11, to indemnify them against any such liability, responsibility or duty shall be null and void.

13. (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 disability to obtain or retain the warrant.

Disqualification of
warrant holder.

Cap. 9.

(2) Such disability 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 disqualified, unless he has been interdicted by the judgment itself.

(3) The Minister may, at any time, and if the Board so recommends, by order remove the disability declared by him.

14. (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 partnership, as the case may be.

Surrender of
warrant or
registration of
partnership.

(2) Notwithstanding the provisions of sub-article (1), a fresh warrant or registration of a partnership of warrant holders may be issued, granted or made at any time if the conditions for such issue or registration are satisfied.

15. The Minister may, by order in writing, suspend, revoke or cancel a warrant, or registration of a partnership of warrant holders, if the warrant holder, or one of the partners, as the case may be -

Suspension or
revocation of
warrant or
registration of
partnership.
Amended by:
XVIII. 2002.10.

- (a) has been found guilty, after an inquiry by the Kamra, subject to appeal to the Court of Appeal, of the following acts or omissions:
 - (i) dishonesty, misconduct or gross negligence in the exercise of his 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 17; 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 13, 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.

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

16. Where a warrant issued under this Act is withdrawn, 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*; and upon the cancellation 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.

17. The Minister, acting on the recommendation of the Board, may, after the expiration of one year from the date of the revocation or withdrawal of a warrant or the cancellation of a partnership of warrant holders, issue a fresh warrant or authorise the registration of a partnership under the provisions of the Act, subject to such conditions as the Minister on the recommendation of the Board may deem necessary.

Offences.
Amended by:
L.N. 425 of 2007.

18. (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 and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment not exceeding twelve months or to both fine and imprisonment.

(2) Any person who, not being the holder of a warrant, assumes or uses the designation *Periti*, 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 and one hundred and sixty-four euro and sixty-nine cents (1,164.69) 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 eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) 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 and one hundred and sixty-four euro and sixty-nine cents (1,164.69) 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 eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) 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 and one hundred and sixty-four euro and sixty-nine cents (1,164.69) 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 eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(5) Any person who contravenes the provisions 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 four hundred and sixty-five euro and eighty-seven cents (465.87) but not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (4,658.75) and in the case of a continuing offence to an additional fine (*multa*) of sixty-nine euro and eighty-eight cents (69.88) for each day during which the offence continues.

19. (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.

Additional provisions with respect to offences.

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

Cap. 446.

(3) For the purposes of article 18(2) and (3), the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the word "*Perit*" or "Architect" or either of those words used in combination with the words "Civil Engineer" or "Structural Engineer", 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.

(4) For the purposes of this Act -

- (a) a person shall not be deemed to practise the profession of a warrant holder if he acts as an employee of, or assistant to a warrant holder or a partnership of warrant holders and does not issue any certification of an architectural and civil engineering nature under his name;
- (b) to the extent that is so prescribed, a person shall not be deemed to exercise the profession of a warrant holder if he is in such employment or holds or acts in such office, or performs only such work, services, acts or functions as may be prescribed.

20. The Minister may, after consulting the Kamra, make regulations to give effect to any of the provisions of this Act and generally to regulate the profession, and without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to:

Regulations.
Amended by:
XVIII. 2002.10.

-
- Cap. 12. (a) the making of a tariff of fees payable to warrant holders for professional work and services not included in Tariff K of Schedule A annexed to the Code of Organization and Civil Procedure;
- (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;
- Cap. 450. (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 perit;
- (d) any matter which is required or is authorised by this Act to be prescribed.

Saving.
Cap. 44 -
Repealed.

21. (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 Chamber referred to in article 8.
