

# Compulsory Past Papers

M. Adv.



# **GHAQDA STUDENTI TAL-LIĠI**

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2020/2021

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## ABOUT GhSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at [resources@ghsl.org](mailto:resources@ghsl.org).



## Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

### 1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

### 2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

### *3. Organisational Skills*

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

### *4. Taking your own class notes*

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

### *5. Participation*

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

### *6. Practice is the key to success*

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.



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## **Master of Advocacy Compulsory Units Past Papers**

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1. Advanced Practical Applications in the Law of Succession
2. Criminal Procedure
3. Advanced Issues in the Law of Civil Procedure
4. Advanced EU Law Procedure
5. Corporate Re-organisation and Liquidation
6. Law of Mediation
7. Intro to Notarial Law

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [resources@ghsl.org](mailto:resources@ghsl.org)



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# Advanced Practical Applications in the Law of Succession

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**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**MASTER OF ADVOCACY / MASTER OF NOTARIAL STUDIES**  
**JANUARY 2017 EXAMINATIONS**

**EXAMINATION: CVL5036 – Advanced Practical Applications in the Law of Succession**  
**DATE: Friday 20 January 2017**

**Reading and Noting time: 10.00am to 10.05am**

**Time of Examination: 10.05am to 11.05am**

Writing is permitted during the Reading and Noting time

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**INSTRUCTIONS TO STUDENTS:** Reply to the Question below

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Karl and Paula, a married couple, made a will *unica charta* when still childless, by virtue of which they revoked all previous wills and reciprocally nominated each other as universal heirs. They eventually had 2 children, Sarah and Luke.

Years later, Karl revoked all previous wills and whilst leaving his wife Paula the usufruct of his estate, he nominated Sarah and Luke as his sole universal heirs. Eventually, Karl and Paula adopted another child Carla and it so happened that soon after, another natural child Donald was born to them. Karl and Paula modified their existing wills and left Donald his legitim in terms of law.

Luke was donated an apartment by his parents on the occasion of his marriage and he died childless in the year 2000, and was survived by his spouse, by his parents and by his siblings. Paula died some months later in 2001 after her son Luke.

Karl remarried with Maria and had another child Anna. He modified his existing wills and left his spouse the maximum allowed by law.

Karl died in 2004 and the heirs also wish to sell property held in common however, Donald is intent to make things difficult due to his legitim.

Advise all possible beneficiaries of their succession rights as the law stood before the 2005 amendments in order to partition the estates of Luke, Paula and Karl respectively.



**University of Malta**  
**Faculty of Laws**

CVL5036 – Advanced Practical Applications in the Law of Succession

Date: Wednesday, 13<sup>th</sup> September, 2017

Duration of Examination: 10.00am – 11.05am

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**Reply to the case study below:**

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Don and Jenny, were married with 3 children, Glen, Maria and Alex. They made an *unica charta* will, wherein they reciprocally bequeathed to each other the maximum allowed by law to surviving spouses and also nominated their 3 children as their sole universal heirs. Years later they had another child Jake.

Maria died first after a short illness and she was survived by her husband, by her parents and by her 3 brothers.

Jenny died some months after her daughter and Don remarried Alexia. Eventually he revoked his existing wills and whilst leaving his son Alex the legitim in terms of law, he nominated his wife Alexia as his universal heir. On her part Alexia also made a will and nominated her husband Don her sole heir. Years later, a child Paula was born to Don and Alexia.

Don has now died and whilst Alex is causing trouble and is claiming that he be assigned a portion of each of the properties belonging to his late father in settlement of his legitim, his brothers are questioning also the nomination of their step mother Alexia as the sole universal heir of their late father.

Alexia died last and she was survived by her sole daughter Paula and by her mother.

Advise all possible beneficiaries of their rights of succession under the law before the amendments which entered into force in 2005 in order to assign and partition the estates of Maria, Jenny, Don and Alexia, respectively.

**University of Malta**  
**Faculty of Laws**  
**January 2018 Examinations**

**CVL5036 – Advanced Practical Applications in the Law of Succession**

**Friday 26<sup>th</sup> January 2018**

**Duration of Examination: 10.00am to 11.05am**

Reply to the Case study below:

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Andrew had a child Lisa when he was still a bachelor. He then married Ruth who was not the mother and they made an unica charta will by virtue of which they reciprocally bequeathed the usufruct of their estate and nominated all their future children as their universal heirs. They eventually had 4 children, Ryan, Carl, Luca, and Maria.

Maria married Jesmond and some years later she had a child Ray who was born out of an extramarital relationship. Alas, Maria died suddenly without a will and she was survived by her husband and by her son Ray.

Ruth, Maria's mother, donated Ryan some land which she had inherited on which he then constructed his residence. Ruth modified her unica charta will wherein she left the maximum allowed by law to her husband Andrew and the legitim to her children, Carl and Luca. Ruth died and some years later she was followed by Ryan who died without a will. Andrew married again and has another child from this second marriage.

Andrew has now died and the heirs want to sell the property which they inherited without delay but Carl and Luca who were left the legitim by their mother are withholding their consent.

Advise all beneficiaries of their rights under the law of succession as it stood before the 2005 amendments relative to the estates of Maria, Ruth, Ryan and Andrew respectively.

**University of Malta**  
**Faculty of Laws**  
**September 2018 Examinations**

**CVL5036 – Advanced Practical Applications in the Law of Succession**

Date: Friday 7<sup>th</sup> September 2018

Duration of Examination: 8.30AM - 9.35AM

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**INSTRUCTIONS TO STUDENTS:**

Reply to the Case study below:

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Ruth and Luca were married and had one legitimate child Jade. They made a will *unica charta* by virtue of which they reciprocally nominated each other as universal heirs and left their only child Jade the legitim. Another child John was then born to Ruth and Luca and some years later, they adopted another child Kevin.

Eventually Kevin married Anthea and on the occasion of their marriage Ruth, Kevin's mother donated him a plot which she had inherited from her parents, on which the newlyweds constructed their future matrimonial home.

Ruth died first and some years later, Luca had another child Ryan, from his steady relationship with Maria. Soon after this birth, Luca made a will wherein he revoked his previous will *unica charta* and nominated all his descendants without any distinction as his universal heirs.

Kevin died after his mother without making any wills and he was survived by his wife Anthea, by his father Luca and by his brothers Jade, John and Ryan.

Luca was the last one who died and his 3 surviving children Jade, John and Ryan, his partner Maria and Anthea, the surviving spouse of his predeceased son Kevin, all have competing claims over his estate.

Outline a legal opinion in three parts relative to the estates of Ruth, Kevin and Luca respectively in order to advise the beneficiaries of each estate of their rights to inherit under the law of succession before the amendments which came into force in 2005.

**University of Malta**  
**Faculty of Laws**  
**January/February 2019 Examination Session**

**CVL5036 ADVANCED PRACTICAL APPLICATIONS IN THE LAW OF SUCCESSION**

**Date:** Wednesday 6th February 2019    **Duration of Examination:** 10:00AM - 11:05AM

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**INSTRUCTIONS TO STUDENTS:**

Reply to the case study below.

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Peter and Patricia made an unica charta will shortly after their marriage, wherein they nominated each other as universal heirs. They eventually had three children, Steve, Sarah and Samantha.

After years of happy marriage and family life, Patricia fell victim to a disease and passed away. In anticipation of her demise, she had donated two arable fields to her husband Peter.

Following his wife's loss, Peter engages in a long-term relationship with Victoria, which yields a daughter, Veronica.

Ultimately, he falls for the charms of a younger woman, Wendy, whom he decides to marry. Their marriage produces Peter's youngest child, William.

Peter's woes were not over.

A few years later, Peter's youngest daughter from his first marriage, Samantha, falls ill shortly after her marriage to Edward and eventually passes away without issue. Samantha had been donated an apartment by Peter on the occasion of her marriage. She was survived by her spouse, Edward, her father, Peter, her siblings, Steve and Sarah, and her half-siblings, Veronica and William.

During the later years of his life Peter decides to draft a will. He leaves his spouse, Wendy, the maximum allowed by law and appointed his children Steve and William as his heirs. He left Sarah and Veronica their legitim in terms of law.

Peter eventually dies in 2003, survived by his second wife Wendy, and his children Steve, Sarah, Veronica and William.

Advise all possible beneficiaries of their succession rights as the law stood before the 2005 amendments in order to partition the estates of Patricia, Samantha and Peter.

University of Malta  
Faculty of Laws

September 2019 Examination Session

**CVL5036 ADVANCED PRACTICAL APPLICATIONS IN THE LAW OF SUCCESSION**

Date: Thursday 5th September 2019

Duration of Examination: 8:30AM-9:35PM

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**INSTRUCTIONS TO STUDENTS:**

**Reply to the case study below.**

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Theo had a daughter, Roberta, from a ten-year relationship with Rosette. The relationship ended, and he eventually married Charlotte, from whom he had three sons: Charles, Carl and Christopher. Theo and Charlotte made an unica charta will wherein they nominated their first-born son Charles as sole universal heir and left the legitim to Carl and Christopher, without making any mention of Roberta. Prior to their marriage, Theo had given Charlotte a precious gold ring as a gift.

Some years after the marriage, Theo fell ill and passed away.

Although filled with grief, Charlotte met an old friend, Norman, whom she accepted to marry. Two years after their marriage, Charlotte and Norman had a child: Nora. Soon after Nora's birth, Charlotte modified her will to nominate her as her joint universal heir together with Charles.

Charlotte eventually passed away.

A few years later she was followed by Carl, who was survived by his wife Elena and his daughter Elisabeth. Shortly after his marriage, Carl had made an Unica Charta will with Elena, whereby they had reciprocally nominated each other as heirs. Elisabeth was born to them five years into their marriage.

Advise all beneficiaries of their rights under the law of succession as it stood before the 2005 amendments relative to the estates of Theo, Charlotte and Carl.

University of Malta  
Faculty of Laws

January 2020 Examination Session

**CVL5036 ADVANCED PRACTICAL APPLICATIONS IN THE LAW OF SUCCESSION**

Date: Monday 20th January 2020

Duration of Examination: 8:30AM – 9:35AM

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**INSTRUCTIONS TO STUDENTS:**

**Reply to the case study below.**

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Emma and Trent were married with 3 legitimate children: Alex, Jordan and Jürgen. They eventually adopted Nicola.

Emma and Trent made a will unica charta whereby they reciprocally bequeathed the maximum allowed by law, left the legitim to Jürgen and nominated their children: Alex, Jordan and Nicola as their 3 universal heirs.

Emma, who had inherited a plot from her father, donated it to her son Alex in anticipation of his future marriage with Amy, who already mothered an illegitimate child: Andy. Alex and Amy got married and constructed their matrimonial home on this plot. Amy made a will wherein she nominated her child Andy as her sole heir.

Amy died and her husband Alex married again some years later.

Emma has now also died and after her death, Trent modified his will wherein he nominated all his children heirs. Some years later, Trent contracted a second marriage with Lisa and had another child Roberto.

Trent has now died and Jürgen and Nicola are withholding their consent for the sale of an immovable property belonging to their mother's estate.

Submit a legal opinion on the rights and obligations of all beneficiaries in relation to the estates of Amy, Emma, and Trent under the law of succession before the 2005 amendments.

**University of Malta  
Faculty of Laws**

**September 2020 Examination Session**

**CVL5036 ADVANCED PRACTICAL APPLICATIONS IN THE LAW OF SUCCESSION**

**Date:** Monday 7th September 2020    **Duration of Examination:** 10:00AM – 11:05AM

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**INSTRUCTIONS TO STUDENTS:**

**Reply to the case study below.**

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Maria, a 14 year old minor, made a will and nominated her daughter Ann, who was born from a relationship with Paul, her sole universal heir.

Maria then married George and together they made an *unica charta* wherein they nominated each other universal heirs. They eventually had 3 children, Joe, Vicky and Virgil. Months later, Maria made a secret will behind her husband's back and bequeathed a sum of money and a garage to her daughter Ann.

Eventually, Maria and George donated a plot of land to Virgil in anticipation of his future marriage to Carmen and over which he constructed his future matrimonial home.

Maria has now died and George remarries Tania. He revoked all his wills and nominated Tania, his second wife as his sole heir.

George has now also died and although Joe renounced to his father's inheritance, he reserved all rights to his legitim, which right he utilised to withhold his consent to the sale of property emanating from his father's estate.

Years later Virgil, who had then married Carmen, also died childless.

Discuss the legal principles and issues involved towards a correct partition of the estates of Maria, George and Virgil under the law of succession before the 2004 amendments.



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# CRIMINAL PROCEDURE

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
M.A. ADVOCACY & LL.D II

CRL5008 – CRIMINAL PROCEDURE 1

DATE: MONDAY 16<sup>TH</sup> JANUARY 2017

READING AND NOTING TIME: 1:00PM – 1:05PM

DURATION OF EXAMINATION: 1:05PM – 3:05PM

Writing is permitted during the Reading and Noting time.

Answer a total of two questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

1(a) Carefully examine the instances when Members of the Executive Police can perform an arrest in terms of the Maltese Criminal Code. Clearly identify the instances when an arrest can be effected with a warrant and those instances when an arrest can be executed without a warrant. (80%)

AND

1(b) Briefly explain the instances where an inquiry relating to the *in genere* should be conducted (20%)

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2(a) Analyze in detail the cases in which the Executive Police may proceed *ex officio* and the cases in which the complaint of the private party is requisite. (80%)

AND

2(b) How is jurisdiction between the Court of Magistrates (Malta) and the Court of Magistrates (Gozo) determined? (20%)

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3(a) Carefully explain the various options available to the Attorney General upon receiving the record of the inquiry from the Court of Magistrates as a court of criminal inquiry. (80%)

AND

3(b) What can witnesses testify upon during any criminal trial. Distinguish between the notions of 'competency' and 'compellability' of witnesses, giving examples. (20%)

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4(a) Analyse the circumstances where the Court of Magistrates as a court of criminal judicature may determine the merits of the case. (80%)

AND

4 (b) What can serve as obstacles to the exercise of the criminal action? (20%)

University of Malta  
Faculty of Laws

LL.D.II / M.A. (Adv.)

CRL5008 – Criminal Procedure I

Friday 1<sup>st</sup> September 2017

Duration of Examination: 10.00am to 12.05pm

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Answer a total of two questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

1(a) In what circumstances can a search on a person be executed by a member of the Executive Police under Maltese law? What types of searches can be performed on a person and what are the formalities to be followed according to law in each case? (80%)

AND

1(b) How is interruption of prescription achieved in Maltese Law of Criminal Procedure (20%)

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2(a) The exercise of the criminal action can be stopped either due to obstacles to its institution or due to causes of its extinction. Please comment. (80%)

AND

2(b) What is a *repertus*? (20%)

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3(a) Explain in detail the circumstances in which samples can be taken from a person suspect by members of the Executive Police under our law in the course of a criminal investigation? What classification does the law provide for samples and what formalities are to be followed according to law in each case? (80%)

AND

3(b) Can the Attorney General issue a warrant of arrest against a person discharged by the Court of Magistrates? (20%)

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4 (a) What are the powers of the Court of Magistrates as a court of criminal inquiry? (80%)

AND

4 (b) Are the criminal action and the civil action exercised independently of one another? (20%)

**University of Malta  
Faculty of Laws**

**CRL5008 – Criminal Procedure 1**

**Date: Tuesday 23rd January, 2018**

**Duration of Examination: 8.30 AM- 10.35AM**

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Answer a total of two questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

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1(a) Carefully analyse the rules governing prescription with reference to articles 687 to 694 of the Criminal Code. (80%)

AND

1(b) What are the grounds that lead to the suspension of the term for the criminal inquiry (20%)

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2(a) Carefully distinguish between the notions of “competence” and “compellability” when dealing with ordinary witnesses. Who may be called as a witness in a criminal trial? What evidence may witnesses give in a criminal trial? What is the difference between an ordinary witness and an expert witness? (80%)

AND

2(b) What are the pre-requisites for an inquiry relating to the “in genere” and who, according to law, may lodge *notitia criminis* that could lead to such an inquiry? (20%)

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3(a) Analyse the functions and powers of the Court of Magistrates as a Court of Criminal Judicature (80%).

AND

3(b) Briefly distinguish the notion of admissibility from the notion of relevance giving examples of each. Discuss briefly whether illegally obtained evidence is admissible in a Court under our law. (20%)

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4(a) The Criminal Code states that the criminal action is essentially a public action. Does this mean that proceedings may be instituted "ex officio" by the Executive Police in all cases? (80%)

AND

4 (b) Right short notes on the following:

(i) The Right to Silence of the Person Arrested;

(ii) The Best Evidence Rule

(iii) The relevance of expert witnesses in judicial proceedings.

(iv) Taking of intimate samples under our law. (20%)

University of Malta  
Faculty of Laws  
SEPTEMBER 2018 EXAMINATIONS

CRL5008 – CRIMINAL PROCEDURE 1

Date: WEDNESDAY, 12<sup>TH</sup> SEPTEMBER 2018

Duration of Examination: 8.30 AM – 10.35 AM

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: Choose any TWO of the following questions:

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1(a) Explain the procedure followed before the Court of Magistrates as a court of criminal inquiry following arraignment of a person under arrest (80%)

AND

1(b) Write short notes on any three (3) of the following: (20%)

- i. what constitutes a confession in a criminal trial? What is the effect of such confession as with regard to the accused himself and other co-accuseds in a criminal trial.
- ii. The admissibility or otherwise of illegally obtained evidence;
- iii. The appointment and relevance of expert witnesses in criminal proceedings;
- iv. The application of the 'rule of best evidence' in criminal proceedings.

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2(a) Examine in detail the nature of the criminal action (80%)

AND

2(b) What are the *sine qua non* requirements for judgments delivered by the Court of Magistrates as a court of criminal judicature? (20%)

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3(a) Inquiries relating to the *in genere* have been described as a good way to collect and preserve evidence. Comment on this statement (80%)

AND

3(b) Does Maltese Law make a distinction between admissibility of evidence and relevance of evidence during the course of a criminal trial? (20%).

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4(a) Define the term "arrest". ~~Under~~ what circumstances are members of the executive police justified in performing an arrest? (80%)

AND

4(b) Explain the difference between interruption and suspension of prescription (20%)



University of Malta  
Faculty of Laws  
January/February 2019 Examination Session

**CRL5008 CRIMINAL PROCEDURE 1**

**Date:** Monday 28th January 2019

**Duration of Examination:** 8.30AM - 10.35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer a total of **TWO (2)** questions. Both parts (a) and (b) of each of the **TWO (2)** questions have to be answered.

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1. Answer both the below:

- (a) The traditional distinction between the criminal action and the civil action has become very blurred thanks to legal developments taking place over the past few years. Discuss this statement by specific reference to Maltese Law of Criminal Procedure. (80 marks)
- (b) In what circumstances may a person not being the Attorney-General or a police officer request the holding of an Inquiry relating to the *In Genere*. (20 marks)

2. Answer both the below:

- (a) (80 marks)
  - i. What constitutes an "arrest" under Maltese law?
  - ii. In what circumstances are members of the Executive Police justified in performing an arrest?
  - iii. Examine whether private persons can perform an arrest.
- (b) What are the defects in the record of the inquiry that could lead to the annulment of the bill of indictment? (20 marks)

3. Answer both the below:

- (a) Analyse in detail the scope and powers of the Court of Magistrates as a court of criminal inquiry according to Maltese Law and Court Judgments. (80 marks)
- (b) Explain the "*best evidence rule*" as it developed in the Law of Evidence of Malta and how does it apply to documents in criminal trials. (20 marks)

4. Answer both the below:

- (a) Act XIII of 2018 entitled *Gender-based Violence and Domestic Violence Act* brought about significant changes, not only in relation to matters touching domestic violence but also to the very essence of when proceedings can be instituted *ex officio* by the Executive Police and when offences can be prosecuted on the complaint of the injured / private party. Analyse and comment in detail the truthfulness or otherwise of this statement. (80 marks)
- (b) Distinguish the notions of "*compellability*" and "*competence*" when dealing with witnesses according to Maltese Law of Criminal Procedure. (20 marks)

University of Malta  
Faculty of Laws

September 2019 Examination Session

CRL5008 CRIMINAL PROCEDURE 1

Date: Monday 2nd September 2019 Duration of Examination: 10:00AM – 12:05PM

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**INSTRUCTIONS TO STUDENTS:**

Answer a total of **TWO (2)** questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

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1. Answer both of the below:
  - (a) Carefully examine the position of the accused in a criminal trial. When does the accused give evidence in a criminal trial? Can a person accused be forced to give evidence in trial? Can a person accused who decided to give evidence in court avail himself from the right of non-self incrimination? (80%)
  - (b) How can prescription be interrupted according to Maltese Law of Criminal Procedure? (20%)
2. Answer both of the below:
  - (a) Explain what is meant by "obstacles" to the exercise of the criminal action and what are deemed to be the "causes of extinction" of the criminal action. (80%)
  - (b) What constitutes a confession in a criminal trial? What is the effect of such confession with regard to the accused himself and other co-accuseds in a criminal trial? (20%)
3. Answer both of the below:
  - (a) Explain the competences exercised by the Court of Magistrates as a court of criminal judicature. (80%)
  - (b) In which circumstances can an ordinary citizen perform a lawful arrest? (20%)
4. Answer both of the below:
  - (a) Explain when and how samples can be taken from a suspect by members of the Executive Police during the course of criminal investigations and describe the respective formalities that are to be followed in order for samples to be taken. (80%)
  - (b) Can a court of criminal jurisdiction award damages to a victim of a criminal offence? (20%)

UNIVERSITY OF MALTA

FACULTY OF LAWS

M. A. ADVOCACY / LL.D. II

JUNE 2017

CRL5009-CRIMINAL PROCEDURE 2

DATE: MONDAY, 29<sup>TH</sup> MAY 2017

TIME : 10.00AM-12.05PM

Answer a total of two questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

1(a) Explain in detail which preliminary pleas may be raised by the accused upon receiving the bill of indictment, specifying the specific stages of the proceedings when such pleas can be raised. (80%)

AND

1(b) Discuss in which cases Maltese law of criminal procedure allows appeals from interlocutory decrees. (20%)

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2(a) Explain the procedure governing trials by jury and the powers that the law reserves for jurors during such trials. (80%)

AND

2(b) What is meant by supplemental powers of the Court of Criminal Appeal in its superior jurisdiction? Explain by reference to the articles of the Criminal Code dealing with such powers. (20%)

-----

3(a) Examine Maltese law regulating the bill of indictment in detail. (80%)

AND

University of Malta  
Faculty of Laws

Bachelor of Laws (Honours)

CRL5009 – Criminal Procedure 2

Tuesday 12<sup>th</sup> September 2017

Duration of Examination: 10.00am to 12.05am

Answer a total of two questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

1(a) Explain in detail the procedure to be followed when an appeal is lodged from judgments of the Criminal Court on preliminary pleas. (80%)

AND

1(b) How does Maltese Law regulate sentence bargaining? (20%)

2(a) Explain the procedure before the Criminal Court from the moment a bill of indictment is filed till the moment when (assuming that preliminary pleas were raised) preliminary pleas are determined (80%)

AND

2(b) Can the Attorney General file for references before the Court of Criminal Appeal? (20%)

3(a) What are the powers of the Court of Criminal Appeal (Superior Jurisdiction) in ordinary cases and in special cases? (80%)

AND

3(b) What is the position where the accused takes the witness stand to testify? (20%)

4 (a) Analyse in detail when can the Attorney General appeal from judgments delivered by the Court of Magistrates (80%)

4 (b) Does an injured party have rights of audience or submissions before the Criminal Court? (20%)

University of Malta  
Faculty of Laws

CRL5009 – Criminal Procedure 2

Date: MONDAY 28<sup>TH</sup> MAY 2018

Duration of Examination: 4.00PM – 6.05PM

Answer a total of two questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

1(a) Who is allowed a right of appeal from judgments delivered by the Court of Magistrates as a court of criminal judicature and in what instances may such an appeal be filed? (80%)

AND

1(b) Explain the functions of the jury and the powers granted to the jury according to Article 467 of the Criminal Code? (20%)

-----

2(a) Analyse the role and powers of the Attorney General in Maltese Law of Criminal Procedure (80%)

AND

2(b) Briefly explain when new evidence is allowed before the Court of Criminal Appeal in its so-called superior jurisdiction. (20%)

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3(a) Analyse in detail the law regulating preliminary pleas according to the Maltese Criminal Code. (80%)

AND

3(b) What are the formalities regulating an appeal application from a judgment delivered by the Court of Magistrates as a court of criminal judicature. (20%)

-----

4 (a) Assess the law regulating the bill of indictment in Maltese Law of Criminal Procedure. (80%)

AND

4 (b) In which circumstances may the Attorney General appeal from judgments delivered by the Criminal Court after the conclusion of a trial by jury. (20%)

**University of Malta**  
**Faculty of Laws**  
**SEPTEMBER 2018 EXAMINATIONS**

**CRL5009 – CRIMINAL PROCEDURE 2**

**Date: FRIDAY, 14<sup>TH</sup> SEPTEMBER 2018**

**Duration of Examination: 8.30 AM – 10.35 AM**

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CHOOSE ANY TWO OF THE FOLLOWING QUESTIONS:

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1(a) Explain in detail the procedure to be followed when an appeal is lodged from judgments delivered by the Criminal Court convicting the person accused. (80%)

AND

1(b) What is the constitution of the Criminal Court and what are its attributions and powers? (20%)

-----

2(a) Explain in detail what are the options available to an accused person who receives a bill of indictment. (80%)

AND

2(b) Briefly explain what is the introductory speech of the Attorney General, at a trial by jury and at which stage of the proceedings is this made. ( 20%)

-----

3(a) Examine the powers of appeal from judgments delivered by the Courts of Magistrates granted to the Attorney General (80%)

AND

3(b) When can amendments to the bill of indictment be made? (20%)

-----  
4 (a) Examine the procedure that is followed before the Criminal Court after that an accused person pleads to the general issue of guilty or not guilty. (80%)

AND

4 (b) Explain the procedure that needs to be adopted for the challenge of a judge or magistrate. (20%)



University of Malta  
Faculty of Laws

June 2019 Examination Session

CRL5009 CRIMINAL PROCEDURE 2

Date: Wednesday, 5th June 2019

Duration of Examination: 5:00PM – 7:05PM

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**INSTRUCTIONS TO STUDENTS:**

Answer a total of **TWO (2)** questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

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1. Answer both of the following:

- (a) Make a thorough analysis of the law regulating the bill of indictment. (80%)

**AND**

- (b) Explain what is the prerogative of mercy in terms of Article 515 of the Criminal Code. (20%)

2. Answer both of the following:

- (a) Examine in detail the various powers granted by law to the Court of Criminal Appeal in its Superior Jurisdiction. (80%)

**AND**

- (b) What are the functions of a trial judge in the Criminal Court? (20%)

3. Answer both of the following:

- (a) Explain what preliminary pleas may be raised by the accused following receipt of a bill of indictment. (80%)

**AND**

- (b) Explain the law regulating appeals from interlocutory decrees according to article 415 of the Criminal Code. (20%)

4. Answer both of the following:

- (a) In which circumstances may the Attorney General appeal from judgments delivered by the Court of Magistrates? (80%)

**AND**

- (b) Briefly explain the role of the jury during the course of a trial by jury. (20%)

**University of Malta  
Faculty of Laws**

**September 2019 Examination Session**

**CRL5009 CRIMINAL PROCEDURE 2**

**Date:** Monday, 9th September 2019    **Duration of Examination:** 10:00AM –12.05 PM

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**INSTRUCTIONS TO STUDENTS:**

Answer a total of **TWO ( 2 )** questions. Both parts (a) and (b) of each of the two chosen questions have to be answered.

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1. Answer both the below:
  - (a) Explain in detail the procedure to be followed when an appeal is lodged from judgements delivered by the Court of Magistrates. (80%)
  - (b) Briefly explain the scope and content of the address of the Attorney General during a trial by jury. (20%)
  
2. Answer both the below:
  - (a) Examine the procedure that is followed before the Criminal Court during the course of a trial by jury. (80%)
  - (b) What amendments can be made to the bill of indictment and at which stage of the proceedings can these be carried out? (20%)
  
3. Answer both the below:
  - (a) Examine in detail the procedures to be followed when appeals are lodged from judgments delivered by the Criminal Court. (80%)
  - (b) Explain the Constitution of the Criminal Court, its attributes and powers. (20%)
  
4. Answer both the below:
  - (a) Examine in detail what are the options available to an accused person after he receives a bill of indictment. (80%)
  - (b) When can judges and magistrates be challenged by the accused person? (20%)



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FACULTY OF LAWS  
DEPARTMENT OF CRIMINAL LAW  
JUNE/JULY 2020 EXAMINATION SESSION

CRL5011 LAW OF CRIMINAL PROCEDURE

THURSDAY, 18<sup>th</sup> JUNE 2020

Examination time: 8:30am – 11:30am + 60 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone : 2340 3251; 2340 3688

Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

## INSTRUCTIONS TO STUDENTS:

Answer a total of THREE questions: TWO questions from Section I AND ALL the questions in Section II

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### SECTION I (Total 60%)

(Answer any **TWO** questions)

1. Compare and contrast the procedures applicable in the case of inquiries relating to the in genere and compilation proceedings before the Court of Magistrates as a court of criminal inquiry. (30 marks)
2. How do proceedings before the Court of Magistrates as a court of criminal judicature differ from proceedings in a trial by jury before the Criminal Court? (30 marks)
3. Explain in detail the difference between proceedings instituted and conducted by the Executive Police, either *ex officio* or on the complaint of the injured party, and proceedings conducted by the injured party or someone on his behalf. (30 marks)
4. Carefully examine the instances when members of the Executive Police can perform an arrest under Maltese Law.
  - i. In particular distinguish between arrests with a warrant, arrests which can be performed without a warrant and the general conditions for an arrest. (10 marks)
  - ii. Briefly describe the manner in which a police officer can physically or morally arrest a person. (10 marks)
  - iii. What rights and duties do the Police have upon the arrest of a person? (10 marks)

### SECTION II (Total 40%)

Your client was accused of wilful homicide. In late 2017 the jurors returned a guilty verdict, yet stated that the commission of the offence was excusable since he had acted in self-defence, but had exceeded the limits imposed by law, by the authority or by necessity. Following this verdict the Criminal Court sentenced your client to a term of five years imprisonment.

After discussing the matter with your client, it was decided that no appeal against the sentence would be entered. However, after a few days, your client was notified with an appeal entered by the Attorney General. The Attorney General has three grievances: firstly he claims that your client was wrongly convicted on the facts of the case; secondly he claims that the Criminal Court had interpreted or applied the law wrongly; and, thirdly, he claims that the punishment meted out was too lenient.

The first hearing before the Court of Criminal Appeal in its superior jurisdiction was held in late 2019. You raised the preliminary plea that the Attorney General's right of appeal at the time of appealing only allowed him to appeal from the verdict and did not allow him to appeal from the sentence. Moreover, you stated that the Attorney General has no right of appeal from a wrong conviction of the facts.

In the meantime, it was minuted and agreed by the parties that the Attorney General's right of appeal must be seen in the light of the law as it stood at the time of his filing the appeal, i.e. late 2017, and the amendments introduced in the Criminal Code by Act XXXII of 2018 are not applicable to the case.

Prior to proceeding further, the Court of Criminal Appeal has ordered that you file a written reply in which you must, explain the following:

- (i) the Attorney General's right of appeal from a verdict of the jurors and sentence of the Criminal Court as it evolved through amendments starting from Act III of 2002 to date; (20 marks)
- (ii) the difference between a verdict and a sentence; (5 marks)
- (iii) the Attorney General's right of appeal from a wrong conviction on the facts; (5 marks)
- (iv) the Attorney General's right of appeal from a wrong interpretation or application of the law; (5 marks) and
- (v) the Attorney General's right of appeal from the punishment given by the Criminal Court. (5 marks)



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FACULTY OF LAWS  
DEPARTMENT OF CRIMINAL LAW  
SEPTEMBER 2020 EXAMINATION SESSION

CRL5011 Law of Criminal Procedure

Monday, 14<sup>th</sup> September, 2020

Examination time: 8:30AM – 11:30AM + 60 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone : 2340 3251; 2340 3688

Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)

*Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.*

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

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**INSTRUCTIONS TO STUDENTS:**

Answer a **total** of **THREE** questions: **TWO** questions from Section I **AND ALL** the questions in Section II

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**SECTION I (Total 60%)**

**(Answer any TWO questions)**

1. Analyse in detail the role and powers of the Attorney General in relation to proceedings before the Courts of Magistrates and in proceedings before the Criminal Court. (30 marks)
2. Explain in detail the procedures to be followed before the Court of Magistrates (in its jurisdiction as a court of criminal judicature; and as a court of criminal inquiry, as the case may be), upon arraignment of suspected person. (30 marks)
3. Analyse the difference in Maltese Law of criminal procedure between the charge sheet filed by the Executive Police before the Court of Magistrates and the bill of indictment before the Criminal Court – with particular reference to if, when and how any mistakes in these documents can be rectified, and at which stage of the proceedings. (30 marks)
4. Write short notes on the following:
  - i. What documents can be presented in court as evidence and what rules govern the admissibility of documents in trial? (15 marks)
  - ii. What is hearsay evidence. Is hearsay evidence admissible as evidence any criminal trial? (15 marks)

**SECTION II (Total 40%)**

Your client was acquitted by the Court of Magistrates of the offences of slight bodily harm (article 221 of the Criminal Code) and simple theft (article 285 of the Criminal Code). Some weeks later he was served with two appeal applications. One of the appeal applications was lodged by the Attorney General and the other was entered by the *parte civile*. The prosecution before the Court of Magistrates was conducted by the Executive Police, in the name of the same Executive Police. The reason for the acquittal of the first charge was due to lack of evidence whereas the reason for the acquittal of the second charge was due to prescription. Both appeal applications contain grievances (grounds of appeal) from the acquittal of both charges.

During the first hearing before the Court of Criminal Appeal you raised the following pleas:

- the Attorney General has no right of appeal from the acquittal of the charge of slight bodily harm given that such acquittal came as a result of the Court of Magistrates' evaluation of the evidence;
- the *parte civile* has no right of appeal from the judgment of the Court of Magistrates;
- the criminal action for the offence of simple theft was time-barred by the lapse of two years.

The Court of Criminal Appeal has requested you to file a note explaining, in relation to your three (3) pleas, the following:

- i. the Attorney General's right of appeal from a judgment of the Court of Magistrates in general as well as with particular reference to the two charges of which your client has been acquitted (15 marks);
- ii. the *parte civile's* right of appeal from a judgment of the Court of Magistrates in general as well as with particular reference to the two charges of which your client has been acquitted (15 marks);
- iii. the prescriptive period for the offence of simple theft (10 marks).





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# Advanced Issues in the Law of Civil Procedure

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
MA ADVOCACY / MA NOTARIAL STUDIES / LL.D.II  
MAY/JUNE 2017 EXAMINATIONS

CVL5034 ADVANCED ISSUES IN THE LAW OF CIVIL PROCEDURE

DATE: MONDAY 5<sup>TH</sup> JUNE 2017

DURATION OF EXAM: 10.00AM TO 12.05PM

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Answer **one question from each section**, to make **two questions** in all. Each question carries 50 marks in all. Use a **separate booklet for each question**. Reference to decided cases enhances your answer.

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**SECTION A**

- 1) Answer *both* of the following sub-questions:
    - a. Art. 396 Cap. 12 provides that it is lawful for a defendant to set up a counter-claim against the plaintiff, provided that there is a connection with the claim of the plaintiff. Examine this provision. (30 Marks)
    - b. Briefly explain the rules regulating proceedings against the Government (20 Marks)
  
  - 2) Analyse:
    - a. The precautionary warrant of prohibitory injunction (35 Marks)
    - b. The object of a protest (15 Marks)
- 

**SECTION B**

- 3) 'The proof by means of a referee or referees is ordered on the demand of the parties or one of them or by the court of its own motion' (Art. 644 Cap.12). Discuss the role of referees in civil proceedings, illustrating by appropriate references to jurisprudence. (50 Marks)
  
  - 4) Write notes on *two* of the following topics:
    - a. Privileged communications *and* the rule of evidence as to signatures or marks (25 Marks)
    - b. Hearsay evidence. (25 Marks)
    - c. The procedure to be followed when any superior court requires the evidence of a person *who is absent from Malta and is residing abroad*. (25 marks)
-

**University of Malta**  
**Faculty of Laws**

**CVL5034 – Advanced Issues in the Law of Civil Procedure**

Date: Thursday, 7<sup>th</sup> September, 2017

Duration of Examination: 10.00am-12.05pm

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*(Instructions to students).*

Answer **one question from each section**, to make **two** questions in all. Each question carries 50 marks in all. Use a **separate booklet** for each question. References to jurisprudence enhance your answer.

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**SECTION A**

1. Consider:
    - a. The Executive Garnishee Order. (35 marks)
    - b. The case of death 'pendente lite' of any party to a suit. (15 marks)
  
  2. Discuss:
    - a. Any two grounds giving rise to a new trial (30 marks)
    - b. Jactitation suits (20 marks)
- 

**SECTION B**

3. 'The proof by means of a referee or referees is ordered on the demand of the parties or one of them or of the court' (Section 644 of Chapter 12). Discuss the role of the referee in civil proceedings; illustrating by jurisprudence where appropriate. (50 marks)
  
  4. Write notes on TWO of the following:
    - a. Privileged communications and the rules of evidence as to signatures or marks. (25 marks)
    - b. Hearsay Evidence. (25 marks)
    - c. The procedures to be followed when any superior court requires the evidence of a person who is absent from Malta and is residing abroad. (25 marks)
-

**University of Malta**  
**Faculty of Laws**  
**May/June 2018 Examinations**

**CVL5044 – The Law of Civil Procedure**

Wednesday 13<sup>th</sup> June 2018

Duration of Examination: 8:30 am to 11.35am

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**INSTRUCTIONS TO STUDENTS:**

Answer **ANY THREE (3) QUESTIONS FROM THE FIVE (5) QUESTIONS. EACH QUESTION ON A DIFFERENT SCRIPT.** Each question carries 33 marks in all, with one mark awarded on an *ex gratia* basis. You are expected to cite relevant jurisprudence and doctrine where appropriate.

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1. Answer **both** these sub-questions:
  - a. Examine any single precautionary warrant. (17 marks)
  - b. Advise your client on an error of expression in a judgement. (16 marks)
  
2. Examine the underlying rationale and principles relating to the doctrine of *contumacia*. (33 marks)
  
3. The Code of Organization and Civil Procedure regulates matters such as the admissibility of the parties to a suit or of the husband and wife of a party to a suit to give evidence, and obtaining the evidence of witnesses residing in another country. Discuss. (33 marks)
  
4. Answer **both** these sub-questions:
  - a. Discuss the institute of reconvention. (17 marks)
  - b. Distinguish between intervention and joinder of parties. (16 marks)
  
5. Write notes about **two** of the following:
  - a. Hearsay evidence; (16.5 marks)
  - b. Challenging a referee and the appointment of additional referees; (16.5 marks)
  - c. The production of documents which are in the possession of other persons. (16.5 marks)

**University of Malta**  
**Faculty of Laws**  
**September 2018 Examinations**

**CVL5044 – The Law of Civil Procedure**

**Date:** Wednesday 12<sup>th</sup> September 2018

**Duration of Examination:** 8:30 am to 11.35am

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**INSTRUCTIONS TO STUDENTS:**

Answer **ANY THREE (3) QUESTIONS FROM THE FIVE (5) QUESTIONS. EACH QUESTION ON A DIFFERENT SCRIPT.** Each question carries 33 marks in all, with one mark awarded on an *ex gratia* basis. You are expected to cite relevant jurisprudence and doctrine where appropriate.

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1. (a) It has been said that the situation regarding appeals from decrees is today streamlined.  
Comment. (22 marks)  
(b) Examine briefly and from a procedural standpoint the notion of judicial review of administrative action. (11 marks)
2. (a) Discuss the topic of judicial sales by auction (22 marks)  
(b) When is the filing of a judicial letter advisable? (11 marks)
3. 'Notwithstanding changes upon changes, the doctrine of juridical interest has retained its essential relevance and validity, and has responded by evolving with the changing times.'  
How far would you agree? (33 marks)
4. According to section 562: 'saving any other provision of the law, the burden of proving a fact shall, in all cases, rest on the party alleging it.' Show how the Maltese Courts have dealt with this section. (33 marks)
5. Writes on two of the following:
  - (a) Privileged communications (16.5 marks)
  - (b) Rules of evidence as to signatures or marks or and modes of proving handwriting (16.5 marks)
  - (c) Direct questions and the cross examination of witnesses (16.5 marks)

University of Malta  
Faculty of Laws

June 2019 Examination Session

CVL5044 THE LAW OF CIVIL PROCEDURE

Date: Saturday 1st June 2019

Duration of Examination: 8:30AM-11:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ANY THREE (3) QUESTIONS FROM THE FIVE (5) QUESTIONS.**

Answer **EACH QUESTION ON A DIFFERENT SCRIPT.** Each question carries 33 marks in all, with one mark awarded on an *ex gratia* basis. You are expected to cite relevant jurisprudence and doctrine where appropriate.

---

1. In certain cases it may be necessary to obtain the evidence of a person who resides abroad. In particular, one may have to rely on letters of request or on evidence by affidavit. Explain the provisions of the law dealing with these two procedures. (33 marks)
  
2. The objective of civil procedure is to ascertain a final incontrovertible result, which cannot be challenged or disputed any further. Evaluate, in this context, the role of juridical interest. (33 marks)
  
3. Art. 229 of Cap.12 introduced a new framework for appeals from decrees. Can it be said that the situation has now improved, or is it the case that despite all good intentions the situations is still not satisfactory? (33 marks)
  
4. Write notes on **TWO** of the following (a & b OR a & c OR b & c):
  - (a) **Answer all three parts of the question appearing below:**
    - i. The contents of the report of a referee appointed by the court; (5 marks)
    - ii. State whether the court is bound by the report of the referee; (5 marks)
    - iii. The exceptional cases when reference is permitted before the appellate court. (6.5 marks)
  
  - (b) **Answer both parts of the question appearing below:**
    - i. Hearsay Evidence (8 marks)
    - ii. Dying Declarations (8.5 marks)

(c) Answer both parts of the question appearing below:

- i. Proof by admission; (8 marks)
- ii. Evidence by a reference to the oath of the defendant and of the plaintiff (8.5 marks)

5. Examine:

- (a) Executive titles other than judgements and decrees (21 marks)
- (b) The warrant '*in factum*' (12 marks)

University of Malta  
Faculty of Laws

September 2019 Examination Session

CVL5044 THE LAW OF CIVIL PROCEDURE

Date: Friday 13th September 2019

Duration of Examination: 8:30AM-11:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ANY THREE (3) QUESTIONS FROM THE FIVE (5) QUESTIONS.**

Answer **EACH QUESTION ON A DIFFERENT SCRIPT.** Each question carries 33 marks in all, with one mark awarded on an *ex gratia* basis. You are expected to cite relevant jurisprudence and doctrine where appropriate.

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1. 'In the Law of Evidence documents play a very important role'. How far do the words between inverted commas reflect what the Code of Organization and Civil Procedure says in sections 627 to 643, in the sub-titles concerning "Of Documentary Evidence" and "Of the Demand for the Production of Documents?" (33 marks)
2. Consider the notion of Special Summary Proceedings under art.167 et of Cap.12. (33 marks)
3. Which are the requirements of *res judicata*? (33 marks)
4. Write notes on **TWO** of the following:
  - (a) Privileged Communications (16.5 marks)
  - (b) The burden of proof (16.5 marks)
  - (c) The evidence of a person residing abroad (16.5 marks)
5. Examine:
  - (a) the precautionary garnishee order (25 marks)
  - (b) discontinuance of a case (8 marks)





# Advanced EU Law Procedure

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
MASTER IN ADVOCACY & LL.D III Year  
JANUARY 2017 EXAMINATIONS

EXAMINATION: ECL5069 ADVANCED EU LAW OF PROCEDURE

Date: Friday, 27<sup>th</sup> January 2017

Reading and Noting time: (8.30 a.m. to 8.35 a.m.)  
Time of Examination: (8.35 a.m. to 10.35 a.m.)

Writing is permitted during the Reading and Noting time.

ANSWER ANY TWO QUESTIONS. EACH QUESTION CARRY EQUAL MARKS.

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1. Discuss the nature of a preliminary reference (Article 267 TFEU), referring to the Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings (2012 /c 338/01 adopted on 25 September 2012).

2. Describe and discuss the process of how one can lodge a direct action before the Court of Justice or the General Court.

3. There are a number of special forms of procedure before the union Courts, which include interim measures, garnishee orders, the contractual liability of the Union, among others.

Describe and discuss the purpose and core special characteristics of the TWO special forms of procedure.

4. Pursuant to Article 118 TFEU, creation and protection of European Intellectual Property (IP) rights is a vital component of the Internal Market.

Discuss procedural issues and special characteristics that apply to IP litigation.

END OF PAPER

UNIVERSITY OF MALTA

FACULTY OF LAWS

ECL5069 - ADVANCED EU LAW OF PROCEDURE

Friday 8th June 2018

Duration of Examination - 8.30AM - 10.35AM

**ANSWER ANY TWO QUESTIONS. EACH QUESTION CARRY EQUAL MARKS.**

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1. The Preliminary Ruling is an instrument that facilitates cooperation between the national courts in EU Member States and the Court of Justice of the European Union. In which instances can a request for a preliminary ruling be triggered and how does the procedure work referring to the Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings? (2012 /c 338/01 adopted on 25 September 2012).
  
2. Describe and discuss the process of how one can lodge a direct action before the Court of Justice or the General Court.
  
3. Compare and contrast the core differences in jurisdiction, procedure and composition of the two Union courts: the Court of Justice and the General Court.
  
4. Pursuant to Article 118 TFEU, creation and protection of European Intellectual Property (IP) rights is a vital component of the Internal Market.

Discuss procedural issues and special characteristics that apply to IP litigation.

END OF PAPER

UNIVERSITY OF MALTA

FACULTY OF LAWS

LCLE066 - ADVANCED EU LAW OF PROCEDURE

Monday 10th September 2018

Duration of Examination - 8.30 AM - 10.35 AM

**ANSWER ANY TWO QUESTIONS. EACH QUESTION CARRY EQUAL MARKS.**

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1. Briefly illustrate the main procedural rules to be followed in filing a direct action with Court of Justice of the European Union.
2. Discuss and describe the oral and written procedure before the CJEU.
3. There are a number of special forms of procedure before the union Courts, which cover proceedings for interim measures, proceedings for authorization to serve a garnishee order on the Union, judgements pursuant to an arbitration clause or a special agreement, among others.

Describe and discuss the purpose and core special characteristics of the TWO special forms of procedure.

4. Discuss the purpose, the core special characteristics and the procedure in the case of appeals against decisions of the General Court.

END OF PAPER

University of Malta

Faculty of Laws

June 2019 Examination Session

**ECL5069 ADVANCED EU LAW OF PROCEDURE**

**Date:** Monday 17 June 2019

**Duration of Examination:** 10:00AM – 12:05PM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ANY TWO (2)** questions. All questions carries equal marks.

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1. Discuss and describe the formal and substantive requirements of a preliminary reference procedure.
2. Describe and discuss the process of how a case is filed with the Registry of the Court of Justice, how the case is assigned to a chamber, and how a case proceeds from then onwards.
3. Discuss in detail the present allocation of jurisdiction between the General Court and the Court of Justice.
4. Discuss procedural issues and special characteristics that apply to (a) Intellectual Property litigation and (b) matters relating to the area of Freedom, Security, and Justice.



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ta' Malta

**FACULTY OF LAWS  
DEPARTMENT OF EUROPEAN AND COMPARATIVE LAW  
JUNE/JULY 2020 EXAMINATION SESSION**

**ECL5069 ADVANCED EU LAW OF PROCEDURE**

**Tuesday, 23<sup>rd</sup> June 2020**

**Examination time: 08:30AM – 10:30AM + 60 extra minutes for uploading/downloading.**

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

**Telephone: 2340 3251; 2340 2786**

**Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)**

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

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## **Background – The Malta Metro story:**

Malta has long had traffic problems. Finally, TfM (Transport for Malta) has decided to opt to build a metro system in the Maltese islands, consisting of two lines, one running from the south of the island to the north towards Gozo, the other being a circle line across the outer/inner harbour regions calling at Valletta with two interchanges with the North-South line at Paola and at the Qormi/Hamrun area. TfM has decided to seek a consultancy with RATP (the Paris metro operator) about the design of the trains on the lines of rubber-tyred trains (*MP for matériel pneu*). These trains are also used in several metros around the world including Montreal and Toulouse. RATP's involvement is limited to the design of the trains and the other equipment to be used in the project.

TfM, through state support, decided to apply for indirect (decentralised funds) EU funding. The two applicable funds are the European Regional Development Fund (ERDF) and the Cohesion Fund (CF). The first aims to promote investment and correct the main regional imbalances of the European Union. ERDF contributes to reducing the gap between the levels of development of the various regions and the extent to which the least favoured regions are lagging behind the EU average. The second the CF aims to strengthen the economic and social cohesion in the Union, in the interest of promoting sustainable development, particularly in the domains of trans-European transport networks and the protection of the environment. As this is indirect funding (decentralised funds), the EU funds are left in the hands of the Maltese state to be processed under the final supervision of the Court of Auditors. TfM was successful and was awarded Eur 20 billion in funding (70% EU funds, 30% local funds). The project started and is well advanced.

Following the end of the pandemic Covid-19, the European Commission decided that it was time to invest in the improvement of the mood of the European citizens. As a result, it decided to issue a EUR 500 million direct competition for ideas to lighten up the mood of EU citizens. TfM decided that this is a good opportunity to bid for the design of the Maltese metro stations to make commuting more pleasant. Malta's metro stations would include bright colours, Maltese natural, historical and archaeological landscapes, natural airconditioning, natural plantation and many others. These designs will enlighten the moods of the Maltese commuters after years of bumper to bumper commuting. The Maltese project won hands-down and TfM started designing the project on these lines. These are direct (centralised) funds which are directly administered through the European Commission.

Finally, the operation of the metro system was entrusted to a public state company in partnership with Berlin U-bahn and the operating company was called Malta Metro.

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### Questions

You have now qualified as a specialised railway litigation lawyer with excellent knowledge of EU procedures at the European Courts, international human rights and in EU law in general. Congratulations!

Having read and understood the background story above, several different clients are calling at your office, some accompanied by their own lawyer, to advise them about the way of how they should go about addressing their grievances. Please answer all ten short questions below, taking into consideration the applicable background information above.

Please note, all ten questions (and sub questions) below carry equal marks. Some are very easy; some require the application of your knowledge on EU procedure and may require more thinking than actual writing. Your advice to the parties and their lawyers (if it is the case), **should be limited to the procedural steps that need to be taken to address their grievances**. The objective of this exam is to test your knowledge of EU procedural law and not EU substantive law. So you do not need to know anything about EU law on railway transport and the like. Rather, you should focus on the EU procedural law issues. Please **write in brief respecting the word limit** per question as indicated. No marks are awarded for longer answers than the stated word count. Remember, clients have a lot to say, but not all info they give is relevant to address their needs!

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4. Having completed the M.Adv degree and the Malta bar exam, you successfully advise both the Valletta Metro Stations's architects' lawyer and the Maltese state who has intervened in the Dutch state's case to protect the Commission's project. You hit the jackpot of fame and become a guru on litigation involving European procedures. In its annual conference to be held in Bora Bora, the Internation Bar Association invites you to give a talk to distinguish between the jurisdiction of the courts that make up the CJEU. You have just 5 minutes to impress the 1,000 plus delegates, an international audience of leading legal practitioners from around the world. In 5 points explain the difference in the jurisdiction of the courts that make up the CJEU. (Max 400 words)

a) \_\_\_\_\_

\_\_\_\_\_

b) \_\_\_\_\_

\_\_\_\_\_

c) \_\_\_\_\_

\_\_\_\_\_

d) \_\_\_\_\_

\_\_\_\_\_

e) \_\_\_\_\_

\_\_\_\_\_





*[Faint, illegible text visible through the paper, appearing as bleed-through from the reverse side.]*









10. Your 6-year-old kid came singing Thomas the Tank engine when you were trying to understand the procedural implications that arose from the construction of the Malta Metro project. He looks at your notes and starts asking you simple questions about EU procedure law. You grab this opportunity to test your knowledge. How would you reply to these simple questions in the space provided?

a) What is the role of the Advocate General?

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b) How is the size of the court's chamber that hears the case determined?

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c) How many judges are there in each of the courts that make up the CJEU?

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d) What is e-curia?

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e) In which Member State is the Court of Justice of the European Union located?

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(Max 250 words)



# Corporate Re-Organisation and Liquidation

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [resources@ghsl.org](mailto:resources@ghsl.org)

UNIVERSITY OF MALTA  
LL.D. I & II YEAR (2013/2014)  
JANUARY 2014 SESSION

CML5036 – CORPORATE RE-ORGANISATION & LIQUIDATION  
FRIDAY 24 JANUARY 2014 2.15 – 4.15 PM

ANSWER ANY TWO (2) QUESTIONS. EACH QUESTION CARRIES EQUAL MARKS.  
ANSWER EACH QUESTION ON SEPARATE SCRIPTS.

1. Critically discuss the role of the Provisional Administrator in terms of the Companies Act (Cap. 386 Laws of Malta).
2. To what extent does the Companies Act (Cap. 386 Laws of Malta) deal with creditor protection in relation to the amalgamation, division and conversion of companies?
3. Examine "grounds of sufficient gravity" as a cause of dissolution of a company in terms of the Companies Act (Cap. 386 Laws of Malta) with particular reference to decided cases.
4. Does the Companies Act (Cap. 386 Laws of Malta) provide adequate creditor control mechanisms in its provisions dealing with a creditors' voluntary winding up?
5. Analyse the actions of wrongful trading and fraudulent trading in the light of the Price Club judgments delivered by the Maltese Courts.

UNIVERSITY OF MALTA  
LL.D. I & II YEAR (2013/2014)  
SEPTEMBER 2014 SESSION

CML5036 – CORPORATE RE-ORGANISATION & LIQUIDATION  
4 SEPTEMBER 2014 10.30 A.M. – 12.30 P.M.

ANSWER ANY TWO (2) QUESTIONS. EACH QUESTION CARRIES EQUAL MARKS.  
ANSWER EACH QUESTION ON SEPARATE SCRIPTS.

1. Analyse a company's inability to pay its debts as a cause of dissolution of a company, with particular reference to judgments delivered by the Maltese Courts.
2. What requirements must be satisfied in order for an action for wrongful trading to be properly instituted before the Maltese Courts in terms of the Companies Act (Cap. 386 Laws of Malta)?
3. Is a creditors' voluntary winding up process truly controlled by the creditors?
4. Discuss critically the role of the Liquidator in terms of the Companies Act (Cap. 386 Laws of Malta).
5. Does the Companies Act (Cap. 386 Laws of Malta) effectively provide for creditor protection in relation to the amalgamation, division and conversion of companies?

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.D. I & LL.D. II (2015/2016)

JANUARY 2016 EXAMINATIONS

EXAMINATION: CML5036 – Corporate Re-Organisation and Liquidation

DATE: Thursday 14<sup>th</sup> January 2016

READING TIME: 1.00pm to 1.05pm

DURATION OF EXAMINATION: 1.05pm to 3.05pm

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INSTRUCTIONS TO STUDENTS: CHOOSE ANY TWO OF THE FOLLOWING QUESTIONS.  
ANSWER EACH QUESTION ON SEPARATE SCRIPTS.

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1. Article 35 of the Companies Act (Chapter 386, Laws of Malta) lists the causes of dissolution of a partnership *en nom collectif*. What are they and how may such a partnership be wound up? (50 marks)
2. The Companies Act (Chapter 386, Laws of Malta) provides that a limited liability company may be dissolved and consequently wound up by an extraordinary resolution of the general meeting or by order of the court. For what causes would the court order dissolution? Describe any one of such causes of dissolution in detail. (50 marks)
3. Differentiate between a members' voluntary winding up and a creditors' voluntary winding up in terms of the Companies Act (Chapter 386, Laws of Malta). (50 marks)
4. In accordance with the relevant provisions of the Companies Act (Chapter 386, Laws of Malta) critically discuss the role of any one of the following in a winding up by the court:
  - a) The Provisional Administrator;
  - b) The Official Receiver; or
  - c) The Liquidation Committee. (50 marks)
5. Describe the functions, rights and duties of the liquidator in a winding up by the court in terms of the Companies Act (Chapter 386, Laws of Malta). (50 marks)

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.D. I & LL.D. II (2015/2016)

SEPTEMBER 2016 EXAMINATIONS

EXAMINATION: CML5036 – Corporate Re-Organisation and Liquidation

DATE: Monday 5<sup>th</sup> September 2016

READING TIME: 8.30am-8.35am DURATION OF EXAMINATION: 8.35am - 10.35am

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**INSTRUCTIONS TO STUDENTS:** CHOOSE ANY TWO OF THE FOLLOWING QUESTIONS.  
ANSWER EACH QUESTION ON SEPARATE SCRIPTS.

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1. Outline how the Companies Act, 1995 (Chapter 386, Laws of Malta) seeks to protect the interests of the creditors of the partnership and the interests of the partners themselves in the winding up of a partnership *en nom collectif*? **(50 marks)**
2. Article 214 of the Companies Act, 1995 (Chapter 386, Laws of Malta) sets out the causes of dissolution of a limited liability company. List all the causes mentioned therein and, in connection therewith, explain the terms “a company is unable to pay its debts” and “grounds of sufficient gravity”. **(50 marks)**
3. Who are the different officers and other functionaries that feature in a winding up by the court under the Companies Act, 1995 (Chapter 386, Laws of Malta). Describe any two of them in detail. **(50 marks)**
4. Assess the provisions on fraudulent and wrongful trading found in the Companies Act, 1995 (Chapter 386, Laws of Malta) with particular reference to judgments delivered by the Maltese Courts on the subject. **(50 marks)**
5. The company recovery procedure is regulated by article 329B of the Companies Act, 1995 (Chapter 386, Laws of Malta). Identify the objectives of and describe the process that is followed in such a procedure. **(50 marks)**



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
MA Advocacy

JANUARY 2017 SESSION OF EXAMINATIONS

EXAMINATION: CML 5036 – CORPORATE RE-ORGANISATION & LIQUIDATION

DATE: Monday 30th January 2017

DURATION OF EXAMINATION: 8.35 am - 10.35 am

READING & NOTING TIME: 8.30 am – 8.35 am

Writing is permitted during READING AND NOTING TIME.

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**INSTRUCTIONS TO STUDENTS:** ANSWER **TWO** OF THE FOLLOWING QUESTIONS. EACH QUESTION CARRIES EQUAL MARKS. ANSWER EACH QUESTION ON A SEPARATE SCRIPT.

1. The Companies Act (Cap 386) contemplates various rights and remedies to ensure creditor control in a creditors' voluntary winding up. Discuss.
2. A Director of a company facing serious financial difficulties has called you up in a panic as he is at a loss how to proceed. Advise the director what acts of commission or omission he should consider in order to minimise the risk of personal liability.
3. Outline the main similarities and differences between the action for fraudulent trading (Section 315 of the Companies Act, Cap 386) and the action for wrongful trading (Section 316 of the Companies Act, Cap 386).
4. Does the application of the *pari passu* principle in the exercise of ranking of claims effectively ensure creditor protection? Discuss this statement critically with particular reference to the relevant provisions of the Companies Act (Cap 386) relating to the ranking of creditors' claims.
5. Discuss "inability to pay one's debts" as a cause of dissolution of companies in the light of Section 214 of the Companies Act (Cap 386).

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**

**CML5036-CORPORATE RE-ORGANISATION AND LIQUIDATION**

**Date: Tuesday 30<sup>th</sup> January 2018**

**Duration of Exam: 8.30am to 10.35am**

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**INSTRUCTIONS TO STUDENTS: ANSWER TWO OF THE FOLLOWING QUESTIONS. EACH QUESTION CARRIES EQUAL MARKS. ANSWER EACH QUESTION ON A SEPARATE SCRIPT.**

1. Directors of companies in financial difficulties should act with utmost care in order to minimise the risk of personal liability. Discuss with particular reference to the acts of commission or omission directors of companies in financial difficulties should be particularly concerned with.  
**(50 marks)**
  
2. In a creditors' voluntary winding up, creditors are afforded ample remedies to protect themselves and recover, to the extent possible, amounts owing to them. Discuss.  
**(50 marks)**
  
3. Critically examine the development of "grounds of sufficient gravity" as a cause of dissolution of a company in accordance with the Companies Act (Cap. 386 of the Laws of Malta) with particular reference to leading judgments delivered by the courts.  
**(50 marks)**
  
4. Discuss the powers, functions and duties of the liquidator in a winding up by the court in terms of the Companies Act (Cap. 386 of the Laws of Malta).  
**(50 marks)**

5. Write short notes on any two of the following:

- (i) The objectives of an insolvency regime;
- (ii) The application of the *pari passu* principle in the exercise of ranking of claims;
- (iii) The main elements for an action for wrongful trading;
- (iv) The consequences of a Court winding up order.

**(50 marks)**

University of Malta  
Faculty of Laws

January/February 2019 Examination Session

**CML5036 CORPORATE RE-ORGANISATION AND LIQUIDATION**

**Date:** Monday 4<sup>th</sup> February 2019

**Duration of Examination:** 8:30AM-10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer any **TWO (2)** questions.

All questions carry equal marks.

Answer each question on a separate script.

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- 1) The Maltese insolvency regime provides creditors with wide ranging remedies against insolvent debtor companies. Discuss in the light of the Companies Act provisions relating to creditors voluntary winding up. (50 marks)
- 2) A corporate client of yours is facing serious financial difficulties and runs the risk of insolvency in the near future. Advise the directors on the main considerations they should bear in mind and some practical steps they should take in order to minimise the risk of personal liability. (50 marks)
- 3) Critically discuss the manner in which Maltese courts have interpreted and applied the provisions in the Companies Act, relating to a company's inability to pay its debts as a cause of dissolution of a company. (50 marks)
- 4) Examine the effectiveness of the *pari passu* principle in company law, with particular reference to the ranking of creditors of an insolvent company. (50 marks)
- 5) Write short notes on any **two** of the following (50 marks):
  - a. the liquidator;
  - b. the provisional administrator;
  - c. an action for fraudulent trading.

University of Malta  
Faculty of Laws

September 2019 Examination Session

**CML5036 CORPORATE REORGANISATION AND LIQUIDATION**

**Date:** Monday 2nd September 2019    **Duration of Examination:** 10:00AM – 12:05PM

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**INSTRUCTIONS TO STUDENTS:**

Answer any **TWO (2)** questions.

All questions carry equal marks.

Answer each question on a separate script.

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1. Outline the main differences between an action for fraudulent trading and wrongful trading.
2. Discuss the adequacy or otherwise of creditor control mechanisms and remedies in a creditors' voluntary winding up.
3. Write short notes on any **TWO (2)** of the following (50 marks):
  - (a) The official receiver
  - (b) The *pari passu* principle in the ranking of creditors
  - (c) The provisional administrator
4. Examine the powers and duties of the liquidator in a winding up by the Court in terms of the Companies Act.
5. Discuss critically the manner in which "grounds of sufficient gravity" as a cause of dissolution of a company has been interpreted and applied by the Maltese courts.

University of Malta  
Faculty of Laws

January 2020 Examination Session

**CML5036 CORPORATE RE-ORGANISATION AND LIQUIDATION**

Date: Friday 24 January 2020

Duration of Examination: 8:30AM – 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer any **TWO (2)** questions.

All questions carry equal marks.

Answer each question on a separate script.

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1. What are the differences between a creditors' voluntary winding up and a members' voluntary winding up. (50 marks)
2. Outline the main differences between an action for fraudulent trading and an action for wrongful trading. (50 marks)
3. Examine the roles of the Provisional Administrator and the Liquidator. (50 marks)
4. Analyse the causes of dissolution of a company, with particular reference to a company's inability to pay debts. (50 marks)
5. Write short notes on any two of the following (50 marks):
  - (a) the objectives of an insolvency regime;
  - (b) the "pari passu" principle in the ranking of creditors;
  - (c) the consequences of a Court winding up order.

**University of Malta  
Faculty of Laws**

**September 2020 Examination Session**

**CML5036 Corporate Re-Organisation and Liquidation**

**Date:** Friday 4 September 2020

**Duration of Examination:** 8:30AM – 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer TWO of the following questions.

Each question carries equal marks.

Answer each question on a separate script.

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1. The Companies Act (Cap 386) contemplates various rights and remedies to ensure creditor control in a creditors' voluntary winding up.  
Discuss.
2. Write short notes on the following:
  - (a) Members' Voluntary winding up;
  - (b) The powers of the liquidator.
3. Critically discuss the role, function and powers of the Provisional Administrator.
4. Outline the main similarities and differences between the action for fraudulent trading (Section 315 of the Companies Act, Cap 386) and the action for wrongful trading (Section 316 of the Companies Act, Cap 386).
5. Discuss "inability to pay one's debts" as a cause of dissolution of companies in the light of Section 214 of the Companies Act (Cap 386).



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FACULTY OF LAWS  
DEPARTMENT OF COMMERCIAL LAW  
FEBRUARY 2021 EXAMINATION SESSION

CML5036 Corporate Re-Organisation and Liquidation

Monday, 15<sup>th</sup> February 2021

**Examination time: 08:30 – 10:30 + 15 extra minutes for uploading/downloading.**

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

**Telephone: 2340 3251; 2340 3204**

**Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)**

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

By sitting for this examination, I declare that I am aware of the provisions of the regulations regarding conduct during examinations and I pledge to observe them.

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Students may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

With regard to FLOWmulti examinations, you are advised to type directly on WISEflow (and not on MS Word intending to copy and paste on WISEflow).

With regard to FLOWassign examinations, you are advised to upload your work in PDF format.

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## INSTRUCTIONS TO STUDENTS:

Answer any **TWO (2)** questions. All questions carry equal marks.

Word limit: **1500 words per question, longer essays will not be fully read.**

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1. XYZ Ltd is undergoing insolvency proceedings and has various creditors including the employees, the VAT department, the Inland Revenue Department and Social Security Department.

An unsecured creditor has sought your advice on his chances of getting repaid. Explain in detail what advice you would give your client.

2. The directors of 123 Ltd are aware that the company is in financial distress and has amassed a long list of creditors. The directors nonetheless pay one creditor the sum of EUR 10,000 and the other creditors nothing. One month later a winding up action is commenced.

What actions permitted by law can the liquidator take? Who do you think could benefit from such an action?

3. Mr Borg and Mrs Abela are both shareholders and directors of AB Limited. AB Limited is piling up debts as no decisions may be taken due to ongoing disagreements between them. Mr Borg wants to file a winding up application.

What ground for dissolution do you suggest is cited in the winding up application? Explain your reasoning by reference to decided Court judgments.

4. ABC Ltd experienced remarkable growth in the trading department through its first twenty (20) months of operations. It initially secured various good contracts. Subsequently however it suffered the effects of overtrading and fell into arrears. If the company ceases to trade, it will lose its contracts. Thus, directors do not wish to wind up the company.

Discuss what the directors must do to avoid the dissolution and winding up of the company.

5. "The appointment of an administrative receiver does not have any effect on the company as a separate legal personality; it remains in existence and it does not cease to exist or incur liability as a result of the appointment." ["Bailey, Groves & Smith: Corporate Insolvency Law: Law and Practice].

Critically discuss this statement in light of the functions of the Provisional Administrator in terms of the Maltese Companies Act (Chapter 386, Laws of Malta) and with particular reference to judgments delivered by the Maltese Courts.



# Law of Mediation

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [resources@ghsl.org](mailto:resources@ghsl.org)

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LLD II (2011/12)**  
**JUNE 2012 EXAMINATIONS**

**EXAMINATION:** LAW5036 – INTRODUCTION TO THE LAW OF MEDIATION  
**DATE:** FRIDAY 1<sup>ST</sup> JUNE 2012  
**TIME:** 10.30AM – 12.30PM

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**CHOOSE ONE QUESTION FROM SECTION A, AND ONE QUESTION FROM  
SECTION B.**

**Section A – (40 Marks: Every Part of Question 2 carries equal marks)**

1. What characteristics of mediation make it stand out from other forms of dispute resolution?
2. Define and give an example of each of the following: a) BATNA b) international family mediation c) a positive reframe.
3. Mediation is no miracle cure. Mention five cases where it is inappropriate and give reasons for your answer.

**Section B – (60 Marks)**

4. Legal notice 397 of 2003 was a step in the right direction. Comment in the light of what you expect from family mediation.
5. Victim-offender mediation, introduced in Malta by the recent Restorative Justice Act, is innovative and challenging. Explain why.
6. Mediation could be a better suited forum to address disputes. Discuss.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLD.II (2012/2013)  
JUNE 2013 EXAMINATIONS

EXAMINATION: LAW 5036 – INTRODUCTION TO THE LAW OF MEDIATION

Tuesday 25th June 2013

9:15Am - 11:15Am

CHOOSE ONE QUESTION FROM SECTION A, AND ONE QUESTION FROM SECTION B.

Section A- 40 marks: Every part of Question 2 carries equal marks

1. *Because crime hurts, justice should heal.* ( Braithwaite 2004) Discuss with regard to victim offender mediation as proposed in the Maltese Restorative Justice legislation.
2. Explain each of the following: a) a caucus b) transformative mediation c) mediator neutrality
3. Do you consider mediation an improvement on negotiation between parties or their lawyers? Why?

Section B- (60 marks)

4. Comment on the role of the family mediator in Legal Notice 397 of 2003.
5. Skills are at the core of mediation. To what extent does success depend not only on the mediator's skills but also those of the lawyer.
6. *Mediation is an adaptive and responsive process.* Discuss.

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**JANUARY 2014 EXAMINATION SESSION**  
**LL.D. II**

STUDY-UNIT: LAW5036 – Introduction to the Law of Mediation  
DATE: Friday, 31<sup>st</sup> January 2014  
TIME: 11.45A.M. – 1.45P.M.

Choose one question from section A ( 40 marks ) and one question from section B.( 60 marks)

Section A

1. Mediation in the criminal field is totally different from that in the civil and commercial field. How true is this statement?
2. How essential are neutrality and impartiality to mediation? What meaning is usually given to neutrality in this field?
3. How would you prepare a client to a mediation, assuming your client does not know what it is?

Section B

4. In what way does Legal notice 397 of 2003 change the way family disputes are handled?
5. A skilled mediator gives added value to a negotiation. Discuss.
6. Explain the importance of each of the following :a)caucusing b) evaluative mediation c) Halsey vs Milton Keynes General NHS Trust 2004.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
JANUARY 2014 EXAMINATION SESSION  
LL.D. II

STUDY-UNIT: LAW5036 – Introduction to the Law of Mediation

DATE: Friday, 31<sup>st</sup> January 2014

TIME: 11.45A.M. – 1.45P.M.

Choose one question from section A ( 40 marks ) and one question from section B.( 60 marks)

Section A

1. Mediation in the criminal field is totally different from that in the civil and commercial field. How true is this statement?
2. How essential are neutrality and impartiality to mediation? What meaning is usually given to neutrality in this field?
3. How would you prepare a client to a mediation, assuming your client does not know what it is?

Section B

4. In what way does Legal notice 397 of 2003 change the way family disputes are handled?
5. A skilled mediator gives added value to a negotiation. Discuss.
6. Explain the importance of each of the following :a)caucusing b) evaluative mediation c) Halsey vs Milton Keynes General NHS Trust 2004.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD II

JANUARY 2015 SESSION OF EXAMINATIONS

EXAMINATION: LAW5036 – INTRODUCTION TO THE LAW OF MEDIATION  
DATE: THURSDAY 15<sup>TH</sup> JANUARY 2015  
TIME: 10.30 AM – 12.30 PM

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CHOOSE ONE QUESTION FROM SECTION A, AND ONE QUESTION FROM SECTION B.

Section A- 40 marks: Every part of Question 2 carries equal marks

1. The name “External Dispute Resolution” is gradually taking over from “Alternative Dispute Resolution”. Why?
2. Explain each of the following: a) Positive Reframing b) Interest based negotiation c) Lilian Halsey vs. Milton Keynes General National Health Service Trust.
3. What was behind the origin of family mediation in the seventies? To what extent has it remained loyal to its promise?

Section B- (60 marks)

4. Legal Notice 397 of 2003 gives the mediator three tasks. What are these tasks and do you consider all three of them appropriate?
5. The toolkit approach to mediation, as opposed to the purist, is more effective. Discuss.
6. Explain neutrality in the context of mediation.



**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.D. II Year**  
**SEPTEMBER 2015 SUPPLEMENTARY EXAMINATIONS**

**EXAMINATION: LAW5036 – INTRODUCTION TO THE LAW OF MEDIATION**

**DATE:** THURSDAY 10<sup>TH</sup> SEPTEMBER 2015

**READING TIME:** 11.30AM – 11.35AM

**DURATION OF EXAM:** 11.35AM – 1.35PM

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CHOOSE ONE QUESTION FROM SECTION A, AND ONE QUESTION FROM SECTION B.

Section A- 40 marks: Every part of Question 1 carries equal marks

1. Explain each of the following: a) evaluative mediation b) Rosalba Alassini vs. Telecom Italia S.P.A. c) co-mediation.
2. With popular myths about mediation in mind, how would you explain mediation to a client?
3. How does caucusing help a mediator?

Section B- (60 marks)

4. Legal Notice 397 of 2003 brought considerable criticism, especially from the Maltese legal profession. Do you think it was justified?
  5. Which style of mediation would you choose for a simple commercial dispute and why?
  6. Victim-offender mediation is different from mediation of civil disputes. Discuss.
-

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.D. II**  
**MAY/JUNE 2016 EXAMINATIONS**

**EXAMINATION:** LAW5036 – Introduction to the Law of Mediation

**DATE:** Thursday 16<sup>th</sup> June 2016

**READING TIME:** 10.00AM – 10.05AM

**DURATION OF EXAMINATION:** 10.05AM – 12.05PM

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CHOOSE ONE QUESTION FROM SECTION A, AND ONE QUESTION FROM SECTION B.

Section A (40 marks)

1. To what extent and why would you consider domestic violence and family mediation irreconcilable?
2. Which are the instances in which Maltese law requires one to go to family mediation?
3. Does victim-offender mediation offer any advantages to the community?

Section B- (60 marks) Every Part of Question 6 Carries Equal Marks

4. " Mediation is a facilitative process in which disputing parties engage an impartial third party, the mediator, who helps them to try to arrive at an agreed resolution to their dispute". Brown and Marriot. (1999) How exact is this definition in this day and age?
5. Dante, in his Divine Comedy, (1321) reserves the hottest places in hell for those who maintain their neutrality. As a mediator, would you be neutral at all times?
6. Explain each of the following: a) positive reframing b) Halsey vs Milton Keynes General NHS Trust 2004 c) BATNA.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.D. II

SEPTEMBER 2016 EXAMINATIONS

EXAMINATION: LAW 5036 INTRODUCTION TO THE LAW OF MEDIATION

DATE: 9<sup>TH</sup> SEPTEMBER 2016

READING TIME: 8.30AM TO 8.35AM

DURATION OF EXAMINATION: 8:35AM TO 10.35AM

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CHOOSE ONE QUESTION FROM SECTION A, AND ONE QUESTION FROM SECTION B.

Section A- 40 marks

1. Would you advocate the use of criminal mediation? Why?
2. Why is evaluative mediation criticized and at the same time used very often?
3. Ideally, "the Courts exist at one end of a broad spectrum." Explain with special reference to ADR.

Section B- (60 marks) EACH PART OF QUESTION 6 CARRIES EQUAL MARKS

4. Do you consider mandatory family mediation to be a good idea?
5. The role of a lawyer assisting a client during a mediation varies from that of a lawyer in a Court of Law. Discuss.
6. Explain each of the following: a) Caucusing in mediation b) *Alassini v Telecom Italia SpA* c) WATNA.

**University of Malta  
Faculty of Laws**

**MCT5012 The Law of Mediation**

**Date: Wednesday 5<sup>th</sup> September, 2018      Duration of Examination: 08.30am-10.35am**

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Choose one question from section A ( 40 marks ) and one question from section B.( 60 marks)

Section A

1. How would you explain to a client that counselling and mediation are different in many ways?
2. Explain each of the following: a) recognition in transformative mediation b) positive reframing c) appropriate dispute resolution
3. What can a mediator do when parties come to an impasse?

Section B

4. Given that evaluative mediation has been criticized heavily, in which circumstances would you recommend it?
5. In which cases is family mediation compulsory in Malta? Do you agree with this?
6. Impartiality and equidistance are two definitions of which trait of mediation? Discuss.

**University of Malta  
Faculty of Laws**

**June 2019 Examination Session**

**MCT5012 THE LAW OF MEDIATION**

**Date:** Tuesday 11th June 2019

**Duration of Examination:** 10:00AM – 12:05PM

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**INSTRUCTIONS TO STUDENTS:**

Choose **ONE (1)** question from **Section A (40 marks)** and **ONE (1)** question from **Section B (60 marks)**.

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**Section A**

1. Explain each of the following:
  - (a) active neutrality of the mediator
  - (b) recognition in transformative mediation
  - (c) caucusing
2. Compare and contrast two strategies for dealing with conflict.
3. What would you say to a client who is interested in mediation but who does not want to be physically present?

**Section B**

4. Identify behaviour that you would expect from a mediator. Would that behaviour change according to the subject area?
5. Is mediation in the criminal sphere too idealistic? Discuss with reference to Maltese Law.
6. What makes a successful mediation? Does the legal framework regulating mediation play a part in this?

**University of Malta  
Faculty of Laws**

**September 2019 Examination Session**

**MCT5012 THE LAW OF MEDIATION**

**Date:** Friday 13th September 2019      **Duration of Examination:** 08:30AM – 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Choose **ONE (1)** question from **Section A (40 marks)** and **ONE (1)** question from **Section B (60 marks)**.

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**Section A**

1. Explain each of the following; each question carries equal marks.
  - (a) reparative victim-offender mediation
  - (b) reframing
  - (c) problem solving mediation
2. Do criminal and civil mediation have anything in common?
3. Explain the recent changes to our law in relation to mediation and domestic violence.

**Section B**

4. Each question carries equal marks.
  - (a) What were the main reasons behind the development of family mediation?
  - (b) Do you think family mediation has changed beyond recognition?
5. Is mediation always better than negotiation between the parties and their lawyers?
6. Explain the concept of principled negotiation.



# Intro to Notarial Law

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [resources@ghsl.org](mailto:resources@ghsl.org)

University of Malta

LLD First Year, January Test

NS 001 The Basic Notarial Law

One Hour

28th January 1999

Answer briefly all questions in Maltese or in English

1a. What is a "private writing"?

1b. Give two examples of *negotia* which, on pain of nullity, should be expressed at least in a private writing.

2. Notarial Law defines the office of a notary. What is it?

3a. A notary is publishing a notarial act to which X, the son of his first cousin, is a party. May he go ahead with the publication of the act? Why?

3b. The notary's nephew also requires the services of a notary and has asked his uncle to prepare the notarial act. What would you have done if you were the notary? Why?

4. Notarial Law refers to persons who may not practise as a notary. Who are they? What is the rationale of the law?

5a. Define a "public deed".

5b. What is a "notarial act"?

6. When are witnesses required to assist a notary during the publication of a notarial act?

7. If the notary does not physically write out the whole notarial act, which part is he required *ad validitatem* to write out himself?

8a. Distinguish between nullity and annulability of a notarial act.

8b. What is at the basis of the distinction?

8c. Give five examples from Notarial Law of notarial acts which are null and one example from the Civil Code of a notarial act which is annulable.

9. When a party to a notarial act cannot sign his or her name, the notary is bound to record a particular statement.

a. Who makes the statement?

b. What is it?

c. In which part of the act is it recorded?

10. When is the execution of a notarial act deemed to be complete?

11. What is the "notarial register"?

12. Following the death of one of the testators of an *unica charta* will, the son of the deceased asks the notary for a copy. What should the notary do?

13a. What is the "general inspection" carried out by the Court of Revision of Notarial Acts?

13b. What is the *raison d'être* of disciplinary punishments which the Court of Revision of Notarial Acts may inflict on a notary in terms of Notarial Law?

14. When discussing certain aspects of the duty of notaries, some text-writers distinguish between *adeguamento necessario* and *adeguamento facoltativo*. Explain.



UNIVERSITY OF MALTA

LLD First Year - Diploma of Notary Public

NOTARIAL LEGISLATION CVL4011

5th September 2003	0915 to 0930	15 minutes allocated for candidates to review the examination paper. Candidates may not start writing their answers during this time.
	0930 to 1230	3 hours allocated for candidates to answer the examination paper.

- This paper is divided into 4 sections. You are required to answer each section.
- You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
- During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, about 50 minutes on section A, about 50 minutes on section B, about 50 minutes on section C and about 20 minutes on section D.
- Use four booklets, one for each section.

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Section A Introduction to Notarial Law (60 marks)

- Answer ONE question from Part One of this Section and ONE question from Part Two of this Section.
- Notarial Law means Chapter 55 of the Laws of Malta.

Section A Part One

Answer ONE question only:

A.1.1 Discuss the nature of the public deed, with special reference to the notarial act. (40 marks)

A.1.2 Analyse the functions and responsibilities of a Notary Public laid down in Notarial Law. To what extent is it true to say that a Notary Public is also a member of a liberal profession? (40 marks)

A.1.3 Discuss when a notarial act is null and void. (40 marks)

*Please go to the next page*

UNIVERSITY OF MALTA

LLD First Year - Diploma of Notary Public

NOTARIAL LEGISLATION

11th June 2004    0900 to 0915    15 minutes allocated for candidates to review the examination paper.  
Candidates may not start writing their answers during this time.  
0915 to 1215    3 hours allocated for candidates to answer the examination paper.

- This paper is divided into 4 sections. You are required to answer ALL questions in each section.
- You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
- During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time proportionately to the marks assigned to each section and, in a general way, about 50 minutes on section A, about 50 minutes on section B, about 50 minutes on section C and about 20 minutes on section D.
- All answers to questions in Sections A and B should be written in a separate booklet from answers to questions in sections C and D.

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Section A Introduction to Notarial Law (60 marks)

- A correct answer will be marked positively, while an incorrect one will be marked negatively.

A1. A private writing in Italian is valid. True/False

A2. A private writing in Spanish is valid. True/False

A3. A private writing in Arabic is valid. True/False

A4. X verbally promises Y to give him a loan of Lm1,000 within one month from today. The promise is enforceable. True/False

A5. X and Y verbally agree on a five-year lease agreement of a field. The agreement is valid. True/False

A6. Five persons have agreed to set up a civil partnership between them. Four of them signed the document yesterday and the fifth did so today. The agreement is valid. True/False

A7. An undated lease agreement of urban property which is signed today has a provision stating that the agreement expires on the 10th June 2009. The agreement is not valid. True/False

A8. An exchange between a garage and a valuable collection of books may be drawn either by a private writing or by a notarial deed. True/False

A9. Which of the following is correct **A9 (one)** or A9 (two) or A9 (three)?

A9 (one). A public deed is an instrument drawn up or received, with the requisite formalities, by a notary or other public officer lawfully authorized to attribute public faith thereto. Or

A9 (two). A public deed is an instrument drawn up or received, with the requisite formalities, by a public officer lawfully authorized to attribute public faith thereto. Or

A9 (three). A public deed is an instrument drawn up or received by a notary or other public officer lawfully authorized to attribute public faith thereto.

A10. Which of the following is correct **A10 (one)** or A10 (two)?

A10 (one). Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall be responsible for their custody and shall give out copies and extracts of or from such acts or wills. Or

A10 (two). Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall give the original of such acts to one of the parties.

A11. A notarial deed is only valid if it is enrolled in the Public Registry. True/**False**

A12. The Maltese Notarial Law is largely modelled on the English Notarial Profession and Notarial Archives Act 1913 (3&4 Geo.5, c22) **False**

A13. A and B have come to a notary's office for the publication of a deed of sale of a house by A to B. A and B are both appearers and parties to the deed. **True/False** 77

A14. A who lives in Australia is selling a house to B. A has sent a power of attorney to X to appear in his name on the deed of sale. X and B are both appearers and parties to the deed. **True/False**

A15. A plot of land has two adjoining buildings on both sides. Is the plot an urban tenement or a rural tenement for purposes of description in a notarial deed?

A15 **(one)** urban tenement or  
A15 **(two)** rural tenement.

A16. On the morrow of the execution of a notarial deed, it transpires that the correct number of the property sold by virtue of the deed is 27 not 72 as erroneously indicated in the deed. One of the parties suggests that the notary make a foot note (*postilla*) to the deed and thus correct it. Should the notary endorse this view? **Yes/No**

A17. A very busy notary forgot to identify the appearers on a deed by means of an official document. The deed is null and void. **True/False**

A18. A notary is publishing a deed of sale of immovable property to which C, the son of his first cousin is a party. Is there any legal obstacle to his going ahead with the publication of the deed? **Yes/No**

A19. A notary is publishing a deed of sale of immovable property to which a person related to him in the fifth degree by consanguinity in the collateral line is a party. Is there any legal obstacle to his going ahead with the publication of the deed? **Yes/No**

A20. B, the notary's brother-in-law, is a party to a notarial deed by virtue of which B makes a declaration regarding transmission *causa mortis* for tax purposes of the immovable property he inherited. May the notary validly proceed with the publication of the deed? **Yes/No** 72

A21. X, who is related to Notary Y by affinity in the collateral line in the third degree, has asked Notary Y to see to the publication of a deed of sale of a field which X had inherited. May the notary validly proceed with the publication of the deed? Yes/No No

A22. B, the father of Notary A, is the sole director and the sole legal representative of the company called Books Unlimited Limited which is purchasing a shop as its retail outlet. May Notary A validly proceed with the publication of the deed? Yes/No Yes

A23. X is the father of Notary Y who is in permanent government employment as a notary. X is purchasing from the Government a site for a grave at the Addolorata Cemetery. May Notary Y validly proceed with the publication of the deed? Yes/No Yes

A24. The superintendent of a hospital has been trying frantically to find a notary. He has managed to get through to Notary A at ten thirty at night and informed him that a patient, who is very seriously ill, has requested that a notary draw up his will. Has Notary A the duty to go to the hospital and publish the will? Yes/No No

A25. The law debar a notary from publishing a deed which is "expressly prohibited by the law". The better opinion is that the law is only referring to deeds which are annulable. True/False False

A26. In a deed of sale a notary records the declaration of the parties exempting him from the duty, if any exists, of conducting searches into the liabilities and transfers of the vendor. May the notary validly insert such a clause? Yes/No No

A27. A duly warranted engineer applies to be appointed notary Public. Is he bound first to renounce his warrant? Yes/No No

A28. A person who is under the age of 25 cannot be appointed notary. True/false False

A29. Upon reaching the age of 72, notaries cease to perform their functions. True/false False

A30. The number of notaries in Malta is fixed at 175. True/False False

A31. A notary employed permanently with the government has published the will of a person who was dying. It is valid. True/False False

A32. The act of delivery of a secret will must *ad validitatem* be published in the presence of one witness. True/False False

A33. The original act of delivery of a secret will is not retained by the notary who published such act. True/False False 99

A34. A person who is the party to a unilateral act informs the notary that he has lost his identity card, passport and driving licence. Accordingly the notary should engage the services of two witnesses. True/False False

A35. The property 15 St Joseph Street Fgura, in which A and his wife B live, is the paraphernal property of B who is selling it to C. The notary has not asked A to give his consent to the sale. The deed is null. True/False False

A36. A notary reads a notarial deed to the appearers, explains it to them and asks them whether it is in accordance with their will. In the deed he fails to state that he has explained the contents thereof to them. The deed is null. True/False False

A37. One of the parties appearing on a deed of sale does not know how to sign his name. Two witnesses are required to assist the notary during the publication of the deed. Do you agree? **Yes/No**

A38. A notary, publishing a deed today, writes its date in his own handwriting as follows: 11.06.2004. Is the deed valid? **Yes/No**

A39. A notary, publishing a deed today, types its date as follows: This eleventh day of June of the year two thousand and four. Is the deed valid? **Yes/No**

The following three questions A40, A41 and A42 refer to an interpreter who has been engaged to translate from one language to the other the contents of a notarial deed. Answer the three questions:

A40. The interpreter is chosen by the notary. **True/False**

A41. Before proceeding to exercise his functions as a translator, the interpreter must go to a court registrar to take the oath faithfully to perform his functions as an interpreter. **True/False**

A42. The interpreter must sign the notarial deed. **True/False**

A43. A nun of the Congregation of the Sacred Heart, who took her final vows (including a vow of poverty) many years ago and whose parents are dead, has asked a notary to draw up her public will by virtue of which she appoints one of her brothers as her universal heir. The nun does not have the capacity to make a will. **True/False**

A44. A cloistered Benedictine nun of the Monastery of St Peter in Mdina, who took her final vows in 1979 (including a vow of poverty), has asked a notary to draw up her public will. The nun does not have the capacity to make a will. **True/False**

A45. A diocesan priest who was ordained on the 6th March 1992 has asked a notary to draw up his will. The priest does not have the capacity to do so. **True/False**

A46. A Salesian of Don Bosco, who took his final vows in 1990 (including a vow of poverty), has asked a notary to draw up his will. The Salesian does not have the capacity to do so. **True/False**

A47. A Franciscan Conventual friar who took his final vows in 1985 (including a vow of poverty) has asked a notary to draw up his will. He does not have the capacity to do so. **True/False**

A48. Like other notarial deeds, the protest for non-payment of a bill of exchange requires the interested party to be present during its publication. **True/False**

A49. A notary files a note of enrolment of a deed of sale in the Public Registry three months after the date of its publication. The deed is null. **True/False**

A50. A friend of yours has come across the following Latin maxim: "*In civilibus est, nisi tota lege perspecta, una aliqua eius particula proposita, iudicare vel respondere*". Which one of the following three is the best reply you could give him, A50 (one) or A50 (two) or **A50 (three)**?

A50 (one) a law should be drafted clearly; or

A50 (two) one should read a law from beginning to end; or

A50 (three) when interpreting a particular provision of the law, one should refer to the law as a whole.

UNIVERSITY OF MALTA  
LLD First Year - Diploma of Notary Public  
NOTARIAL LEGISLATION CVL4011

7th September 2004      0900 to 0915      15 minutes allocated for candidates to review the examination paper.  
Candidates may not start writing their answers during this time.  
0915 to 1215      3 hours allocated for candidates to answer the examination paper.

- This paper is divided into 4 sections. You are required to answer each section.
- You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
- During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, about 50 minutes on section A, about 50 minutes on section B, about 50 minutes on section C and about 20 minutes on section D.
- Your answers to questions in Sections A and B should be written in a separate booklet from answers to questions in sections C and D.

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**Section A Introduction to Notarial Law (60 marks)**

Answer ONE set of questions:

EITHER

A.1.1 Discuss the nature and requisites of a private writing. To what extent do the nature and requisites of a notarial act shed light on the discussion. (45 marks)

And

A.1.2 When are witnesses required to be present during the publication of a notarial act? (15 marks)

OR

A.2.1 Analyse the acts which in terms of article 12 of Notarial Law a notary may not receive. (45 marks)

And

A.2.2 When a party to a notarial act does not know how to sign her/his name the notary is bound to record a particular statement. Who makes the statement? What is it? In which part of the act is it recorded? (15 marks)

OR

A.3.1 Article 40 of Notarial Law is clear regarding notarial acts that are null and void. Which are these acts? (45 marks)

And

A.3.2 Which professions are incompatible with the office of a notary public? Very briefly state why. (15 marks)

*Please turn over*

UNIVERSITY OF MALTA

1<sup>st</sup> Year - Diploma of Notary Public

NOTARIAL LEGISLATION

June 2005      1300 to 1315      15 minutes allocated for candidates to review the examination paper.  
Candidates may not start writing their answers during this time.  
1315 to 1615      3 hours allocated for candidates to answer the examination paper.

This paper is divided into 4 sections. You are required to answer ALL questions in each section.

You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.

During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

It is recommended that candidates apportion their time proportionately to the marks assigned to each section and, in a general way, about 50 minutes on section A, about 50 minutes on section B, about 50 minutes on section C and about 20 minutes on section D.

All answers to questions in each section should be written in a separate booklet. Accordingly, four booklets are provided.

Section A Introduction to Notarial Law (60 marks)

With the exception of those questions which are not multiple-choice, a correct answer will be marked positively, while an incorrect one will be marked negatively.

The Notary confers public faith upon a document. (a) True or (b) False.

A public deed is not considered to be proof of its contents. (a) True or False.

A notary is solely a liberal professional. (a) True or (b) False.

It is 1<sup>st</sup> of June on Sunday and a notary is at a wedding reception. A client calls him, saying his wife is very ill and wants to have his will drawn up and published immediately. May you do so? (a) Yes or (b) No.

A notary should be an impartial advisor to all parties to the deed. (a) True or (b) False.

May notaries who usually reside in Malta publish deeds in Gozo? (a) Yes or (b) No.

A notary also holds the warrant of an advocate. (a) True or (b) False.

Which of the following is correct: (a) Ba or (b) Bb or (c) Bc?

A public deed is an instrument drawn up or received, with the requisite formalities, by a notary or other public officer lawfully authorized to attribute public faith thereto. Or  
A public deed is an instrument drawn up or received, with the requisite formalities, by a public officer lawfully authorized to attribute public faith thereto. Or  
A public deed is an instrument drawn up or received by a notary or other public officer lawfully authorized to attribute public faith thereto.

A9. Which of the following is correct (a) 9a or (b) 9b?

9a. Notaries are public officers. They are charged to receive acts *inter vivos* and wills and attribute public faith thereto; they shall be responsible for their custody and shall give out copies and extracts of or from such acts or wills. Or

9b. Notaries are public officers. They are charged to receive acts *inter vivos* and wills and attribute public faith thereto; they shall give the original of such acts to one of the parties.

A10. What does an act of protest of a bill of exchange contain?

A11. A public deed is admissible as evidence in court. (a) True or (b) False.

A12. The date on a notarial deed of sale may be type-written. (a) True or (b) False.

A13. A notarial deed without a date is valid as a notarial deed. (a) True or (b) False.

A14. The date of a deed of emphyteusis may written in figures only. (a) True or (b) False.

A15. A notarial deed is signed by one party at 9 am and by the other party at 5 pm of the same day. The deed is valid. (a) True or (b) False.

A16. A private writing is signed by one party at 9 am and by the other party at 5 pm of the same day. The private writing is valid. (a) True or (b) False.

A17. After publishing a deed of sale of a garage, the vendor contacts the notary pointing out to him that the number of the garage should be six (6) and not seven (7) as stated in the deed. The notary may enter a *postilla* and change the number. (a) Yes or (b) No.

A18. An exchange between a garage and a sailing boat may be drawn either by a private writing or by a notarial deed. (a) True or (b) False.

A19. What details or particulars must be written with regard to the parties to the deed?

A20. Witnesses are always required on a public will. (a) True or (b) False.

A21. Attestors are always required on a public will. (a) True or (b) False.

A22. The lawyers assisting the parties on a deed of personal separation declare that they have fully explained the contents of the contract to their clients. The notary, therefore, need only sign the deed for it to be published. (a) True or (b) False.

A23. The notary is reading to the appearers a deed of sale of a house. As he is doing so they point out to him that the name of the street where the house is situated was changed a few days ago. How is the alteration to the deed made?

A24. May a notarial deed be validly published if one of the parties to the deed is not present? (a) Yes or (b) No.

A25. May a notarial deed be validly published if one of the appearers on the deed is not present? (a) Yes or (b) No.

A26. A notary is publishing a deed which requires the presence of witnesses. The notary's brother is a clerk in his office. May the notary's brother act as a witness? (a) Yes or (b) No.

A27. A witness on a notarial deed does not need to know how to sign. (a) True or (b) False.

A28. What is the procedure if a person contracting on a notarial deed is totally deaf, is able to speak but cannot read?



1. A plot of land has two adjoining buildings on both sides. Is the plot an urban tenement or rural tenement for purposes of description in a notarial deed? (a) Urban tenement or (b) rural tenement.

2. A notary files a note of enrolment of a deed of sale in the Public Registry a year after the date of its publication. The deed is null. (a) True or (b) False.

3. A candidate who has just passed his qualifying examination for the warrant as a notary may prepare a deed before his name appears on the Government Gazette. (a) True or (b) False.

4. A candidate who has just passed his qualifying examination for the warrant as a notary may publish a deed before his name appears on the Government Gazette. (a) True or (b) False.

5. A deed which has been received by a notary who has ceased to exercise his functions is null. (a) Yes or (b) No.

6. A notary may publish a deed containing a provision contrary to public policy. (a) Yes or (b) No.

7. May a notary publish a deed to which his first cousin is vendor? (a) Yes or (b) No.

8. May a notary publish a deed to which his brother is vendor? (a) Yes or (b) No.

9. May a notary publish a deed to which his half-brother is vendor? (a) Yes or (b) No.

10. May a notary publish a deed of loan where his uncle appears in representation of the grantor? (a) Yes or (b) No.

11. Very briefly state why a notary may not publish a deed containing provisions concerning the matrimonial regime.

12. What is a *nota fa' insinwa* or a note of enrolment?

13. Who may write out the secret will of a testator who knows how to and can write? (a) The testator or (b) A third party or (c) Either one or the other.

14. A secret will is enrolled in the Public Registry. (a) True or (b) False.

15. A private writing in Italian is valid. (a) True or (b) False.

16. A private writing in Chinese is valid. (a) True or (b) False.

17. A private writing may be written out in pencil. (a) True or (b) False.

18. A notarial deed may be written out in pencil. (a) True or (b) False.

19. The notary may give to one of the parties the original notarial deed. (a) True or (b) False.

20. The notary may give to one of the parties the original private writing. (a) True or (b) False.

21. A notarial deed is only valid if it is enrolled in the Public Registry. (a) True or (b) False.

22. A private writing is only valid if it is enrolled in the Public Registry. (a) True or (b) False.



UNIVERSITY OF MALTA  
Faculty of Laws  
LLD First Year - Diploma of Notary Public  
Notarial Legislation CYL4011

June 2006 0915 to 15 minutes allocated for candidates to review the examination  
0930 paper. Candidates may not start writing their answers during  
this time.  
0930 to 3 hours allocated for candidates to answer the examination  
1230 paper.

This paper is divided into 4 sections. You are required to answer ALL the questions in each section.

You may answer the whole paper in ENGLISH or MALTESE, and you may choose to answer one or more questions in one language, and the rest in the other language.

During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Use four booklets, one for each section.

Section A Introduction to Notarial Law (50 marks)

A correct answer will be marked positively. An incorrect answer or no answer at all will be marked negatively. If you have any doubt as to the correct answer to a question, it is advisable that you answer it nonetheless.

A1: Which of the following is correct: 1a or 1b or 1c?

- 1a: A public deed is an instrument drawn up or received, with the requisite formalities, by a notary or other public officer lawfully authorized to attribute public faith thereto. Or  
1b: A public deed is an instrument drawn up or received, with the requisite formalities, by a public officer lawfully authorized to attribute public faith thereto. Or  
1c: A public deed is an instrument drawn up or received by a notary or other public officer lawfully authorized to attribute public faith thereto.

A2: Notaries also have the power to sign applications or other acts relating to matters recognizable by a court of voluntary jurisdiction. (a) True or (b) False.

A3: The function of a mediator is incompatible with the function of a notary. (a) True or (b) False.

A4: The Notary confers public faith upon a document. (a) True or (b) False.

A5: A public deed is considered to be proof of its contents.  
(a) True or (b) False.

A6: A notary is solely a public officer. (a) True or (b) False.



A7. Upon reaching the age of 80, notaries cease to perform their functions. (a) True or (b) False.

A8. A Notary may not refuse to publish a will. (a) True or (b) False.

A9. A Notary may not refuse to publish a notarial deed *inter vivos*. (a) True or (b) False.

A10. The notary is a representative of his client. (a) True or (b) False.

A11. Notaries resident in Malta may not publish notarial deeds in Gozo? (a) True or (b) False.

A12. A notary can also be an advocate. (a) True or (b) False.

A13. Which of the following is correct 13a or 13b?

13a. Notaries are public officers. They are charged to receive acts *inter vivos* and wills and to attribute public faith thereto; they shall be responsible for their custody and shall give true copies and extracts of or from such acts or wills. Or

13b. Notaries are public officers. They are charged to receive acts *inter vivos* and wills and to attribute public faith thereto; they shall give the original of such acts to one of the parties.

A14. A notarial deed is admissible as evidence in court. (a) True or (b) False.

A15. The date on a notarial deed may be type-written. (a) True or (b) False.

A16. A notarial deed without the date is still valid. (a) True or (b) False.

A17. The date on a notarial deed is written in figures only. (a) True or (b) False.

A18. A deed may validly be signed by the appearers thereto separately, that is at different moments in time and not in the presence of each other. (a) True or (b) False.

A19. A private writing may validly be signed by the parties thereto separately, that is at different moments in time and not in the presence of each other. (a) True or (b) False.

A20. A notarial deed without the notary's signature is valid as a private writing. (a) True or (b) False.

A21. A sold a plot of land to B. After the publication of the deed, B contacts the notary pointing out that the total area of the plot should have been three hundred and fifty square meters (350m<sup>2</sup>) and not three hundred and five square meters (305m<sup>2</sup>) as stated in the deed. The notary may validly make the relative alteration on the deed. (a) True or (b) False.

A22. The "postilla" is the postal address of the property being transferred on the notarial deed. (a) True or (b) False.

A23. A and B have come to the following agreement: A transfers to B by title of exchange a flat in Sliema while B transfers to A a car and a garage. This may validly be done either by a private writing or by a notarial deed. (a) True or (b) False.

A24. The particulars required on a notarial deed with regard to the parties to the deed, are the name and surname and the identity card number. (a) True or (b) False.

A25. Witnesses are sometimes required during the publication of a will. (a) True or (b) False.

A26. Attestors are always required during the publication of a will. (a) True or (b) False.

A27. The lawyers assisting the parties on a deed of personal separation declare that they have fully explained the contents of the contract to their clients. The notary, therefore, need not sign the deed for it to be published. (a) True or (b) False.

A28. An alteration to a notarial deed may be typed. (a) True or (b) False.

A29. A deed may be published if one of the parties to the deed is not present. (a) True or (b) False.

A30. A deed may be published if one of the appearers on the deed is not present. (a) True or (b) False.

A31. A notary is publishing a deed which requires the presence of witnesses. A party to the deed is accompanied by his brother. Can the brother act as a witness? (a) Yes or (b) No.

A32. A notary is publishing a deed which requires the presence of witnesses. The notary's wife is present. Can she act as a witness? (a) Yes or (b) No.

A33. A witness on a deed does not need to know how to sign. (a) True or (b) False.

A34. A plot of land has two adjoining buildings on both sides. Is the plot an urban tenement or a rural tenement for purposes of description in a notarial deed? Answer:

- a. urban tenement or
- b. rural tenement.

A35. A notary files a note of enrolment of a deed of sale in the Public Registry a year after the date of its publication. The deed is null. (a) True or (b) False.

A36. A notary has taken the oath of allegiance and the oath of office, signed his specimen signature at the Attorney General's Office and caused the act of his appointment to be registered in the same Office, and is waiting for appointment to be published in the Government Gazette. He has the right to publish notarial deeds. (a) True or (b) False.

A37. A first cousin of the notary who is publishing the deed is selling property thereon. The notary may publish the deed. (a) Yes or (b) No.

A38. The sister of the notary who is publishing the deed is appearing on the deed in the name of a person who is not related to the notary. The notary may publish the deed. (a) Yes or (b) No.

A39. The sister of the notary who is publishing the deed is appearing on the deed to sell her house. The notary may publish the deed. (a) Yes or (b) No.

A40. The notary is publishing a deed to which a limited liability company is a party which is represented by the notary's uncle. The notary may publish the deed. (a) Yes or (b) No.

A41. X and Y have come to a notary's office for the publication of a deed of sale of a house by X to Y. X and Y are both appearers and parties to the deed. (a) True or (b) False.

A42. X who lives in Australia is selling a house to Y. X has sent a power of attorney to Z to appear in his name on the deed of sale. Z and Y are both appearers and parties to the deed. (a) True or (b) False.

A43. An insinwa or a note of enrolment is a draft of the notarial deed which is given to the parties prior to publication of the deed. (a) True or (b) False.

A44. A notary reads a notarial deed to the appearers, explains it to them and asks them whether it is in accordance with their will. In the deed he fails to state that he has explained the contents thereof to them. The deed is null. (a) True or (b) False.



UNIVERSITY OF MALTA  
LLD First Year - Diploma of Notary Public  
NOTARIAL LEGISLATION CVL4011

4 September 2006 0912 to 0930 15 minutes allocated for candidates to review the examination paper  
Candidates may not start writing their answers during this time.  
0930 to 1230 3 hours allocated for candidates to answer the examination paper.

- This paper is divided into FOUR Sections. You are required to answer each Section.
- You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
- During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- You should use four separate booklets, one for your answers to each Section.

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Section A Introduction to Notarial Law (60 marks)

- Answer any THREE questions:
  - A.1 Discuss the nature of the public deed, especially the notarial act. (20 marks)
  - A.2 The notary is a public officer and a liberal professional. Discuss. (20 marks)
  - A.3 Discuss the instances where a notarial act is null and void. (20 marks)
  - A.4 What are the qualifications of witnesses on a notarial act? When and why are they required? (20 marks)
  - A.5 Which are the acts a notary is prohibited from receiving? Why? (20 marks)

*Please turn over*

UNIVERSITY OF MALTA

LLD First Year - Diploma of Notary Public

Notarial Legislation CVL4011

8 June 2007	215 pm to 230 pm	15 minutes allocated for candidates to review the examination paper. Candidates may not start writing their answers during this time.
	230 pm to 530 pm	3 hours allocated for candidates to answer the examination paper.

- This paper is divided into 4 sections. You are required to answer ALL the questions in each section.
- You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
- During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- Use four booklets, one for each section.

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Section A Introduction to Notarial Law (80 marks)

- Answer all questions.
  - A correct answer will be marked positively, while an incorrect one will be marked negatively.
  - If you think that there may be two answers to a question, you are to decide which of the two is the more likely answer, and give that as the only answer.
- A1. When a private writing is used in a lawsuit, the contents thereof should be proved. (a) True or (b) False.
- A2. A solicitor from England has asked a Maltese notary to send him the original will which the notary had published for his client. The notary should not comply. (a) Yes, or (b) No, or (c) There is only one case where he must comply.
- A3. It is debatable whether notaries have the power to draw up protests for non-acceptance of bills of exchange. (a) Doctrine does not allow it, or (b) The law clearly forbids it, or (c) The law clearly allows it.
- A4. A young notary has been asked to prepare, sign and file an application (*rikors*) in the Civil Court (Voluntary Jurisdiction Section) for the interdiction of a person. Does the law allow him to do so? (a) Yes or (b) No.
- A5. A notary may act as a mediator. (a) True or (b) False.
- A6. The profession of a legal procurator is incompatible with that of a notary. (a) True or (b) False.
- A7. A notary may be a bank manager. (a) True or (b) False.
- A8. The President of Malta may authorize an advocate to practise as a notary. (a) True or (b) False or (c) True under a certain condition.
- A9. The Director of Public Registry may give his services as a notary in private practice. (a) Likely or (b) Unlikely or (c) False.
- A10. A notary is solely a liberal professional. (a) Likely, or (b) Unlikely, or (b) False.
- A11. The notary should be an impartial advisor of all parties to a notarial deed. (a) Likely or (b) Unlikely or (c) True.

A12. When a certified copy of a deed of sale is used in a Court, its contents should be proved. (a) True or (b) False.

A13. A private writing in English is valid for all purpose of law in Malta. (a) True or (b) False.

A14. A private writing in Spanish is valid for all purpose at law in Malta. (a) True or (b) False.

A15. Which of the following is correct: 15(a) or 15(b) or 15(c)?

15(a). A public deed is an instrument drawn up or received, with the requisite formalities, by a notary or other public officer lawfully authorized to attribute public faith thereto. or

15(b). A public deed is an instrument drawn up or received, with the requisite formalities, by a public officer lawfully authorized to attribute public faith thereto. or

15(c). A public deed is an instrument drawn up or received by a notary or other public officer lawfully authorized to attribute public faith thereto.

A16. Notaries who ordinarily reside in Gozo cannot publish contracts which refer to immovable property in Malta. (a) True or (b) False.

A17. In terms of our Notarial Law, a certified public accountant and auditor cannot exercise the profession of notary. (a) True or (b) False.

A18. Which of the following is correct 18(a) or 18(b)?

18a. Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall be responsible for their custody and shall give out copies and extracts of or from such acts or wills. or

18b. Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall give the original of such acts *inter vivos* to one of the parties.

A19. A notary may refuse to publish a will if the testator fails to deposit with him the fees and expenses due in respect of such will. (a) True or (b) False.

A20. The superintendent of St Luke's Hospital phones a notary at one in the morning informing him that a patient, who is very seriously ill, has requested the notary to draw up the patient's will. (a) The notary is bound to give his services, or (b) He is not bound to do so, or (c) He may decide to do whatever he likes.

A21. A notary reads a notarial deed to the appearers, explains it to them and asks them whether it is in accordance with their will. In the deed he fails to state that he has explained the contents thereof to them. The deed is (a) null, or (b) annulable, or (c) valid.

A22. Which of the following dates is correctly written in a notarial deed of sale, 22(a) or 22(b) or 22(c) or 22(d) or 22(e)?

22a. Today the eighth (8th) June 2007.

22b. Today the 8th June 2007.

22c. Today the eighth (8th) of June of the year two thousand and seven (2007)

22d. Today the 08.06.2007

22e. Today the 08.vi.2007

A23. A notarial deed whose date is not written according to your correct answer to question A22 is null and void. (a) True or (b) False.

A24. There are five appearers on a notarial deed. Since they cannot go to the notary's office together, they have informed the notary that two would sign at his office in the morning and three in the afternoon. The deed is (a) null, or (b) annulable, or (c) valid.

A25. A private writing has been signed by the two interested parties one in the morning and the other in the afternoon. The private writing is (a) null, or (b) annulable, or (c) valid.

A26. Since it is not possible for them to find a baby-sitter to take care of their small child, two spouses have made arrangements with the notary for them to sign their *unica charta* will before him one in the morning and the other in the afternoon. The will is (a) null, or (b) annulable, or (c) valid.

A27. John Borg has made a will appointing his three daughters as his universal heirs equally between them. He would like a copy of the will, and has phoned the notary to authorise him to give the copy to

one of his daughters. (a) The Notary is obliged to give her the copy, or (b) He is may not give her the copy.

A28. When John Borg reads the copy of his will, he notices that the name of his second daughter is referred to as Maria Vittoria not Maria Stella. He contacts the notary pointing out the mistake. If the name in the original is Maria Vittoria, may the notary enter a *postilla* in the original will and correct the name. (a) Yes or (b) No.

A29. An exchange between a garage and a sailing yacht may be drawn up either by a private writing or by a notarial deed. (a) True or (b) False.

A30. Witnesses are always required to assist the notary during the publication of a will. (a) True or (b) False.

A31. Witnesses are always required to assist the notary during the publication of a deed *inter vivos*. (a) True or (b) False.

A32. The appearers to a deed of sale of immovable property declare to the notary that they have read and understood the contents of the deed which he had sent to them in draft form. Accordingly, they ask the notary to date it and sign it in the usual manner after the appearers have signed the document. The act is (a) null, or (b) annulable, or (c) valid, or (d) inexistent.

A33. From searches it transpires that during his lifetime a testator made one public will and no secret wills. Though the will is dated, it does not bear the time when it was executed. The will is null. (a) True or (b) False.

A34. Alterations, removals, variations or additions to the notarial act are to be made by means of a numbered mark in the right hand margin of the notarial act. (a) True or (b) False.

A35. A notary is publishing a will and the notary's nephew, who is a clerk in his office, is one of the witnesses. The deed is (a) null, or (b) inexistent, or (c) valid.

A36. One of the witnesses to a notarial act has had an accident, both his hands are in plaster and he is unable to sign his name. The act is (a) null, or (b) annulable, or (c) inexistent, or (d) valid.

B37. A notary publishes a deed of transfer of a house on 10 March 2007 and he gives out copies to the parties on 13 March 2007. On 4 April 2007 he realises that he has not yet enrolled the deed in the Public Registry. The deed is (a) null, or (b) annulable, or (c) inexistent, or (d) valid.

B38. A notary has been asked to publish a deed of sale of a house to which his great-grandfather is a party. He may not do so because (a) they are related by consanguinity in the collateral line in the third degree, or (b) they are related by affinity in the collateral line in the third degree, or (c) they are related by consanguinity in the direct line in the third degree.

B39. A notary has been asked to publish a deed of sale of a house to which his grandfather is a party. He may not do so because (a) they are related by consanguinity in the collateral line in the second degree, or (b) they are related by consanguinity in the collateral line in the third degree, or (c) they are related by consanguinity in the direct line in the second degree.

B40. A notary is publishing a deed of sale of immovable property to which C, his first cousin, is a party. Is there any legal obstacle to his going ahead with the publication of the deed? (a) Yes or (b) No.

B41. A notary is related to the son of his first cousin by consanguinity in the collateral line in the (a) third degree, or (b) the fourth degree, or (c) the fifth degree, or (d) the sixth degree.

B42. The number of notaries in Malta is fixed at 200. (a) True or (b) False.

B43. A secret will must be enrolled in the Public Registry within fifteen days from the act of delivery thereof. (a) True or (b) False.

B44. A private writing drawn up and signed in pencil is valid. (a) True or (b) False.

B45. A private writing must be enrolled in the Public Registry so that it may be effective vis-à-vis third parties. (a) True or (b) False.

B46. A day after the execution of a notarial deed, it transpires that the correct number of the property sold by virtue of the deed is 37 not 73 as erroneously indicated in the deed. Which course of action



UNIVERSITY OF MALTA  
LLD First Year - Diploma of Notary Public  
NOTARIAL LEGISLATION CVL4011

6th September 2007	0915 to 0930	15 minutes allocated for candidates to review the examination paper. Candidates may not start writing their answers during this time.
	0930 to 1230	3 hours allocated for candidates to answer the examination paper.

- This paper is divided into 4 sections. You are required to answer each section.
- You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
- During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, about 50 minutes on section A, about 50 minutes on section B, about 50 minutes on section C and about 20 minutes on section D.
- Your answers to questions in Sections A and B should be written in a separate booklet from answers to questions in sections C and D.

**Section A Introduction to Notarial Law (50 marks)**

Answer any ONE of the following sets of questions:

EITHER

A.1.1 Compare and contrast the notarial act and the private writing. (45 marks) and

A.1.2 Which professions are incompatible with the office of a Notary Public? Very briefly state why. (15 marks)

OR

A.2.1 Analyse the functions and responsibilities of a Notary Public laid down in Notarial Law. To what extent is it true to say that a Notary Public is also a member of a liberal profession? (45 marks) and

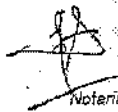
A.2.2 What should a note of enrolment contain. (15 marks)

OR

A.3.1 Discuss when a notarial act is null and void in terms of Notarial Law. (45 marks) and

A.3.2 Which are the exceptions to the rule that a notary is bound to give his services whenever he is asked to do so? (15 marks)

Please turn over for section B



Notarial Legislation Examination 05.IX.2007

1

UNIVERSITY OF MALTA  
Faculty of Laws  
LLD First Year - Diploma of Notary Public  
Notarial Legislation CVL4011

Tuesday 9 June 2009, from 9:15 am to 12:15 pm

- 
- This paper is divided into three (3) sections. You are required to answer each section.
  - You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
  - During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
  - It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 45 minutes on section A, not more than 45 minutes on section B, and the rest on section C.
  - Use three (3) separate booklets, one for each section.

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**Section A Introduction to Notarial Law (25% of the total marks)**

- Answer all questions.
- A correct answer will be marked positively.
- An incorrect answer or no answer will be marked negatively.
- If you have any doubt as to the correct answer to a question, it is advisable that you answer it nonetheless.

1. The notary, as a Public Officer, is an employee of the State. (a) True, or (b) False.

2. The Public Registry is responsible for giving out copies and extracts from notarial acts and wills. (a) True, or (b) False, or (c) in certain cases only.

3. The Public Registry attributes public faith to notarial acts. (a) True, or (b) False, or (c) in certain cases only.

4. Peter Calleja has sold a sports car to his friend Matteo Giuberti. The parties agreed on the price of €25,000, out of which €15,000 were paid on the transfer of the car, whilst the balance of €10,000 were to be paid by the 1 March 2009 without interest. A private writing in the Italian language regarding the above was signed at Notary N's office by Matteo Giuberti on 15 February 2008 and by Peter Calleja on 17 February 2008, and their signatures were authenticated by Notary N who dated the document 17 February 2008. Matteo Giuberti has not yet paid the balance due. Answer the following questions with regard to the above facts:

- i. This agreement must have been published by Notary N to be valid. (a) True, or (b) False.
- ii. The agreement was signed by the parties on different days. The agreement is valid. (a) True, or (b) False, or (c) in certain cases only it is valid.
- iii. The agreement is proof of its contents. (a) True, or (b) False.
- iv. The date on this agreement was written in figures only. It is valid. (a) True, or (b) False.

- v. The document is in Italian. It is valid. (a) True, or (b) False.
- vi. Peter Calleja insisted that he wanted to retain the original document in his possession. The law forbids this. (a) True, or (b) False, or (c) In certain cases only.
5. The notary, at all costs, must always protect the interests of his client. (a) True, or (b) False.
6. The original document of the notarial deed is sometimes given to the parties who so request. (a) True, or (b) False.
7. Current legislation forbids Notaries from drawing up protests for non-acceptance or non-payment of bills of exchange or promissory notes, for money or goods. (a) True, or (b) False.
8. Notaries are legally entitled to sign applications or other acts relating to matters cognizable by a Court of Voluntary Jurisdiction. (a) True, or (b) False.
- 
9. The function of a warranted advocate who is also a mediator, is incompatible with the function of a notary. (a) True, or (b) Likely, or (c) Unlikely, or (d) False.
10. On a deed of sale of a house with its overlying airspace, officially numbered 44 in Saint Francis Street, Rabat, the date was written in figures only. The deed is valid. (a) True, or (b) False, or (c) Only in certain cases is it valid.
11. The notary may refuse to publish a will if the testator fails to deposit with him the amount of the duties, fees and expenses due in respect of the notarial act. (a) True, or (b) False, or (c) True, only if the testator is not known to the Notary.
12. It shall not be lawful for any notary to publish a deed if one of the parties has been restrained from entering into contracts or disposing of his property, and this inhibition has been duly notified to the notary in accordance to law. (a) True, or (b) False.
13. Which of the following dates is correctly written on a notarial deed of sale?
- Today the ninth of June 2009, or
  - Today 9th of June 2009, or
  - Today the ninth (9th) of June 2009, or
  - Today the ninth (9th) of June two thousand and nine (2009).
14. An appearer on a notarial act must know how to sign his name. (a) True, or (b) False.
15. The witnesses alone ascertain the will of the parties to the notarial act. (a) True, or (b) False.
16. The function of the attestor is to ascertain the will of the parties to the notarial act (a) True, or (b) False.
17. A witness to a notarial act must be able to sign his/her name (a) True, or (b) False.
18. An attestor on the notarial act must be able to sign his/her name. (a) True, or (b) False.
19. Henry, Joseph and Carmelo brothers Vella are selling a plot of land which they inherited from their parents, to Phillip and Grace spouses Borg. Carmelo Vella is totally deaf and illiterate. An interpreter is to be appointed to assist him on the deed of sale. Answer the following:
- The interpreter may be his brother Joseph. (a) True, or (b) False.
  - The interpreter is appointed by the Civil Court, Second Hall, today known as the Civil Court (Voluntary Jurisdiction Section). (a) True, or (b) False.
  - The interpreter need not know how to sign his name. (a) True, or (b) False.

- iv. The interpreter must be present during the publication of the deed of sale. (a) True, or (b) False.
- v. The Notary publishing the deed of sale does not state in the act that the interpreter was chosen with the consent of the parties and that the interpreter took the oath before the notary to perform his duties faithfully. The act is (a) null; or (b) inexistent; or (d) voidable;

20. John and Claire spouses Debono sold their matrimonial home by a deed in the records of Notary N of 11 February 2009. Claire Debono has noticed that in the copy of the deed she is erroneously referred to as "Claire Debattista". As Claire Debono's legal advisor, you would recommend that

- a. the deed be corrected by means of a numbered mark in the margin of the original notarial act; or
- b. the deed be corrected by means of a numbered mark at the end of the original notarial act; or
- c. a correctory deed be entered into by all parties involved; or
- d. a correctory deed be signed by the notary only.

21. Claire Debono's legal advisor has noticed that in the deed referred to in question 20 above, the notary failed to state that the deed had been read and explained to the parties. Claire however states that the notary had read and explained in detail the contents of the act. Which of the following is correct: (a) the act is null; or (b) the act is valid, or (c) the act is voidable.

22. On re-checking the file in question, the Notary mentioned in questions 20 and 21 above noticed that he did not enrol the deed of sale at the Public Registry. As Claire Debono's legal advisor, you would conclude that:-

- a. the act is null and void; or
- b. the act is valid; or
- c. the act is valid, but is not enforceable against third parties; or
- d. the act is null but is still enforceable against third parties.

23. Which of the following is correct: 23a or 23b or 23c?

- a. A public deed is an instrument drawn up or received, with the requisite formalities, by a notary or other public officer lawfully authorized to attribute public faith thereto; or
- b. A public deed is an instrument drawn up or received, with the requisite formalities, by a public officer lawfully authorized to attribute public faith thereto; or
- c. A public deed is an instrument drawn up or received by a notary or other public officer lawfully authorized to attribute public faith thereto.

24. An exchange between a bus and a plot of land may be drawn up either by a private writing or by a notarial deed. The following is correct:

- a. It may only be drawn up by a private writing; or
- b. It may only be drawn up by a notarial deed; or
- c. It may be drawn up either by a private writing or a notarial deed.

25. It is a Public Holiday and whilst a notary is enjoying a picnic with his family, a client calls him, telling him that he has found a flat that he likes and wishes to sign a promise of sale agreement immediately. Has the notary the right to refuse? (a) Yes; or (b) No; or (c) Yes the notary may refuse, but only if he suspects that he will not be paid the fees and expenses due.

26. The Police must be present to assist the Notary on any notarial act if this is published at night time. (a) Likely; or (b) Unlikely; or (c) False; or (d) True.

27. You are currently attending the office of a practising notary in order to have first hand experience of the notarial profession. As a person trusted by the notary, you have been asked to discuss with the lender and borrower the terms and conditions of a proposed deed of loan,

and to draft the deed. Once you have done this, the notary in the office reads and explains the contents of the deed to the parties and publishes the deed. Choose the correct answer:

- a. The law clearly allows this to be done, or
- b. The law clearly forbids this, or
- c. The law allows this to be done in certain cases only.

28. The notary you are practising with is about to publish a deed of sale of immovable property which does not have an official number. One of the parties to the deed does not know how to sign his name. The only persons in the office at that time are yourself, the notary's wife, and your brother who is a full time employee in the office. You and your brother are not related to the notary.

28 (i). Which is the correct answer.

- a. You may act as a witness, however your brother may not as he is the Notary's employee; or
- b. You and your brother may not act as witnesses because you are related to each other by consanguinity in the second degree in the collateral line; or
- c. The notary's wife may act as a witness; or
- d. You and your brother may both act as witnesses.

28 (ii). As the property does not have an official number, three of its boundaries must be included in the description of the property. (a) True, or (b) False.

29. An *unica charta* will is signed by the husband at 9 am and by the wife at 4 pm of the same day. The will is (a) valid, or (b) invalid, or (c) voidable.

30. A notary is publishing a deed of sale where his first cousin's wife is the purchaser. The notary may publish the deed because they are related in the following manner (a) by consanguinity in the direct line in the fourth degree; or (b) by affinity in the direct line in the third degree; or (c) by consanguinity in the collateral line in the fourth degree; or (d) by affinity in the collateral line in the fourth degree. Choose the correct answer.

31. A secret will is delivered to a notary. It must be enrolled in the Public Registry within fifteen days from date of delivery. (a) True, or (b) false.

32. It is obligatory that the date on a private writing be written in indelible ink. (a) True, or (b) False, or (c) Unlikely.

33. Any annexe to a notarial act, which is not mentioned in the act or is not duly signed, shall not be considered as forming part of the act, except in so far as the truth of its contents results from the act itself. (a) Likely, or (b) Unlikely, or (c) True, or (d) False.

34. There is one particular document which, though not specifically mentioned in the act and not duly signed, is still considered to form an integral part of the act. (a) True, or (b) False.

35. A plot of land has two adjoining buildings on both sides. Is the plot an urban tenement or a rural tenement for purposes of description in a notarial deed? (a) urban, or (b) rural.

36. *Postilla* means the postal address of the property being transferred by means of a notarial deed. (a) True, or (b) False.

**UNIVERSITY OF MALTA**  
**Faculty of Laws**  
**LLD First Year - Diploma of Notary Public**  
**Notarial Legislation – CVL4011**  
**September 2009 Session**  
**Wednesday 9 September 2009, from 09:15 to 12:15 hours**

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- This paper is divided into three (3) sections. You are required to answer each section.
  - You may answer the whole paper in ENGLISH or MALTESE; and you may choose to answer one or more questions in one language, and the rest in the other language.
  - During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
  - It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 45 minutes on section A, not more than 45 minutes on section B, and the rest on section C.
  - Use three (3) separate booklets, one for each section.
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**Section A**

**Introduction to Notarial Law – (25 marks)**

Choose any TWO questions

**A.1.a** Discuss the nature of the public deed, especially the nature of the notarial act.  
**AND A.1.b** Analyse the differences between the notarial act and the private writing.  
(A.1.a and A.1.b together 12.5 marks)

**A.2** Which are the acts established by law that the notary may not receive, and why? (12.5 marks)

**A.3** Discuss the qualifications of witnesses and their role as established by chapter 55. (12.5 marks)

**A.4** Which are the formalities of a notarial act that you consider most relevant? Discuss the reasoning behind such requirements. (12.5 marks)

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**University of Malta**

Faculty of Laws

LLD First Year, Academic Year 2009/2010

**Introduction to Notarial Law CVL4007**

Credit Value: 4 January 2010 Session

28th January 2010, 9.15 am to 10.15 am

- Answer all questions.
- A correct answer will be marked positively.
- An incorrect answer or no answer at all will be marked negatively (-1).
- If you think that there may be two answers to a question, you are to decide which of the two is more likely to be the correct answer, and give that as the only answer.
- Each question as well as each sub-question carries equal marks.

1. No person shall be appointed as a notary unless he is a citizen of Malta. (a) True; or (b) False.
2. As the notary is a Public Officer, he is an employee of the Public Registry. (a) True; or (b) False.
3. As established in Article 10 of chapter 55 of the Laws of Malta, the notary, before entering upon the exercise of his functions, shall write in a book kept for the purpose, his specimen signature as he is thereafter to use it in signing deeds. This book is kept in the office of the Public Registry. (a) True; or (b) False.
4. The Public Registry is responsible for giving out copies and extracts from notarial acts and wills. (a) True; or (b) False; or (c) In certain cases only.
5. The Notarial Archives attributes Public faith to notarial acts. (a) True; or (b) False; or (c) In certain cases only.
6. The notary must personally be certain of the identity of the parties. (a) True; or (b) False.
7. The notary shall ascertain such identity after the individual produces (a) his official identity card; or (b) his birth certificate; or (c) his vehicle's log book;
8. When the document referred to in the correct answer to question seven (7) above is not available, the notary must rely on the testimony of two attestors, who need not be known to him. (a) True; or (b) False;
9. Such attestors must know how to sign. (a) True; or (b) False;

10. Mark Scicluna agreed to sell a garage to ABC Limited. A promise of sale agreement was signed on the 25<sup>th</sup> of November of the year 2009, and the price agreed upon was Euro100,000, out of which Euro10,000 were paid on the promise of sale agreement as deposit on account, whilst the balance of Euro90,000 were to be paid on final deed. The validity of the promise of sale agreement was for three (3) months. The promise of sale agreement was drawn up by a Notary, who also witnessed the signatures of the persons involved. ABC Limited was represented by Tonio Borg, who is the Notary's brother in law. Please answer the following questions with regard to the above:-

- i. This agreement **must** be published by a Notary for it to be valid. (a) True; or (b) False;
  - ii. The agreement was signed by the parties on different days. The agreement is still valid. (a) True; or (b) False.
  - iii. This agreement is proof of its contents. (a) True; or (b) False.
  - iv. The date on this agreement was written in figures only. It is still valid. (a) True; or (b) False.
  - v. Mark Scicluna insisted that he retain the original document in his possession. The law forbids this. (a) True; or (b) False.
  - vi. Mark Scicluna and Tonio Borg are both parties to the promise of sale agreement. (a) True; or (b) False.
  - vii. Tonio Borg is related to the notary (a) in the direct line by affinity in the third degree; (b) in the second degree in the collateral line by affinity; or (c) in the collateral line by consanguinity in the second degree;
  - viii. The Notary can draw up the promise of sale agreement but cannot publish the final deed, because he is related to Tonio Borg in the degree referred to in the correct answer to the previous question. (a) True; or (b) False.
11. The notary, at all costs, must always protect the interests of his client. (a) True; or (b) False.
12. The original notarial act shall be given to the parties. Choose the correct answer: (a) The original act may never be given, or (b) the original act is always given, or (c) In some cases the original act must be given.
13. The notary may refuse to publish a contract of sale if the parties fail to deposit with him the amount of the duties, fees and expenses due in respect of the notarial act. (a) True, or (b) False, or (c) True only if the parties are not known to the Notary.
14. A Notary Public may not also act as a mediator, because the law deems these functions to be incompatible with each other. (a) True; (b) Likely; or (c) Unlikely; or (d) False.
15. One of the parties to a notarial deed has been restrained from entering into contracts or disposing of his property, and this inhibition has been duly notified to the notary publishing the deed, in accordance to law. The notary may validly publish the relative deed. (a) True, or (b) False.



16. Which of the following dates is correctly written on a notarial deed of sale, 16a or 16b or 16c or 16d?

16a. Today the first of May 2009.

16b. Today 1<sup>st</sup> may 2009.

16c. Today the first (1<sup>st</sup>) of May two thousand and nine (2009).

16d. Today the first (1<sup>st</sup>) of May 2009.

17. An appearer on a notarial act must know how to sign his name. (a) True, or (b) False.

18. The witnesses alone ascertain the will of the parties to a notarial act. (a) True; or (b) False.

19. A witness to a notarial act need not sign his/her name (a) True; or (b) False.

20. Jason and Graziella spouses Grixti are obtaining an overdraft facility from a local bank. As guarantee, they have agreed with the bank that they will be offering a special hypothec on their home in Mosta. Graziella is deaf and illiterate, and she does not know how to sign her name. An interpreter is to be appointed to assist her on the contract:-

- i. The interpreter may be her sister. (a) True, or (b) False.
- ii. The interpreter is appointed by the Civil Court (Voluntary Jurisdiction Section), formerly Civil Court Second Hall. (a) True; or (b) False.
- iii. The interpreter must take an oath before the notary to perform her duties faithfully. (a) True; or (b) False; (c) True in certain instances only.
- iv. The interpreter need not know how to sign her name. (a) True, or (b) False.
- v. The interpreter must be present during the publication of the deed of sale. (a) True, or (b) False.
- vi. The interpreter may also act as a witness. (a) True; or (b) False.
- vii. One witness is sufficient (a) True; or (b) False.
- viii. The Notary publishing the contract of sale does not mention in the act that the interpreter was chosen with the consent of the parties, and that the interpreter took an oath to perform her duties faithfully. The act is (a) null and void; or (b) valid; or (c) voidable;
- ix. The notary publishing the act forgot to register the special hypothec on the property in Mosta. The act is (a) null and void; or (b) valid; or (c) voidable;

21. Peter and Mary spouses Bartolo transferred by title of sale to Simon Galea, a plot of land measuring circa 200m<sup>2</sup> situated in an unnamed road, forming part of the lands known as 'Tas-Sewda', in Bahrija in the limits of Rabat, Malta.

Answer the following questions:-

(i) The sale may be effected: (a) by a private writing; or (b) by a notarial act; or (c) by either one or the other.

(ii) The purchaser is claiming that prior to publication of the final contract, the notary's clerk discussed the contract with him, and drafted the contents of the contract. He is claiming that the Notary publishing the contract read the contents of the contract, but did not explain the contract to him. If his claims are proved to be correct, the contract is (a) Null; or (b) Valid.

(iii) Peter Bartolo also noticed that his identity card number in the said contract was incorrect. As the spouses Bartolo's legal advisor, you would recommend that: (a) the contract be corrected by means of a numbered mark in the margin of the original notarial act; or (b) the contract be corrected by means of a numbered mark at the end of the original notarial act; or (c) a correctory deed must be signed by all parties involved; or (d) a correctory deed must be signed by the notary only.

(iv) The property transferred is (a) rural; or (b) urban.

(v) The description of the property must contain a mention of at least three of its boundaries. If these are given, a detailed plan and an official survey sheet showing the juxtaposition of the said property are not required. (a) True; or (b) False.

22. Which of the following is correct: 22a or 22b or 22c?

22a. A public deed is an instrument drawn up or received, with the requisite formalities, by a notary or other public officer lawfully authorized to attribute public faith thereto. Or

22b. A public deed is an instrument drawn up or received, with the requisite formalities, by a public officer lawfully authorized to attribute public faith thereto. Or

22c. A public deed is an instrument drawn up or received by a notary or other public officer lawfully authorized to attribute public faith thereto.

23. Which of the following is correct 23a or 23b?

23a. Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall be responsible for their custody and shall give out copies and extracts of or from such acts or wills. Or

23b. Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall give the original of such acts to one of the parties.

24. A secret will must be enrolled in the Public Registry. (a) true; or (b) false.

25. The date on a private writing must, on pain of nullity, be written in indelible ink, in full by the notary himself. (a) true; or (b) false.

26. Being also a liberal professional, the notary is accountable only to the person who has requested his services. (a) True; or (b) False.

27. A notarial act which has been received by notary who has ceased to exercise his functions is (a) null and void; or (b) valid;

28. The husband and wife on a contract of consensual personal separation both state that the final draft contract has been read and explained to them by the mediator and approved by the Court. Accordingly, the notary, need only sign the act for it to be validly published. (a) Likely; or (b) Unlikely; or (c) True; or (d) False.

29. Witnesses are only required during the publication of public wills. (a) True or (b) False.

30. When the documents annexed to a notarial act exceed five in number, the notary shall make a list thereof, separate from the act, and enrol this list in the Public Registry. (a) True or (b) False.

31. An interpreter is needed on a notarial act so as to interpret the notarial act from English into the Russian language. The interpreter is chosen by the parties, and need not know how to sign his name. (a) True or (b) False.

**University of Malta**

Faculty of Laws

LLD First Year, Academic Year 2009/2010

**Introduction to Notarial Law CVL4007**

September Session, Credit Value: 4

9th September 2010, 9.15 am to 10.15 am

- During the examination, the use of mobile 'phones and/or memory-resident electronic devices is prohibited.

**Section A (60 marks out of 100).**

One question is to be answered from this section:-

1. a. May a Notary refuse his services? If so when may a notary refuse his services? (30 marks)  
b. Which are those notarial acts, established by law, that the Notary may not receive? And why? (30 marks)
2. Analyse the Office of a Notary, his functions and responsibilities, and the notion of whether he/she is solely a public officer and/or also a liberal professional. (60 marks)

**Section B (40 marks out of 100).**

One question is to be answered from this section:-

1. When are witnesses required to be present during the publication of a public deed? What are the qualifications of witnesses as established by sec 27 of Chapter 55? What is the role of witnesses during publication of a public deed?
2. Chapter 55 lists a number of professions inconsistent with the notarial profession. List these professions and discuss the concept of incompatibility contemplated by the law.

**University of Malta**

Faculty of Laws

LLD First Year, Academic Year 2010/2011

**Introduction to Notarial Law CVL4007**

Credit Value: 4 January 2011 Session

27th January 2010, 9.15 am to 10.15 am

- Answer all questions.
- A correct answer will be marked positively.
- An incorrect answer or no answer at all will be marked negatively.
- If you think that there may be two answers to a question, you are to decide which of the two is more likely to be the correct answer, and give that as the only answer.
- Each question as well as each sub-question carries equal marks.

1. No person shall be appointed as a notary unless he is a citizen of Malta. (a) True; or (b) False.
2. As the notary is a Public Officer, he is an employee of the Public Registry. (a) True; or (b) False.
3. The Public Registry attributes Public faith to notarial acts. (a) True; or (b) False; or (c) In certain cases only.
4. The original of every notarial act is deposited in the Public Registry. (a) True or (b) False.
5. Every original act shall have two margins, one on the right hand side and another on the left hand side. (a) True or (b) False.
6. All alterations to be made in a notarial act, are to be made in whichever margin mentioned in question 5 is the outer side. (a) True or (b) False.
7. As established in Article 10 of chapter 55 of the Laws of Malta, the notary, before entering upon the exercise of his functions, shall write in a book kept for the purpose in the office of the Attorney General his specimen signature as he is thereafter to use it in signing deeds. (a) True or (b) False.
8. The notary may request the assistance of the Police whenever he deems it prudent to have such assistance. (a) True or (b) False.
9. The notary may refuse to publish a will if the testator fails to deposit with him the amount of the duties, fees and expenses due in this respect. (a) True or (b) False.
10. The presence of two witnesses on a notarial act shall not be required except in the case of public wills. (a) True or (b) False.

11. A notary is about to publish a contract of sale:-

- i. he must personally be certain of the identity of the parties, or where such parties do not appear personally, of the identity of their agent. (a) True; or (b) False.
- ii. the notary shall ascertain such identity after the individuals produce (a) their official identity card; or (b) their birth certificate; or (c) their credit card;
- iii. when the document referred to in the correct answer to question 11(ii) above is not available, the notary must rely on the testimony of two attestors, who need not be known to him. (a) True; or (b) False;
- iv. such attestors must know how to sign. (a) True; or (b) False;
- v. one of the said attestors may be the Notary's wife. (a) True or (b) False.

12. No person shall be competent as a witness unless such person has attained the age of eighteen years. (a) True or (b) False.

13. A public deed was entered into by Creditor X and Debtor Y, whereby X loaned Y the sum of € 25,000. Debtor Y has defaulted in the payments, and Creditor X now wishes to proceed against Y in order to enforce payment of the debt owed. Creditor X must prove that the € 25,000 are actually owed. (a) True or (b) False.

14. Which of the following is correct 14a. or 14b?

14a. Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall be responsible for their custody and shall give out copies and extracts of or from such acts or wills. Or

14b. Notaries are public officers. They are charged to receive acts *inter vivos* and wills, and to attribute public faith thereto; they shall give the original of such acts to one of the parties.

15. Paolo Bugeja who is 94 years old, has decided to sell a field which he inherited from his father. For various reasons, Paolo Bugeja has been restrained by the competent authority, from entering into contracts or disposing of his property. This inhibition has been duly notified to all notaries in accordance to law. All Paolo Bugeja's children have agreed that the said field may be sold. Paolo Bugeja's firstborn son Carmelo, has a valid general power of attorney which was signed by Paolo a year before he was restrained from entering into contracts.

i. The Notary may not receive any deed signed by Paolo Bugeja. (a) True or (b) False or (c) He may if he is assisted by his legal advisor.

ii. The Notary may publish the contract of sale if Carmelo Bugeja together with his brothers and sisters agree to the said sale. (a) True or (b) False.

iii. Paolo Bugeja has suddenly changed his mind, and now wishes to dispose of the said field by way of a public will. The Notary may publish Paolo Bugeja's will. (a) True or (b) False or (c) He may if he is assisted by his legal advisor.

16. XYZ Company Limited has agreed to sell a very large piece of land to ABC Company Limited. A promise of sale agreement to this effect was signed on the 6<sup>th</sup> of June of the year 2010, and the price agreed upon was Euro1,000,000, out of which half (1/2) of the said price was paid on the promise of sale agreement as deposit on account, whilst the balance due was to be paid on final deed. The validity of the promise of sale agreement was for one year. The parties agreed that at the buyer's request, the vendor company was to guarantee the deposit paid with the land itself. The promise of sale agreement was drawn up by a Notary, who also witnessed the signatures of the persons involved. XYZ Company Limited was represented by Mario Mallia, who is the Notary's uncle, that is his father's brother. Answer the following questions with regard to the above:-

- i. The promise of sale agreement must be published by a Notary for it to be valid. (a) True; or (b) False;
- ii. The agreement may be signed by the parties on different days. (a) True; or (b) False.
- iii. This agreement is proof of its contents. (a) True; or (b) False.
- iv. The date on this agreement was written in figures only. It is still valid. (a) True; or (b) False.
- v. Mario Mallia is a party to the promise of sale agreement. (a) True; or (b) False.
- vi. Mario Mallia is related to the notary (a) in the direct line by affinity in the third degree; (b) in the second degree in the collateral line by affinity; or (c) in the collateral line by consanguinity in the third degree;
- vii. The Notary can draw up the promise of sale agreement but cannot publish the final deed, because he is related to Mario Mallia in the degree referred to in the correct answer to the previous question. (a) True; or (b) False.
- viii. The parties have agreed that XYZ Company Limited is to guarantee the deposit paid by granting a special hypothec on the land to be sold. This may be done by a private writing. (a) True or (b) False.

17. Which of the following dates is correctly written on a notarial deed of sale, 17a or 17b or 17c or 17d?

- 17a. Today the twenty seventh (27<sup>th</sup>) of January two thousand and eleven (2011).
- 17b. Today 27<sup>th</sup> January 2011.
- 17c. Today the twenty seventh of January 2011.
- 17d. Today the twenty seventh (27<sup>th</sup>) of January 2011.

18. A Notary Public may also act as a mediator, because the law deems these functions to be compatible with each other. (a) True; (b) Likely; or (c) Unlikely; or (d) False.

19. An appearer on a notarial act need not know how to sign his name. (a) True, or (b) False.

20. The presence of witnesses is only required whenever any of the parties so requests. (a) True or (b) False.

21. Philip Abela wishes to make a public will. He does not know how to sign his name.

i. the presence of one witness is required. (a) True or (b) False.

ii. The witness need not know how to sign his/her name. (a) True or (b) False.

iii. The testator's brother in law may not act as a witness because he is related to the testator (a) in the direct line by affinity in the second degree; (b) in the second degree in the collateral line by affinity; or (c) in the collateral line by consanguinity in the second degree;

iv. The Notary, after publication, must give the original will to the Testator for custody and safekeeping. (a) True or (b) False.

v. A few months later, Philip Abela notices that the Notary inadvertently forgot to write down the time the said will was published. Philip Abela is claiming that his will is null and void. (a) True or (b) False.

22. The date on a private writing must, on pain of nullity, be written in indelible ink, in full by the notary himself. (a) True; or (b) False.

23. Any document annexed to a notarial act, which is not mentioned in the act or is not duly signed, shall not be considered as forming part of the act, except in so far as the truth of its contents results from the act itself. (a) True or (b) False.

24. Which of the following is correct: 24a or 24b or 24c?

24a. A public deed is an instrument drawn up or received, with the requisite formalities, by a notary or other public officer lawfully authorized to attribute public faith thereto. Or

24b. A public deed is an instrument drawn up or received, with the requisite formalities, by a public officer lawfully authorized to attribute public faith thereto. Or

24c. A public deed is an instrument drawn up or received by a notary or other public officer lawfully authorized to attribute public faith thereto.

25. Every notarial act must contain:-

i. the name and surname and identity card number of the notary. (a) True or (b) False.



ii. the precise description of the things forming the subject matter of the act in a manner that they cannot be mistaken for others. (a) True or (b) False.

iii. a statement that the notary has duly explained to the parties the contents of the act before the publication. If this statement is not included, the notarial act is null and void. (a) True or (b) False.

iv. the signature of the parties, of the witnesses if these have been employed, and of the notary. Should any of these be missing the notarial act is null and void (a) True or (b) False.

26. John Spiteri transferred by title of sale to Peter Farrugia, a plot of land measuring circa 450m<sup>2</sup> situated in Triq il-Kbira, Mosta. Answer the following questions:-

(i) When John Spiteri received a copy of the contract of sale, he noticed that the name of the street was mistakenly written as Triq id-Dejqa instead of as Triq il-Kbira. John Spiteri is stating that the contract may be corrected by means of a numbered mark in the margin of the original notarial act. (a) True or (b) False;

ii. Peter Farrugia, on the other hand, feels that the contract must be corrected by means of a numbered mark at the end of the original notarial act. Is this (a) Correct or (b) Incorrect.

iii. The estate agent, is sure that the correction must be made by means of another deed which must be signed by all parties involved. Is this (a) Correct or (b) Incorrect.

iv. The description of the property must contain a mention of at least three of its boundaries. If these are given, a detailed plan and an official survey sheet showing the juxtaposition of the said property are not required. (a) True; or (b) False.

27. A private writing in Arabic, signed in Malta, is null. (a) True or (b) False.

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LLD I (2011/12)**  
**JANUARY 2012 SESSION OF EXAMINATIONS**

**CVL4007 – INTRODUCTION TO NOTARIAL LAW**

THURSDAY 26<sup>TH</sup> JANUARY 9.15AM-10.15AM

- Answer all questions
  - A correct answer will be marked positively
  - An incorrect answer or no answer at all will be marked negatively
  - If you think that there may be two answers to a question, you are to decide which of the two is more likely to be the correct answer and give that as the only answer.
  - Each question as well as each sub-question carries equal marks.
  - You must use the Examination Script provided to write the number of the question and the correct answer according to you.
- 

1. As the Notary is a Public Officer he is an employee of the state and receives a monthly salary from the Government for his services. (a) True or (b) False
2. The notary should be an impartial advisor of all parties to a notarial deed. (a) True or (b) False
3. After being published all notarial deeds and acts are kept at the Public Registry which is responsible to give out copies to all interested parties. (a) True or (b) False
4. The Notarial Archives attributes Public Faith to notarial acts. (a) True or (b) False.
5. An Australian solicitor has asked a Maltese notary to send him the original will which the Maltese notary had published for a testator. The notary should not comply. (a) True or (b) False
6. A private writing drawn up in Spanish and signed in Malta is null and void. (a) True or (b) False
7. A German insists that in order for him to understand well the conditions of the deed in virtue of which he is buying a house in Malta the deed of sale must be published in the German language. The notary must accede to this request. (a) True or (b) false
8. A minor has just inherited property from his father. The family notary has been appointed to take care of all the procedures necessary. The notary insists

that the note of acceptance of the inheritance and all other applications which have to be filed in the Court of Voluntary Jurisdiction must be done by a lawyer as his notarial warrant does not allow him to file them himself. (a) The notary is correct or (b) the notary is incorrect

9. A notary may act as a mediator. (a) True or (b) False

10. Current legislation forbids notaries from drawing up protests for non-acceptance or non-payment of bills of exchange. (a) True or (b) False

11. A notary is enjoying a picnic with his family on a Sunday morning when somebody calls him on his mobile and asks him to meet within twenty minutes because his mother has died and he wants see what procedures have to be undertaken in order for the declaration causa mortis to be published. The notary:  
(a) has to leave his family and go to his office; or  
(b) gives an appointment to this individual for the first thing Monday morning or any other time or day which is convenient for both the individual and the notary.

12. The next Sunday the same notary is invited for lunch at his in-laws when the mobile phone rings again. This time an individual explains that he is feeling chest pains and has just phoned an ambulance and would like to make his last will. The notary:

- (a) leaves his family without delay and goes to meet this individual in hospital to publish his last will;
- (b) Tells the individual to give him a call on Monday morning to tell the notary at which ward he has been allocated at which time he will visit him.

13. Which of the following dates is correctly written on a deed of sale:

- (a) Today the second of April 2012
- (b) Today the 2<sup>nd</sup> of April 2012
- (c) Today the 2<sup>nd</sup> of April of the year two thousand and twelve
- (d) Today the second (2<sup>nd</sup>) day of April of the year two thousand and twelve (2012).

14. Every appearer on a notarial act must know how to sign his name. (a) True or (b) False

15. Joseph Zammit agreed to sell a house to Jennifer Vella. A promise of sale agreement was signed on the 25<sup>th</sup> November 2011 where the purchaser Jennifer Vella who presently resides in Brussels and was represented by her brother James Vella. The price agreed upon was €100,000, out of which the sum of €10,000 was paid on the promise of sale agreement as deposit on account, whilst the balance of €90,000 is to be paid on final deed. The validity of the promise of sale agreement was for three (3) months. The promise of sale agreement was drawn up by the notary who also witnessed the signatures of the

persons involved. Jennifer Vella happens to be the Notary's first cousin. Please answer the following questions with regard to the above:

i. The promise of sale agreement can only be done by public deed and must be published by a notary to be valid. (a) True or (b) False

ii. The agreement was signed by the parties or their representatives on different days. The agreement is still valid. (a) True or (b) False

iii. This agreement is written in pencil. (a) it is valid or (b) it is not valid

iv. The date on the agreement was written in figures only. It is still valid. (a) True or (b) False

v. The neighbour found out about this promise of sale agreement and asks the notary for a copy. The notary cannot refuse to give him a copy. (a) True or (b) False

vi. Joseph Zammit and Jennifer Vella are both parties to the promise of sale and purchase agreement. (a) True or (b) False

vii. Jennifer Vella is related to the notary: (a) in the direct line in the third degree; (b) in the second degree in the collateral line by affinity; (c) in the collateral line in the fourth degree;

viii. The Notary can draw up the promise of sale agreement but cannot publish the final deed, because he is related to Jennifer Vella in the degree referred to in the correct answer to the previous question. (a) True or (b) False

16. A newly graduated notary who has just obtained his warrant feels that he needs to take on another job whilst working as notary in the evenings until he establishes a good, profitable notarial practice. He has been offered a job as Bank manager. (a) The notary can accept this offer (b) the notary cannot accept this offer.

17. The function of the attestor is to:

a) ascertain the will of the parties;

b) interpret the language of the deed into a language other than Maltese or English;

c) confirm the identity of one or more of the appearers who do not have any official means of identification to show to the notary;

18. Indicate which one of the following answers is wrong:

A notary will be removed from office:

- (a) if he absents himself from Malta for a continuous period of not less than ten years;
- (b) if he is interdicted under the provisions of the Criminal Code;
- (c) Upon becoming eighty (80) years of age;
- (d) if he resigns his office in writing to the President of Malta;
- (e) if he is removed from his office by the President of Malta following a sentence by any competent tribunal for theft, fraud or any crime against public faith;

19. The presence of witnesses is required whenever any of the parties (appearers) does not know how to or cannot sign his name. (a) True or (b) False

20. A witness to a will need not know how to nor be able to sign his name. (a) True or (b) False

21. An attestor need not know how to nor be able to sign his name. (a) True or (b) False

22. John Grech has approached you in your capacity as notary and authorised you to do whatever is possible for him to be able to transfer by title of sale a plot of land measuring approximately 200s.m. to a certain Paul Zammit, which land is situated in Triq il-Lewz, limits of Rabat, Malta. You tell him:

i) that the sale can take place: (a) by private writing; or (b) by public deed; or (c) he can choose between either one or the other;

ii) Since this is a transfer of immovable property the notary has to deliver to the Director of the Public Registry a note of enrolment of the sale, within fifteen days from the date of the act. (a) True or (b) False

iii) The property transferred is (a) rural; or (b) urban;

iv) John Grech knows three of the boundaries to the property and willingly gives them to you. In this case, then, you do not need to ask him for a detailed plan and official survey sheet showing the juxtaposition of the property. (a) True or (b) False

23. The police must be present to assist the notary on any notarial act if this is published at night time. (a) True or (b) False

24. A act of delivery of a secret will must be enrolled in the Public Registry. (a) True or (b) False

25. If a public will is contained in several sheets the testators need only sign at the foot of the act in the last page. (a) True or (b) False

26. When a secret will is opened and published the notary first goes to the Court of Voluntary Jurisdiction and collects the will still in a sealed envelope. Then he goes to his office alone, opens the envelope and publishes the will in the presence of his office assistant. (a) True or (b) False

27. The parties to a deed of transfer of immovable property are Russian and do not know the Maltese or English language. The parties would like to appoint a person they know as their interpreter, but the notary insists that according to Chapter 55 only he can appoint an interpreter and does not accept their appointee. (a) the notary is acting correctly (b) the notary is acting incorrectly.

28. Where any of the parties is totally deaf, such party shall read the act, and a mention of the fact shall be recorded therein. (a) True or (b) False

29. Every notary must, within fifteen days from the date of the act deliver to the Director of the Public Registry a note of any act creating an annuity, in perpetuity or for a time as a real burden on immovable property. (a) True or (b) False

30. A notary has been appointed Chief Notary to Government. He has the capacity to publish both contracts of sale as well as wills. (a) True or (b) False

University of Malta  
Faculty of Laws

LL.D. First year – Academic Year 2012/2013  
CVL 4007- Introduction to Notarial Legislation  
time allocated (1 hour)

- Answer all questions
- A correct answer will be marked positively
- An incorrect answer or no answer at all will be marked negatively
- If you think that there may be two answers to a question, you are to decide which of the two is more likely to be the correct answer and give that as the only answer.
- Each question as well as each sub-question carries equal marks

WEDNESDAY 30<sup>TH</sup> JANUARY 2013

10:30AM - 11:30AM

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1. As the Notary is a Public Officer he is an employee of the state and receives a monthly salary from the Government for his services. (a) True or (b) False
2. The notary at all costs must always protect the interests only of his client. (a) True or (b) False
3. After being published all notarial acts are kept at the Public Registry which is responsible to give out copies to all interested parties. (a) True or (b) False
4. The Notarial Archives attributes Public Faith to notarial acts. (a) True or (b) False.
5. An heir would like to show his uncle's will to his lawyer for advice thereon and has asked the Notary to give him the original will in order that the lawyer would be able to examine the original signature applied by the testator. The notary is bound to comply. (a) True or (b) False
6. A private writing drawn up in Spanish and signed on Maltese soil is null and void. (a) True or (b) False
7. A German insists that in order for him to understand well the conditions of the deed in virtue of which he is buying a house in Malta the deed of sale must be published in the German language. The notary must accede to this request. (a) True or (b) false
8. A British senior citizen who resides in Malta and receives a pension from abroad has received a document from England asking him to prove that he is still alive. He approaches his notary who tells him that this does not fall within notarial

compulsory to refer him to a parish priest. (a) The notary is correct or (b) the notary is incorrect.

A bank manager has successfully completed the law course and has decided to practice as a notary in the beginning and until he establishes himself in the notarial profession he has retained in the bank manager as the law allows it. (a) The law allows it or (b) The law does not allow it.

A notary is a judge in form and is not a judge drawing up protocols of non-acceptance of non-payment of bills of exchange. (a) True or (b) False.

It is New Year's Eve at 23:45 hrs and a notary is preparing for the annual count-down with his family when his mobile phone rings. An individual explains that he is feeling chest pain and has just phoned an ambulance and would like to have a will with the notary.

(a) He leaves his family and go to meet this individual at hospital to make his last will.

(b) He talks to the individual on a call after the festive season to let the notary at which ward he has been allocated at which time he will visit him.

The notary is about to publish a deed of sale and has phoned the purchaser to inform him of a variation. The purchaser happens to be abroad for the next six months and since the promisor of sale agreement expires in two months time he would like to give a power of attorney to a friend who happens to be the notary's brother. The deed contains all the other details on the deed who will be the correct answer to this question the correct answer is:

(a) The notary as the only person appearing on the deed in representation of the purchaser or (b) a power of attorney.

(c) The notary will have to find either another representative or another notary.

(d) The notary will not like to draw a power of attorney in favour of anyone else save his brother as brother and family trusts this particular notary of the notary to work with him to come to Malta to sign the deed.

Which of the following dates is compulsory for an office?

(a) 1st January of each year

(b) 1st January of every 2 years

(c) 1st January of every 5 years

(d) 1st January of every 10 years

(e) 1st January of every 15 years

(f) 1st January of every 20 years

(g) 1st January of every 25 years

(h) 1st January of every 30 years

(i) 1st January of every 35 years

(j) 1st January of every 40 years

(k) 1st January of every 45 years

(l) 1st January of every 50 years

(m) 1st January of every 55 years

(n) 1st January of every 60 years

(o) 1st January of every 65 years

(p) 1st January of every 70 years

(q) 1st January of every 75 years

(r) 1st January of every 80 years

(s) 1st January of every 85 years

(t) 1st January of every 90 years

(u) 1st January of every 95 years

(v) 1st January of every 100 years



14. Every witness on a notarial act must know how to sign his name. (a) True or (b) False

15. The limited liability company ABC Limited represented by Joseph Farrugia, agreed to sell a house to Mary Galea. A promise of sale agreement was signed on the 12<sup>th</sup> October 2012. The price agreed upon was €100,000, out of which the sum of €10,000 was paid on the promise of sale agreement as deposit on account, whilst the balance of €90,000 is to be paid on final deed. The validity of the promise of sale agreement was for three (3) months. The promise of sale agreement was drawn up by the notary who also witnessed the signatures of the persons involved. During the month of November 2012 ABC Limited acquired three new directors one of whom is Mr Alfred Camilleri the notary's uncle. Please answer the following questions with regard to the above:

i. The promise of sale agreement can only be done by public deed and must be published by a notary to be valid. (a) True or (b) False

ii. The agreement was signed by the parties or their representatives on different days. The agreement is still valid. (a) True or (b) False

iii. The notary happened to be in a restaurant when the promise of sale was drafted and it was written with a felt pen on three paper table napkins. (a) it is valid or (b) it is not valid

iv. The date on the agreement was written in figures only. It is still valid. (a) True or (b) False

v. The neighbour found out about this promise of sale agreement and asks the Notary for a copy. The notary cannot refuse to give him a copy. (a) True or (b) False

vi. Joseph Farrugia, who appears in representation of the limited liability company ABC Limited, and Mary Galea are both parties to the promise of sale and purchase agreement. (a) True or (b) False

vii. Mr Alfred Camilleri is related to the notary: (a) in the direct line in the third degree; (b) in the third degree in the collateral line by consanguinity; (c) in the collateral line in the fourth degree;

viii. The Notary can draw up the promise of sale agreement but cannot publish the final deed, because he is related to Mr Alfred Camilleri in the degree referred to in the correct answer to the previous question. (a) True or (b) False

The illustrated instrument was successfully concluded by means of a public sale which was published on the 1st of September 2012 and after some time the parties were supplied with an electronically copied copy of the deed. In the course of inspection of the copy the parties noticed that there was a mistake in the number of the deed and although this was brought to the attention of the notary (Shops) the correct answer is:

a) The notary told her that the deed was null and that an act of validation was required.

b) The notary told her that the deed was an illisley and that a deed of validation was required.

c) The notary told her that a notarial corrective act could be done where the parties or their representatives did not even need to necessarily appear.

17. The function of the affesor is to:

a) ascertain the will of the parties.

b) interpret the language of the deed into a language other than Maltese or English.

c) confirm the identity of one or more of the appearers who do not have any official means of identification to show to the notary.

18. The notary may request the assistance of a police officer whenever he deems it prudent to have such assistance. (a) True. (b) False.

19. One of the parties to a deed when one of the appearers does not know how to or cannot sign his name has to make a cross mark in the presence of witnesses. (a) True. (b) False.

20. An affesor or a notarial act (public deed) need not know how to nor be able to sign his name. (a) True. (b) False.

21. An affesor need not know how to nor be able to sign his name. (a) True. (b) False.

22. When the notary is in the process of reading a public deed out loud at the foot of the act he declares that he has explained the act to the parties in reality he does not explain at all. The deed is (a) null. (b) annulable. (c) valid.

23. Choose the right answer.

(a) A public deed is an instrument drawn up or received with the requisite formalities by a notary public or other public officer lawfully authorized to attribute public faith.

(b) A public deed is an instrument drawn up or received with the requisite formalities by a public officer lawfully authorized to attribute public faith.

(c) A public deed is an instrument drawn up or received by a notary public or other public officer lawfully authorized to attribute public faith thereto;

24. A plot of land situated between two buildings is (a) rural; or (b) urban;

25. On a deed of transfer of a house named "St Joseph", the appearers declare that it does not have an official street (door) number. In order to describe it according to Chapter 55 of the laws of Malta the notary:

- (a) Mentions at least three of its boundaries;
- (b) Writes down its name "St Joseph";
- (c) Does not write anything but attaches to the deed a floor plan, site plan and front elevation plan, and makes reference to the said plans.

26. All alterations to be made to a notarial act (public deed) are to be made in whatever margin is closest to the words to be cancelled/substituted. (a) True (b) False.

27. A notary is empowered to compile documents conducive to establishing both the title to an immovable property and the causes of preference among creditors affecting such title. (a) True or (b) False

28. A Notary residing in Malta publishes a deed of sale of an apartment situated in Xaghra, Gozo. The notary must:

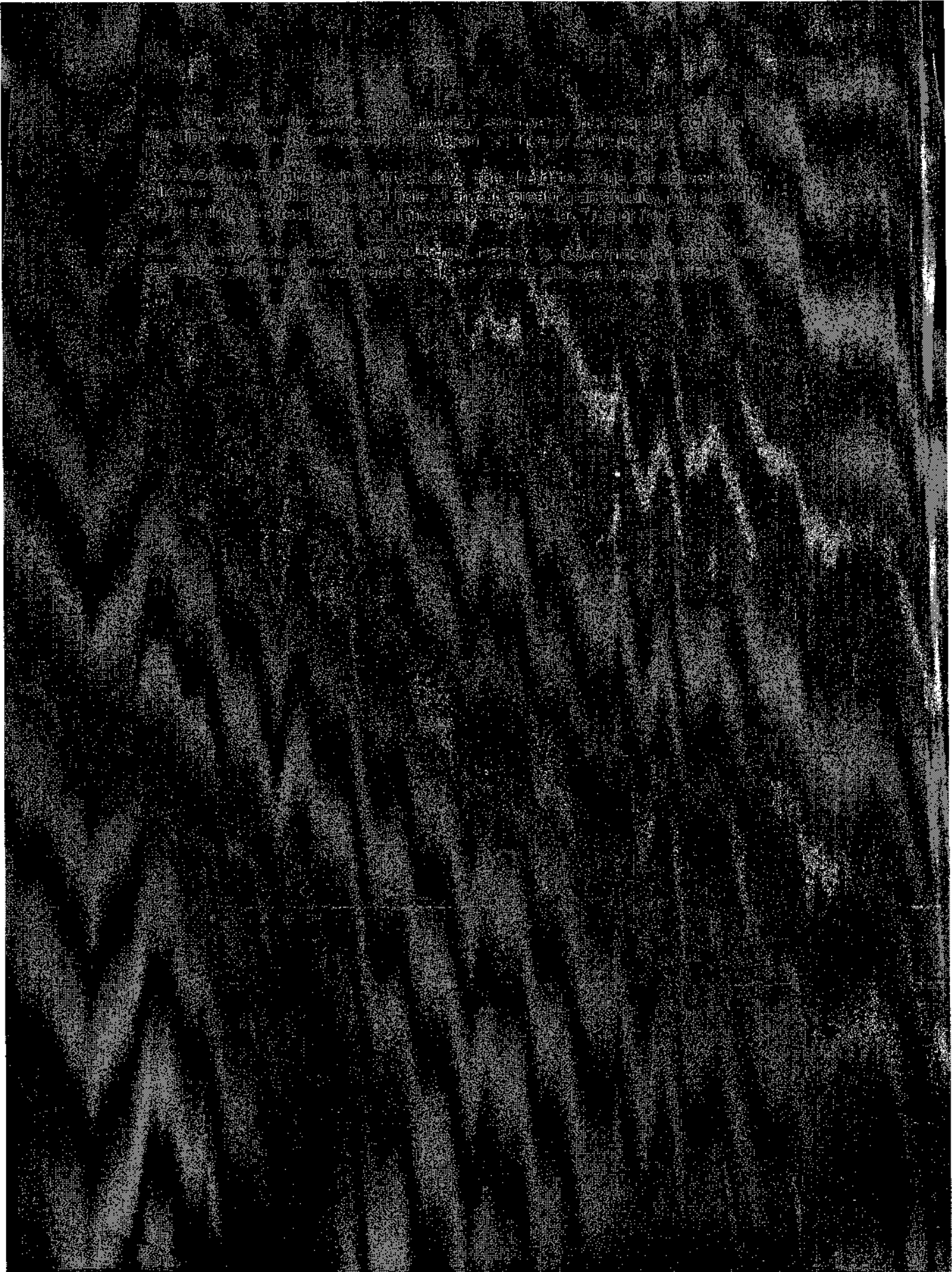
- (a) Deliver a note of enrollment to the Director of the Public Registry in Valletta Malta only;
- (b) Deliver a note of enrollment to the Director of the Public Registry in Gozo only;
- (c) Deliver a note of enrollment to the Director of the Public Registry in Valletta Malta and also to the Director of the Public Registry in Gozo;

29. An individual enters a notary's office and presents a sealed envelope which he declares contains his secret will asking for this to be delivered to the Court of Voluntary Jurisdiction. The notary writes and publishes the act of delivery on the envelope itself in the presence of witnesses. (a) True (b) False

30. Indicate which one of the following answers is wrong:

Within twenty-four hours of the execution of each act the notary must:

- (a) write the title thereof in the margin;
- (b) prepare authenticated copies thereof and send them to each of the parties;
- (c) on every unwritten page or part thereof between one act and another draw two transversal lines across the whole length of any unwritten space;



**UNIVERSITY OF MALTA**

**FACULTY OF LAWS**

**LLD I**

**SEPTEMBER 2013 SUPPLEMENTARY SESSION OF EXAMINATIONS**

**EXAMINATION: CVL4007 – INTRODUCTION TO NOTARIAL  
LAW**

**DATE: MONDAY 9<sup>TH</sup> SEPTEMBER 2013**

**TIME: 10.30AM – 11.30AM**

- 
- Answer all questions
  - A correct answer will be marked positively
  - An incorrect answer or no answer at all will be marked negatively
  - If you think that there may be two answers to a question, you are to decide which of the two is more likely to be the correct answer and give that as the only answer
  - Each question as well as each sub-question carries equal marks.
- 

1. All notarial acts which have been deposited at the Notarial Archives are available to the public who may obtain copies thereof. Copies of wills may be issued only under those circumstances contemplated by law. (a) True or (b) False

2. The Notarial Archives attributes Public Faith to notarial acts. (a) True or (b) False.

3. As the Notary is a Public Officer he is an employee of the state and receives a monthly salary from the Government for his services. (a) True or (b) False

4. The notary at all costs must always protect the interests only of his client. (a) True or (b) False

5. An Australian solicitor has asked a Maltese notary to send him the original will which the Maltese notary has published for his client. The notary should not comply. (a) True or (b) False

6. A private writing drawn up in Arabic and signed on Maltese soil is null and void. (a) True or (b) False

7. A Frenchman insists that in order for him to understand well the conditions of the deed in virtue of which he is buying a house in Malta the deed of sale must be published in the French language. The notary must accede to this request. (a) True or (b) False

8. Notaries have the power to sign applications or other acts relating to matters cognizable by a court of voluntary jurisdiction. (a) True or (b) False.

9. A secondary school mathematics teacher has successfully completed the law course and has decided to practice as notary. In the beginning and until he establishes himself in the notarial profession he has retained his job as teacher as the law allows it. (a) The law allows it, or (b) The law does not allow it

10. Current legislation forbids notaries from drawing up protests for non-acceptance or non-payment of bills of exchange. (a) True or (b) False

11. A notary is enjoying a picnic with his family on a Sunday morning when somebody calls him on his mobile and explains that he is feeling chest pains and has just phoned an ambulance and would like to make his last will. The notary:

(a) Has to leave his family and go to meet this individual right away to make his last will;

(b) Tells the individual to give him a call on Monday morning to tell the notary at which ward he has been allocated at which time he will visit him.

12. The notary is about to publish a deed of sale and has phoned the purchaser to give him an appointment. The purchaser happens to be abroad for the next six months and since the promise of sale agreement expires in two months time he would like to give a power of attorney to his best friend who happens to be the notary's brother. The notary contacts all the other appearers on the deed who find no objection to this. (choose the correct answer:)

a) The notary's brother may appear on the deed in representation of the purchaser by means of a power of attorney;

b) The purchaser will have to find either another representative or another notary.

c) The purchaser would not like to draw a power of attorney in favour of anyone else save the notary's brother and only trusts this particular notary so he has to book a flight and come to Malta to sign the deed.

13. Which of the following dates is correctly written on a deed of sale:

(a) Today the second of January 2013

(b) Today the 2<sup>nd</sup> of January 2013

(c) Today the 2<sup>nd</sup> of January of the year two thousand and thirteen

(d) Today the second (2<sup>nd</sup>) day of January of the year two thousand and thirteen (2013).

14. Every witness on a notarial act must know how to sign his name. (a) True or (b) False

15. Carmelo Zammit agreed to sell a house to Edgar Vella. A promise of sale agreement was signed on the 25<sup>th</sup> November 2011 where the purchaser Edgar Vella who presently resides in Brussels and was represented by his brother James Vella. The price agreed upon was €100,000, out of which the sum of €10,000 was paid on the promise of sale agreement as deposit on account, whilst the balance of €90,000 is to be paid on final deed. The validity of the promise of sale agreement was for three (3) months. The promise of sale agreement was drawn up by the notary who also witnessed the signatures of the persons involved. Edgar Vella happens to be the Notary's first cousin. Please answer the following questions with regard to the above:

i. The promise of sale agreement can only be done by public deed and must be published by a notary to be valid. (a) True or (b) False

ii. The agreement was signed by the parties or their representatives on different days. The agreement is still valid. (a) True or (b) False

iii. This agreement is written in pencil. (a) it is valid or (b) it is not valid

iv. The date on the agreement was written in figures only. It is still valid. (a) True or (b) False

v. The neighbour found out about this promise of sale agreement and asks the notary for a copy. The notary cannot refuse to give him a copy. (a) True or (b) False

vi. Carmelo Zammit and Edgar Vella are both parties to the promise of sale and purchase agreement. (a) True or (b) False

vii. Edgar Vella is related to the notary: (a) in the direct line in the third degree; (b) in the second degree in the collateral line by affinity; (c) in the collateral line in the fourth degree;

viii. The Notary can draw up the promise of sale agreement but cannot publish the final deed, because he is related to Edgar Vella in the degree referred to in the correct answer to the previous question. (a) True or (b) False

16. The case illustrated in question 15 was successfully concluded by means of a deed of sale which was published on the 15<sup>th</sup> December 2012 and after some time the parties were supplied with an authenticated copy of the deed of transfer. Upon close inspection of the act Edgar Vella noticed that there was a

mistake in his identity card number and brought this to the attention of the notary. (Choose the correct answer:)

- a) The notary told him that the deed was null and that an act of validation was required;
- b) The notary told him that the deed was annulable and that a deed of convalidation was required;
- c) The notary told him that a notarial corrective act could be done where the parties or their representatives did not even need to necessarily appear.

17. The function of the attester is to:

- a) ascertain the will of the parties;
- b) interpret the language of the deed into a language other than Maltese or English;
- c) confirm the identity of one or more of the appearers who do not have any official means of identification to show to the notary.

18. A secret will must be enrolled in the Public Registry. (a) True or (b) False

19. On a public deed when one of the appearers does not know how to or cannot sign his name he is to make a cross-mark in the presence of witnesses. (a) True or (b) False

20. An appearer on a notarial act (public deed) need not know how to nor be able to sign his name. (a) True or (b) False

21. When the documents annexed to a deed exceed five in number the notary shall make a list thereof and enroll this list in the Public Registry. (a) True or (b) False

22. The notary is in the process of reading a public deed but although at the foot of the act he declares that he has explained the act to the parties in reality he does not explain it at all. The deed is (a) null (b) annulable (c) valid

23. Choose the right answer:

- (a) A public deed is an instrument drawn up or received, with the requisite formalities, by a notary public or other public officer lawfully authorized to attribute public faith thereto;
- (b) A public deed is an instrument drawn up or received, with the requisite formalities by a public officer lawfully authorized to attribute public faith thereto;
- (c) A public deed is an instrument drawn up or received by a notary public or other public officer lawfully authorized to attribute public faith thereto;



24. A plot of land situated between two buildings is (a) rural; or (b) urban;

25. On a deed of transfer of a house named "St Mary", the appearers declare that it does not have an official street (door) number. In order to describe it according to Chapter 55 of the laws of Malta the notary:

- (a) Mentions at least three of its boundaries;
- (b) Writes down its name "St Mary";
- (c) Does not write anything but attaches to the deed a floor plan, site plan and front elevation plan, and makes reference to the said plans

26. All alterations to be made to a notarial act (public deed) are to be made in whatever margin is closest to the words to be cancelled/substituted. (a) True (b) False.

27. A notary is empowered to compile documents conducive to establishing both the title to an immovable property and the causes of preference among creditors affecting such title. (a) True or (b) False

28. A Notary residing in Malta publishes a deed of sale of an apartment situated in Xaghra, Gozo. The notary must:

- (a) Deliver a note of enrollment to the Director of the Public Registry in Valletta Malta only;
- (b) Deliver a note of enrollment to the Director of the Public Registry in Gozo only;
- (c) Deliver a note of enrollment to the Director of the Public Registry in Valletta Malta and also to the Director of the Public Registry in Gozo;

29. An individual enters a notary's office and presents a sealed envelope which he declares contains his secret will asking for this to be delivered to the Court of Voluntary Jurisdiction. The notary writes and publishes the act of delivery on the envelope itself in the presence of witnesses. (a) True or (b) False

30. A Notary must personally ascertain the identity of the parties in virtue of their identity card. (a) True or (b) False.

31. Where any of the parties is totally deaf, such party shall read the act, and a mention of the fact shall be recorded therein. (a) True or (b) False

32. Every notary must, within fifteen days from the date of the act deliver to the Director of the Public Registry a note of any act inter vivos transferring the ownership of immovable property or other real rights over such property. (a) True or (b) False

33. A notary has been appointed Chief Notary to Government. He has the capacity to publish both contracts of sale as well as wills. (a) True or (b) False



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FACULTY OF LAWS  
DEPARTMENT OF CIVIL LAW  
FEBRUARY 2021 EXAMINATION SESSION

**CVL5025 INTRODUCTION TO NOTARIAL LAW**

**Monday, 1<sup>st</sup> February 2021**

**Examination time: 08:30 – 10:30 + 15 extra minutes for uploading/downloading.**

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

**Telephone: 2340 3251; 2340 2780**

**Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)**

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

By sitting for this examination, I declare that I am aware of the provisions of the regulations regarding conduct during examinations and I pledge to observe them.

Students may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

Students may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

With regard to FLOWmulti examinations, you are advised to type directly on WISEflow (and not on MS Word intending to copy and paste on WISEflow).

With regard to FLOWassign examinations, you are advised to upload your work in PDF format.

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## INSTRUCTIONS TO CANDIDATES

This examination paper consists of two (2) sections: Section A and Section B.

Candidates must answer ALL questions in BOTH sections. BOTH Sections carry EQUAL marks.

- This examination paper consists of 7 pages including this page.

Any reference in this examination paper to an Article of a Maltese Act of Parliament which does not state the name of the relevant Act, is to be understood as referring to the Notarial Profession and Notarial Archives Act, Chapter 55 of the Laws of Malta.

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### SECTION A (50 Marks)

- Answer ALL 25 questions.
- Each question carries 2 marks.
- A correct answer will be marked positively, that is you will gain 2 marks.
- An incorrect answer will be marked negatively, that is 2 marks will be deducted.
- Giving no answer at all will result in nought (0) marks gained or deducted.
- You are to write the respective question number and the corresponding answer (eg. 1 True or 1 False) in the PDF document containing your answer.
- You are NOT to write any explanatory notes.

(1) A notary is approached by a married couple who have decided to separate from each other. The spouses have agreed to separate by means of a consensual deed of separation. The parties approach the said notary and ask him to file the necessary court application before the Family Court to commence the separation proceedings. The notary may personally present the said application and eventually publish the deed of personal separation.

a) TRUE [    ]                      or                      b) FALSE [    ]

(2) John Grima is in the process of leasing a commercial premises from Albatross Limited. The parties ask a notary to draft the contract of lease and the lease contract is signed in the presence of the notary. Since this contract was signed in the presence of the notary, the contract is a public deed.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(3)** The notary is empowered by law to examine title of property. Part of this examination of title consists in searches on the Planning Authority permits of the relative property.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(4)** A notary is called to publish a will in a secluded house in the evening due to the ill health of the testator. Given the late hour, only one witness is present at the time of the signing of the will. Given the ill health of the testator, the notary may ask a second person to sign the will on the next day as long as the will is read and explained to this second person.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(5)** A notary is asked to provide a certified true copy of a scientific document. The notary's obligation is to confirm that the copy is a true and faithful copy of the original document even if the contents of the said document are not familiar to the notary.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(6)** A notary is asked to publish a contract of exchange between William Farrugia and Antelope Limited. The notary realises that one of the directors of Antelope Limited is the notary's first cousin. The notary may proceed to publish the contract.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(7)** A notarial act which is null may be rendered valid by a subsequent act which is called an act of validation.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(8)** One of the essential requirements of a public deed is the notary's identity card number.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(9)** A notary is asked to publish a deed of sale between two German nationals. The notary is very well-versed in the German language. The notary may publish the deed in the German language, and s/he is to translate the deed into English or Maltese if asked by either of the parties.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(10)** A deed of sale of an apartment has been published on the 10<sup>th</sup> December 2019. The notary who published the deed realises a few days later that the apartment was described as being apartment number three (3) at second floor level when in fact the correct description should have been apartment number four (4) at third floor level. The notary is empowered to publish, on his own, a notarial corrective act in terms of Article 45A.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(11)** A notary publishes a deed of donation of a garage between a mother and her daughter. The notary must within fifteen working days from the date of the act deliver to the Public Registry a note of enrolment of this act.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(12)** The Public Registry is responsible to issue certified copies of notarial acts to the general public.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(13)** A notary is asked to publish a deed of sale. The parties declare to the notary they are aware of the contents of the deed and therefore they wish to exempt the notary from reading the deed. In this case, the notary may proceed to publish without reading the deed as long as the formalities mentioned in Chapter 55 are fully adhered to.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(14)** The originals and registers of acts *inter vivos* and public wills shall be open to the inspection of any person.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(15)** A person shows up at a notary's office and asks to make a public will. The said person claims that he is unable to produce his identity card but instead he provides a driving licence. The notary may publish the will once he confirms the identity of the testator via the said driving licence.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(16)** A notary is about to publish a deed of sale in which the vendor is an English lady living in England. On account of travel restrictions due to Covid-19 outbreak, the English lady has been advised by her English solicitor to ask that the deed of sale be sent to her by registered mail and then mailed back to the Maltese notary with her signature. The deed of sale may be validly done in this manner.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(17)** The note of enrolment of a public will must contain the full designation of the testator, the name of the notary, the date of the will and a summary of the testamentary dispositions.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(18)** A public deed of sale relating to an immovable property in Gozo published by a Notary who practices in the island of Malta has to be enrolled both in the Public Registry of Malta and in the Public Registry of Gozo.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(19)** In a deed of sale published in the year 2005, the property sold was described as house number 44, Triq il-Merill, Marsaskala. The parties have now realised that there was an error because the correct street name was in fact Triq il-Fanfru. The notary who had published the deed in the year 2005 is now deceased. The parties may enter into a corrective deed before any other notary.

a) TRUE [    ]                      or                      b) FALSE [    ]

**(20)** A client approaches a notary and informs him that he wishes to know whether his wife, who is still alive, has made a public will. The notary may proceed to carry out a testamentary search for public wills in the Public Registry on this client's wife and once in hand, deliver a copy of this search to the client.

a) TRUE [    ]                      or                      b) FALSE [    ]



## Section B (50 Marks)

- You are asked to prepare a deed of sale in terms of the details provided below.
- You are asked to use the name of “Notary Horace Cassar” as the notary’s name.
- You are not expected to include any statutory declarations for fiscal purposes nor to make any fiscal calculations.

### Details:

The company “Felix & Sylvester Ltd” is purchasing a third-floor apartment, known as apartment number 5 in a corner block named “Cornavin” in Triq il-Mazzola, Saint Paul’s Bay, and a lock-up garage internally numbered 8, forming part of a garage complex underlying the same block, which garage is accessible from a ramp and drive-in abutting onto Triq it-Trill, Saint Paul’s Bay.

The company has been informed that included in the sale is a share in the block’s airspace and roof.

The company has also been informed that the property being sold is burdened by a perpetual and annual ground-rent of Eur 46.60.

The sellers are:

- a) Rupert Brown who resides in Italy and is being represented by his lawyer Dr Gianfranco Attard. The said Rupert Brown owns a 25% share in the property.
- b) Wesley Brown who is unable to sign due to a physical impairment and who owns a 55% share in the property; and
- c) Moira Brown who is 15 years old and is being represented by her aunt Catherine Curmi, and who owns a 20% share in the property.

The sale price is Eur 265,500, namely the price of Eur 240,500 for the apartment and the price of Eur 25,000 for the garage.

Out of the said price, the sum of Eur 26,550 was paid as deposit on account of the price on the promise of sale. Eur 195,000 is being paid on the final deed of sale whereas the balance of the price shall be paid within 3 years from the date of the final deed of sale.

The contract is taking place at the notary’s office in Kirkop.