

Notaries Act

Preamble

[9th August, 1952]

"An Act to regulate the profession of notaries."

Be it enacted by Parliament as follows:

Section 1. Short title, extent and commencement.

[9th August, 1952]

"An Act to regulate the profession of notaries."

Be it enacted by Parliament as follows:

(1) This Act may be called The Notaries Act, 1952

(2) It extends to the whole of India (3) It shall come into force on such date as the central government may, by notification in the official gazette, appoint.

Section 2. Definitions In this Act unless the context otherwise requires.

(a) Omitted by Act 25 of 1968 (b) "Instrument" includes every document by which any right or liability is, or purpose to be, created, transferred, modified, limited, extended, suspended, extinguished or recorded. (c) "Legal Practitioner" means any advocate or agent of the supreme court to any advocate, vakil or attorney of any high court or any pleader authorised under any law for the time being in force to practice in any court of law (d) "Notary" means a person appointed as such under this act:

Provided that for a period of two years from the commencement of this Act it shall include also a person who, before such commencement, was appointed a notary public under the negotiable instruments in 1881 and is, immediately before such commencement, in practice in any part of India.

Provided further that in relation to the state of Jammu and Kashmir the said period of two years shall be computed from the date on which this act comes into force in that State.

(e) "Prescribed" means prescribed by rules made under this act. (f) "Register" means a register of notaries maintained by the government under section 4

(g) "State Government", in relation to a Union Territory, means the administrator thereof.

Section 3. Power to appoint Notaries.

The Central Government, for the whole or any part of India, and any such State Government, for the whole or any part of State, may appoint as notaries, any legal practitioners or other persons who possess such qualifications as may be prescribed.

Section 4. Registers.

(1) The Central Government and every State Government shall maintain, in such form as may be prescribed, a register of the notaries appointed by that Government and entitled to practice as such under this act.

(2) Every such Register shall include the following particulars about the notary is entered therein, namely:-

(a) his full name, date of birth, residential and professional address.

(b) the date on which his name is entered in the register.

(c) his qualification , and

(d) any other particulars which may be prescribed.

Section 5. Entry of names in the Register and issue or renewal of certificates of practices.

(1) Every Notary who in ends to practice as such shall, on payment to the government appointing him of the prescribed fee, if any, be entitled.-

(a) to have his name entered in the Register maintained by that government under section 4, and

(b) to a certificate authorizing him to practice for a period of three years from the date on which the certificate is issued to him.

(2) Every such notary who wishes to continue to practice after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government appointing him and payment of the prescribed fee, if any, be entitled to have his certificate renewed for three years at a time.

Section 6. Annual publication of lists of notaries.

The Central Government and, every State Government shall, during the month of January each year, publish in the Official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

Section 7. seal of Notaries.

every Notary shall have and use, as occasion may arise, seal of such form and design as may be prescribed.

Section 8. Function of Notaries.

(1) A notary may do all or any of the following acts by virtue of his office , namely:-

(a) verify, authenticate, certify or attest the execution of any instrument.

(b) Present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security.

(c) note to protest the dishonour by non acceptance or non payment of any promissory note, hundi, bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881, or serve notice of such note or protest.

(d) note and draw up ship's protest, boat's protest or protest relating to de moorage and other commercial matters.

(e) administer oath to, or take affidavit from, any person,

(f) prepare bottom and respondent bonds, charter parties and other mercantile documents.

(g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside India in such form and language as many conform to the law of the place where such deed is intended to operate.

(h) translate, and verify the translation of, any document from one language to another.

(i) any other act which may be prescribed.

(2) No act specified in sub-section (1) shall be deemed to be a notaries act except when it is done by a notary under his signature and official seal.

Section 9. Bar of practice without certificate.

(1) Subject to the provision of this section, no person shall practice as a notary or do any notaries act under the official seal of notary unless he holds a certificate of practice in force issued to him under section 5.

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

(2) Nothing contained in sub-section (1) shall, until the expiry of two years from the commencement of this Act, apply to any such person as is referred to in the provision to clause (d) of section 2.

Provided that in relation to Jammu and Kashmir the said period of two years shall be computed from the date on which this act comes in to force in that state.

Section 10. Removal of names from the Register.

The Government appointing any notary may, by order, remove from the Register maintained by it under section 4, the names of the notary if he:-

(a) makes a request to that effect; or

(b) has not paid any prescribed fee required to be paid by him; or

(c) is an undischarged solvent; or

(d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the government, renders him unfit to practice as a notary.

Section 11. Construction of references to notaries public in other laws.

Any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practice under this act.

Section 12. Penalty for falsely representing to be Notary, etc.

Any person who -

(a) falsely represents that he is a notary without being appointed as such, or

(b) practices as a notary or does any notaries act in contravention of section 9, shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

Section 13. Cognizance of Offence.

(1) No court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his function under this act save upon complaint in writing made by an officer authorised by the Central Government or State Government by general or special order in this behalf.

(2) No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try an offence punishable under this act.

Section 14. Reciprocal arrangements for recognition of notaries acts done by foreign notaries.

If the Central Government is satisfied that by law or practice of any country or place outside India, the notaries act done by notaries within India are recognised for all or any limited purposes in that country or place, the Central Government may, by notification in the Official Gazette, declare the notarial acts lawfully done by notaries within such country or place shall be recognised within India for all purposes or, as the case may be, for such limited purposes as may be notified in the notification.

Section 15. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this act.

(2) In particular, and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the following matters, namely: -

(a) the qualification of a notary, the form and manner in which applications for the appointment as a notary may be made and the disposal of such applications;

(b) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish;

(c) the fee payable for appointment as a notary and for the issue and renewal of sa certificate of practice, and exemption , whether wholly or in part, from such fees in specified classes of cases;

(d) the fees payable to a notary for doing any notarial act;

(e) the form of registers and the particulars to be entered therein;

(f) the form and design of the seal of notary;

(g) the manner in which inquiries into allegations of professional or other misconduct of notaries may be made;

(h) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions;

(i) any other matter which has to be, or may be prescribed.

(3) Every rule made by the central government under this act shall be laid as soon as may be after it is made, before each house of parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Section 16. Amendment of Act 26 of 1881.

Repealed by the repealing and Amending Act, 1957 (36 of 1957), section 2 and schedule I.

WWW