

NORTHERN TERRITORY OF AUSTRALIA

PUBLIC NOTARIES BILL 1992

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to provide for the appointment and enrolment
of public notaries and for related purposes

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Public Notaries Act 1992*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. DEFINITIONS

In this Act, unless the contrary intention appears -

"Court" means the Supreme Court;

"Registrar" means the Registrar of the Supreme Court;

"Roll" means the Roll of Public Notaries of the Northern Territory maintained under section 6;

"Rules" means the Rules of the Supreme Court made under the *Supreme Court Act*.

4. APPOINTMENT OF PUBLIC NOTARIES

(1) A person may, in accordance with the Rules, apply to the Supreme Court for appointment as a public notary.

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(2) The Court may appoint the applicant to be a public notary if the Court is satisfied that -

(a) the applicant is -

(i) of good fame and character; and

(ii) competent to act as a public notary; and

(b) there is a need for a public notary in the area where the applicant intends to practise.

(3) The Registrar shall, as soon as practicable after the appointment by the Court of a person to be a public notary, issue to the person a certificate of office under the seal of the Court.

5. OATH OR AFFIRMATION BY PUBLIC NOTARY

A person shall, before being enrolled as a public notary, take or make before the Court an oath or affirmation of office in accordance with the form in Schedule 1.

6. ROLL OF PUBLIC NOTARIES

(1) The Registrar shall cause to be kept a roll to be known as the Roll of Public Notaries of the Northern Territory in which the Registrar shall enter -

(a) the name of each person admitted to practise as a public notary; and

(b) the date of the entry.

(2) A person whose name is entered on the Roll shall sign the Roll.

(3) A person may, without fee, have access to the Roll for the purpose of inspection during the hours that the office of the Registrar is open.

7. POWERS, &c., OF PUBLIC NOTARIES

The powers of a public notary include -

(a) certifying documents to be filed in a foreign court or to be registered in a foreign country;

(b) taking affidavits for use interstate or internationally;

(c) protesting, or noting protest of, bills of exchange or bills of lading;

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- (d) verifying documents and taking affidavits to comply with the requirement of a foreign law; and
- (e) the exercise of the powers and authorities that are usually exercised by a public notary in the United Kingdom.

8. CANCELLATION AND SUSPENSION OF APPOINTMENT

(1) The Court may, by order, on the application of the Registrar or any person or of its own motion, on due cause being shown, cancel or suspend a person's appointment as a public notary.

(2) Where the Court cancels or suspends a person's appointment as a public notary, the Registrar shall make a notation of the cancellation or suspension in the Roll and the person shall, without delay, deliver to the Registrar the certificate issued to the person under section 4(3).

(3) Where, on application by a person whose appointment as a public notary has been suspended under subsection (1), the Court is satisfied that the circumstances are such that the suspension of the person's appointment ought to be revoked, the Court may, subject to such terms and conditions, if any, as it thinks fit, by order, revoke the suspension of the person's appointment.

(4) Where the Court, pursuant to subsection (3), revokes the suspension of a person's appointment as a public notary, the Registrar shall make a notation of the revocation in the Roll and shall return to the person his or her certificate of appointment.

9. CESSATION OF APPOINTMENT OF PUBLIC NOTARY

(1) A person may resign the office of public notary by notice in writing given to the Registrar.

(2) The notice referred to in subsection (1) shall be accompanied by the person's certificate of appointment as a public notary issued under section 4(3).

(3) A person ceases to hold the office of public notary when the Court, pursuant to section 8(1), cancels or suspends the person's appointment.

(4) A person referred to in subsection (3) shall send the person's certificate of appointment as a public notary without delay to the Registrar.

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10. REPEAL

The Acts specified in Schedule 2, in their application to the Territory as laws of the Territory, are repealed.

11. TRANSITIONAL

(1) In this section, the "former Acts" means the Acts in their application to the Territory, specified in Schedule 2, in force immediately before the commencement of this Act.

(2) A person who, pursuant to the former Acts had, at the commencement of this Act, been appointed as a public notary for the Territory is, on that commencement, deemed to have been appointed as a public notary under section 4.

(3) A person referred to in subsection (2) is not required to take an oath or make an affirmation under section 5.

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SCHEDULE 1

Section 5

Oath of Office

I, _____, do swear that I will not make or attest an act, contract or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a public notary, according to the best of my skill and ability. So help me, God.

Affirmation of Office

I, _____, do affirm that I will not make or attest an act, contract or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a public notary, according to the best of my skill and ability.

SCHEDULE 2

Section 10

Imperial Acts

| Number and Year | Title |
|------------------|---|
| 41 Geo 3 c79 | An Act for the better Regulation of Publick Notaries in <i>England</i> |
| 3 & 4 Will 4 c70 | An Act to alter and amend an Act of the Forty-first Year of His Majesty King <i>George</i> the Third for the better Regulation of Public Notaries in <i>England</i> |
| 6 & 7 Vict c90 | An Act for removing Doubts as to the Service of Clerks or Apprentices to Public Notaries, and for amending the Laws regulating the Admission of Public Notaries |

South Australian Act

| | |
|----------------|--|
| No. 14 of 1859 | An Act to provide for the appointment of Public Notaries in South Australia, and to confirm appointments heretofore made of such Notaries (The Public Notaries Act) |
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