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Notaries Ordinance

NOTARIES ORDINANCE

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1 of 1907,
27 of 1909,
18 of 1910,
31 of 1917,
22 of 1919,
24 of 1927,
10 of 1934,
10 of 1936,
7 of 1943,
59 of 1943,
51 of 1944,
48 of 1947,
24 of 1973,
20 of 1976,
23 of 1978,
6 of 1951,
12 of 2005,
47 of 2011,
13 of 2013,
31 of 2022.

AN ORDINANCE to amend the law relating to Notaries and to make further provision for the proper qualification of notaries and for the more efficient and faithful discharge of the duties appertaining to the office of a Notary and consolidate the law relative thereto.

[Date of Commencement: *27th March, 1907*]

1. Short title.

This Ordinance may be cited for all purposes as the Notaries Ordinance.

2. Appointment of notary by warrant of the Minister.

Every appointment to the office of notary shall be by warrant granted by the Minister, and shall specify the area within which, and the language or languages in which, the person appointed is authorised to practice.

3. Attorneys-at-Law, qualified for admission as notaries.

(1) Every Attorney-at-Law who has passed the examination conducted by the Council of Legal Education in conveyancing, after his admission as such Attorney-at-Law and who has obtained a certificate substantially in Form B1 set out in the Second Schedule hereto, from an Attorney-at-Law who has been in active practice as a notary for a consecutive period of at least ten years to the effect that such Attorney-at-Law has learnt notarial work for a period of one year and is fully acquainted with conveyancing practices, rules and guidelines specified in or under this Ordinance shall be entitled, on an application to a warrant authorising him to practice as notary in the language in which he has passed the examination in conveyancing, within the judicial zone in which he resides.

(2) Every notary who has been issued a warrant under subsection (1) shall, prior to commencement of practice as a notary, hand over a letter of commencement to the Registrar of the relevant land registry.

[S 3 subs by s 3 of Law 20 of 1976, s 2 of Act 31 of 2022.]

4. Qualifications of other persons for notarial appointment.

(1) The Minister may appoint as notaries persons other than Attorneys-at-Law:

Provided that such persons—

- (a) are of good character and repute;
- (b) are of the age of twenty years;
- (c) have been articled clerks, licensed as hereinafter provided, of an Attorney-at-Law and have duly served as such for two years; and
- (d) have passed an examination prescribed by the Minister and are reported to be duly qualified by the Registrar-General.

[S 4(1) subs by s 2 of Law 24 of 1973.]

(2) Every notary appointed under subsection (1) on or after the 1st day of May, 1951, shall be entitled to practice within the judicial zone in which he resides.

4A. Notaries practicing in Judicial division deemed to practice in judicial zone.

Every warrant issued to a notary under the provisions of section 31 or section 41 authorising him to practice as a notary in any judicial division in which he resides, shall be

deemed to authorize him to practice as a notary in the judicial zone in which he resides.

[S 4A ins by s 4 of Law 20 of 1976.]

5. Condition to be fulfilled before notary authorised to practice in one language can practice in another language.

A notary, who is authorised by warrant to practice in any particular language, shall be entitled, on passing such examination in any other language as may be prescribed by the Minister, to a warrant authorising him to practice in that other language.

6. Number of articulated clerks how determined.

The number of articulated clerks to be licensed for and in each district shall be limited and determined by an Order to be issued from time to time by the Minister.

7. Admission of articulated clerks and notaries.

The admission of persons to be articulated clerks and notaries shall be subject to the regulations in the First Schedule, which shall be in force until revoked, amended, or altered by regulations made under section 8.

8. The Minister may make regulations for admission of articulated clerks and notaries.

The Minister may from time to time revoke, amend, or alter such regulations, or may make new regulations. All regulations so made, and any revocation, amendment, or alteration of a regulation shall be published in the *Gazette*.

9. Notary bound to have his office within his jurisdiction.

Every notary shall be bound to have his office within the area specified in his warrant; and any notary infringing this provision shall be liable to have his warrant withdrawn by the Minister.

10. Number and situation of notary's offices.

(1) No notary shall have more than two offices.

(2) —

(a) No notary who is an Attorney-at-Law shall, for the purposes of his profession as a notary, have any office at any place other than—

(i) his residence; or

(ii) an office maintained and used by him for the purposes of his profession as an Attorney-at-Law.

(b) Where any notary who is an Attorney-at-Law has two offices for the purposes of his profession as a notary, one of such offices shall be at his residence:

Provided, however, that any such notary may, if authorised in that behalf in writing under the hand of the Registrar-General, have both such offices at places described in paragraph (a)(ii) of this subsection

11. Minister's power to change the zone within which a notary is authorised, to practice.

The Minister may on application made in that behalf grant to a notary, having a warrant authorising him to practice within a judicial zone, a fresh warrant authorising him to practice within another judicial zone.

[S 11 subs by s 5 of Law 20 of 1976.]

12. Notary to make declaration and give security.

(1) Every person to whom a warrant has been granted to practice as a notary shall before commencing to practice—

(a) make and sign before the High Court Judge having jurisdiction over the area specified in the warrant a declaration in the form C in the Second Schedule;

(b) execute a bond before the High Court by depositing a sum of rupees ten thousand, to the due and faithful discharge of his duties as a notary, which shall be credited to the Consolidated Fund; and

[S 12(1)(b) subs by s 3(1) of Act 31 of 2022.]

(c) file in the High Court in such zone an attested copy of his warrant.

(2) Every bond referred to in paragraph (b) of subsection (1) shall be signed in the presence of the High Court Judge having jurisdiction over the area specified in the warrant of the notary.

[S 12(2) subs by s 3(2) of Act 31 of 2022.]

(3) ...

[S 12(3) rep by s 3(3) of Act 31 of 2022.]

13. Penalty for practicing as notary without warrant.

If any person shall practice or act as or exercise the office or functions of a notary without having obtained such warrant as aforesaid, or without having made and signed such declaration and given such bond as aforesaid, or without having filed an attested copy of his warrant, every such person shall be guilty of an offence, and liable on conviction thereof to a fine not less than twenty-five thousand rupees and not exceeding fifty thousand rupees, or to simple or rigorous imprisonment for any period not exceeding three years, or to such fine as well as such imprisonment.

[S 13 am by s 5 of Act 12 of 2005, s 4 of Act 31 of 2022.]

14. ...

[S 14 rep by s 5 of Act 31 of 2022.]

15. ...

[S 15 omitted by s 2(d) of Act 4 of 1968; rep by s 6 of Act 31 of 2022.]

16. ...

[S 16 rep by s 7 of Act 31 of 2022.]

17. Enrolling of notaries in the High Court.

Upon a notary making and signing the declaration and giving the bond required by section 12 the High Court Judge shall, without fee or reward, enroll his name and the date of his admission as a notary in a roll or book to be provided and kept for that purpose in the High Court holden in the relevant zone, and shall file the said declaration and bond, together with an attested copy of such warrant, of record in the said court.

[S 17 am by s 8 of Act 31 of 2022.]

182. List of notaries to be posted in the courts.

(1) A list of all persons authorised to act as notaries within any zone shall be kept at all times posted in some conspicuous place at the High Court Holden in the zone for general information.

(2) The Registrar of the court shall from time to time, as occasion may require, correct the said list by striking therefrom the names of any notaries who have died or been struck off the roll of notaries, or have left the said zone, or ceased to practice as notaries therein.

(3) The Registrar shall on the thirtieth day of June and the thirty-first day of December in each year forward to the Registrar-General a copy of such list corrected up to date, and to each of the several District Courts, Family Courts and Primary Courts within the zone a corrected list of notaries entitled to practice within the jurisdiction of such District Courts, Family Courts and Primary Courts respectively.

(4) Each District Judge, Judge of the Family Court and Judge of the Primary Court shall cause the list so received by him to be affixed to some conspicuous place on the wall of his court.

[S 18 subs by s 6 of law 20 of 1976.]

19. Suspension of notary from office.

(1) Where a notary has been indicted before a High Court, the Minister may, on the application of the Attorney-General, suspend him from the office of notary pending his trial.

[S 19(1) subs by s 9 of Act 31 of 2022.]

(2) Where a notary, who is an Attorney-at-Law, has been suspended from his office as Attorney-at-Law, he shall during the period of the suspension be disqualified from discharging the duties of a notary.

[S 19 subs by s 7 of Law 20 of 1976.]

20. Cancellation of notary's warrant.

If any notary shall be lawfully convicted of any offence under this Ordinance, which renders him unfit to be entrusted with any responsible office, or if any such person, being an Attorney-at-Law, shall be duly removed from the office of Attorney-at-Law, every such person shall become disqualified for the office of notary, and the warrant granted to him shall be cancelled.

[S 20 am by s 10 of Act 31 of 2022.]

21. Inquiry into notary misconduct or incapacity.

(1) It shall be the duty of the High Court Judge within whose jurisdiction a notary resides, upon being satisfied, after due inquiry, that such notary—

- (a) has been guilty of any offence, whether in his capacity of notary or otherwise, which in the opinion of the High Court Judge renders him unfit to be entrusted with the duties of a notary; or
- (b) has grossly misconduct himself in the discharge of the duties of his office; or
- (c) has so conducted himself by repeated breaches of any of the rules made by or under this Ordinance that he ought not to be any longer entrusted with the performance of the said duties; or
- (d) has been convicted three times or oftener for a violation or disregard of or neglect to observe the provisions of rule (26) in section 31; or
- (e) has proved himself by reason of incompetence, physical or mental infirmity, or otherwise, incapable of discharging the duties of his office with advantage to the public,

[S 21(1)(e) am by s 11(a) of Act 31 of 2022.]

to report the same in writing to the Minister with the evidence taken at the inquiry.

(2) Where the report is to the effect that the notary has been guilty of any such offence or misconduct as is mentioned in clauses (a), (b), (c), or (d) of the last preceding subsection, the Minister may cancel the warrant of such notary, or may suspend him from office for such period as may appear just. Where the report is to the effect that the notary is incapable of discharging his duties with advantage to the public, the Minister may cancel his warrant or may require him to resign his office within a specified time, and in default of such resignation may cancel his warrant.

(3) For the purposes of such inquiry the High Court Judge shall have power to require the attendance before himself of the notary and of any witnesses, and the production of any document that the High Court Judge may deem material, and to examine such witnesses on oath or affirmation, and to examine such notary without oath or affirmation.

(4) Any person required to attend and be examined or to produce a document as aforesaid, who shall without reasonable cause fail to comply with such requirement, shall be guilty of an offence, and liable on conviction to a fine not less than ten thousand rupees and not exceeding fifty thousand rupees.

[S 21(4) am by s 5 of Act 12 of 2005, s 11(b) of Act 31 of 2022.]

(5) No statement made by the notary at the inquiry shall be used in any criminal prosecution instituted against him.

22. Resignation of office.

(1) If a notary applies to the Registrar-General in writing to resign from office, and to cease to act in the office of notary, the Registrar-General shall forthwith forward the application to the Minister who may accept such resignation as from the date desired by the notary.

(2) When a notary has resigned under this section his warrant shall be deemed to be cancelled for the purposes of sections 23, 24, 25 and 26.

(3) Notwithstanding such resignation a notary shall continue to remain subject to the provisions of this Ordinance and all rules contained therein or made thereunder in respect of all things done or omitted by him in the exercise of his functions as notary prior to the resignation.

23. Certificate of cancellation or suspension of warrant to be transmitted to and posted in the local courts.

(1) Whenever a notary's warrant has been cancelled or a notary has been suspended from office, notice thereof shall be given in the *Gazette*, and a certificate that such warrant has been cancelled or notary suspended shall be transmitted, by the Secretary to the Ministry, to the courts, Registrar-General and to the High Court Judge and several District Judges, Judges of the Family Courts and Judges of the Primary Courts within whose jurisdiction such notary shall have been authorised to act.

(2) The High Court Judge of the court in which the name of such notary is enrolled shall in the case of the cancellation of the notary's warrant cause his name to be immediately struck off the roll of notaries, and in the case of the notary's suspension from office, shall note the fact in the roll opposite his name.

(3) A copy of such certificate, with a translation in the Tamil and English languages subjoined thereto, shall be kept posted in some conspicuous place at every such High Court, District Court, Family Court and Primary Court for such period as the court may direct.

[S 23 subs by s 8 of Law 20 of 1976.]

24. Penalty on notary practicing after notice of suspension.

If any person shall act as or exercise the office or functions of a notary after having received notice of any such suspension as aforesaid, and before the same shall have been removed, or after having been convicted of any offence disqualifying him for the said office, or after having been removed from the office of Attorney-at-Law as hereinbefore mentioned, or after having received notice that the warrant granted to him has been cancelled or withdrawn as aforesaid, he shall be guilty of an offence, and be liable on conviction thereof to a fine not less than one hundred thousand rupees and not exceeding five hundred thousand rupees, or to imprisonment, simple or rigorous, for any period not exceeding three years, or to such fine as well as such imprisonment.

[S 24 am by s 5 of Act 12 of 2005, s 12 of Act 31 of 2022.]

25. Minister may revoke cancellation of warrant.

(1) In any case in which a notary's warrant shall have been withdrawn or cancelled under the provisions of this Ordinance, the Minister may make an order revoking such withdrawal or cancellation, and issue a fresh warrant authorising him to practice within the area in which he was practicing immediately preceding such withdrawal or cancellation or within some other area.

(2) Notice of revocation—

Notice of such order shall be given in the *Gazette*, and a copy thereof shall be transmitted, by the Secretary to the Ministry, to the High Court Judge having jurisdiction over the area specified in the fresh warrant issued under subsection (1) of this section, and to the several District Judges, Judges of the Family Courts and the Judges of the Primary Courts having jurisdiction within the said area and to the Registrar-General.

[S 25(2) subs by s 9 of Law 20 of 1976.]

26. Restoration to or insertion in, the roll of notaries of the notary's name.

(1) Upon receipt of a notice transmitted under section 25(2) by a High Court Judge, he shall, if the notary's fresh warrant is produced before him, restore to, or insert in, the roll of notaries such notary's name.

(2) The High Court Judge restoring to, or inserting in, the roll of notaries the name of a notary shall require fresh bond to be provided by such notary in terms of section 12.

[S 26(2) am by s 13(1) of Act 31 of 2022.]

(3) Every notary, whose name has been restored to, or inserted in, the roll of notaries under subsection (1) of this section and who has furnished fresh bond in terms of section 12 shall be entitled to execute the office of a notary in conformity with the authority given to him by his fresh warrant.

[S 26(3) am by s 13(2) of Act 31 of 2022.]

27. Certificates to be granted yearly to notaries by Registrar of the high court.

(1) It shall be the duty of every Registrar of the High Court in every zone, on the application of any person entitled to practice as a notary within the jurisdiction of such court, to issue to him a certificate that such person is a notary and duly authorised to practice as such therein.

(2) All such certificates shall be applied for and granted on or before the first day of April in every year, and shall be in force for one year and no longer:

[S 27(2) am by s 14 of Act 31 of 2022.]

Provided, however, that if such certificate shall not be applied for within the time limited, and it shall be shown to the satisfaction of the High Court Judge that the delay was due to accident, misfortune or other unavoidable cause, the High Court Judge may direct the Registrar to issue the required certificate notwithstanding such delay as aforesaid.

(3) Such certificate shall be in the form D in the Second Schedule, and shall be paid a sum of rupees One thousand or such other amount as may be prescribed by the Minister from time to time:

[S 27(3) am by s 2 of Act 13 of 2013.]

Provided that it shall be lawful for the Minister to authorise the issue of any such certificate on unstamped paper in any case in which the circumstances of any zone or place appear to him to render such a proceeding necessary or advisable.

28. Notaries applying for certificates to make declaration.

(1) For the purpose of obtaining such certificate a declaration in writing, signed by such notary, containing the following particulars—

(a) his name and place or places of residence;

(b) the exact situation of his office or of each of his offices;

(c) the area in which he is authorised to practice;

(d) whether at any time since the date of the last declaration, if any, made by him under this section, the security given by or on behalf of him has perished or been lost, or any person who has given security by the hypothecation of immovable property or by the deposit of movable property, or the Insurance Corporation has been discharged under section 14(2) from liability,

shall be delivered to the said Registrar, who shall, as soon as conveniently may be after the delivery of such declaration (unless he shall see cause and have reason to believe that the party applying for such certificate is not upon the roll of notaries or not authorised to practice as such in such zone or has not furnished security as required by this Ordinance), deliver to the said notary such certificate as aforesaid.

(1A) Every notary shall annex to such application an affidavit to the effect that such notary has forwarded the duplicates of all deeds or instruments attested by him in the previous year, to the Registrar of Lands,

[S 28(1A) ins by s 15 of Act 31 of 2022.]

(2) Where a notary, who is an Attorney-at-Law, specifies in the declaration referred to in subsection (1), more than one residence, he shall in addition set out in that declaration which one of those residences he intends to use or uses as an office,

(3) If any person shall make any false statement in any such declaration, he shall be guilty of an offence, and be liable on conviction to a fine not less than five thousand rupees and not exceeding fifty thousand rupees.

[S 28(3) am by s 5 of Act 12 of 2005.]

29. On refusal by Registrar to grant any certificate, application to be made to the High Court.

(1) In case the said Registrar shall decline to issue any such certificate to any notary as aforesaid, the notary may apply to the High Court in such zone, which is hereby authorised to make such order in the matter as shall be just. Appeal to Court of Appeal.

(2) Any party who is aggrieved by any order made under subsection (1) of this section, or by the refusal of a High Court Judge to direct the issue of a certificate in any case referred to in the proviso to section 27(2), may appeal against such order or refusal to the Court of Appeal.

(3)3 ...

30. Penalty on notaries practicing without certificate.

If any person shall act as a notary without having obtained such certificate as aforesaid, he shall for or in respect of every deed executed or acknowledged before him as such notary, whilst he shall have been without such certificate, be guilty of an offence and be liable to a fine not less than five thousand rupees and not exceeding twenty five thousand rupees.

[S 30 am by s 5 of Act 12 of 2005.]

31. Rules to be observed by notaries.

It is and shall be the duty of every notary strictly to observe and act in conformity with the following rules, that is to say—

(1) Notary not to divulge secrets without permission.

He shall not divulge the secrets confided to him or of which he becomes possessed in the execution of his office, unless with the express permission of his employer or when required to do so by law.

(2) Attestation of documents drawn by any other person.

He shall not authenticate or attest a deed or instrument drawn in Sri Lanka by any other person, unless there shall be endorsed thereon a certificate signed by a notary certifying that such has been deed or drawn by himself.

(3) Signature not to be taken on blank papers or incomplete forms.

He shall not require, permit, or suffer any executant or any witness to any deed or instrument executed or to be executed before him to sign or make a mark of such executant or witness, or such executant to affix the left or right thumb impression or any other finger impression or toe impression, as the case may be, to such deed or instrument or any duplicate or protocol, or require such executant or witness to sign or make the mark of such executant or witness and such executant to affix the left or right thumb impression or any other finger impression or toe impression, as the case may be, upon any paper or other material intended to be used afterwards for any such purpose, until the whole of such deed or instrument shall have been written or engrossed thereon, and in any event no signature or affixing of the left or right thumb impression or any other finger impression or toe impression of such executant shall be obtained for any deed or instrument on a blank paper or in any incomplete form.

[S 31(3) subs by s 16(1) of Act 31 of 2022.]

(4) Material on which deeds may be written.

He shall not authenticate or attest any deed or instrument unless the same is written, typed or printed on durable parchment paper or blue sheet.

[S 31(4) subs by s 16(2) of Act 31 of 2022.]

(5) Deeds to be written on divided or undivided paper.

(a) He shall authenticate or attest any deed or instrument which is written on one entire undivided parchment paper or blue sheet; or

(b) Where he uses two or more separate sheets of paper, he shall—

(i) number every page;

(ii) place his signature on each such paper; and

(iii) cause every executant, holder of power of attorney (hereinafter referred to as the "attorney"), or authorised person of a corporate body, as the case may be, to place his signature and affix left or right thumb impression or any other finger impression or toe impression to each such paper.

[S 31(5) subs by s 16(3) of Act 31 of 2022.]

(6) Assurance of the payment of the required stamp duty.

He shall not authenticate or attest any deed or instrument unless he has an assurance that the required stamp duty is provided.

[S 31(6) subs by s 16(4) of Act 31 of 2022.]

(7) Stamps to be cancelled at the time of execution of deed.

He shall at the time of the execution or acknowledgment before him of every deed or instrument which is not stamped with an impressed stamp cancel the stamps thereon by writing or marking in ink on or across each stamp his name or initials, together with the true date of his so writing or marking, and shall write upon each stamp with ink the number of the deed or instrument to which such stamp is affixed.

(7A) Stamping of document relating to a transfer, a gift or an exchange.

(a) Notwithstanding anything to the contrary in this Ordinance or any other written law, any stamp duty which is required to be paid in respect of any deed or instrument relating to a transfer, a gift or an exchange executed under any written law, shall be paid by the notary;

(b) The original receipt received by the notary as the proof of such payment, from the relevant State bank shall be affixed to the duplicate of the deed or instrument;

(c) The copies of such receipt shall be affixed to the original and the protocol of such deed or instrument.

[S 31(7A) ins by s 16(5) of Act 31 of 2022.]

(8) Two witnesses essential for every deed.

He shall not authenticate or attest any deed or instrument to which at least two witnesses have not subscribed their signatures in letters.

(9) Party executing the deed should be known to notary or to two attesting witnesses.

He shall not authenticate or attest any deed or instrument unless one of the executants to the deed or instrument or the two attesting witnesses be known to notary or by the identity of the executants to a deed or instrument is established by such notary by inspection of the national identity card, bio-page of the passport or the driving licence of

such executants; and in the latter case, he shall satisfy himself, before accepting them as witnesses, that they are persons of good repute and that they are well acquainted with the executant and know his proper name, occupation, and residence, and the witnesses shall sign a declaration at the foot of the deed or instrument that they are well acquainted with the executant and know his proper name, occupation, and residence.

[S 31(9) am by s 16(6) of Act 31 of 2022.]

(10) Where both person executing deed and attesting witnesses unknown to notary deed not to be executed.

He shall not authenticate or attest any deed or instrument in any case in which both the person executing the same and the attesting witnesses thereto are unknown to him.

(11) When deed to be read over and explained.

He shall not authenticate or attest any deed or instrument in any case in which the person executing or acknowledging the same shall be or profess to be unable to read the same, or in which such person shall require him to read over the same, unless and until he shall have read over and explained the same, or caused the same to be explained, in the presence and hearing of such person and, except in the case of wills and codicils, in the presence of the attesting witnesses.

(12) When may deed be attested.

He shall not authenticate or attest any deed or instrument unless the person executing the same and the witnesses shall have signed the same in his presence and in the presence of one another, and unless he shall have signed the same in the presence of the executant and of the attesting witnesses.

(13) What deeds may not be attested by notary.

He shall not authenticate or attest any deed or instrument to which he is a party.

(14) Full names of executants and witnesses to be ascertained.

He shall, before any executant or witness signs or makes a mark and before any executant affixes his left or right thumb impression or any other finger impression or toe impression, ascertain the full names of the executant and witnesses to such deed or instrument and if an executant to any deed or instrument is a corporate body, cause to be affixed the seal of the corporate body and obtain the signatures of the board of directors or any person authorised by the board by resolution to sign such deed or instrument and if the name of such executant or witness differs from the name given in the identification documents of such executant or witness, he shall, in his attestation of such deed or instrument, describe such executant or witness by such name and by the name written in the signature. Where the executant is a body corporate, he shall attach a copy of the board resolution authorising the executant to sign such deed or instrument to the protocol of such deed or instrument.

[S 31(14) subs by s 16(7) of Act 31 of 2022.]

(15) Duty of notary in regard to deed signed with a mark.

If any deed or instrument executed or acknowledged before him be signed by any of the parties or witnesses thereto with a mark, or with a signature in a language other than that in which the notary is authorised to practice, he shall write over such mark or signature in his own handwriting and at the time of execution the words "This is the mark (or signature, as the case may be) of A. B." (here insert the name of the person signing with the mark or signature); and in the case of a mark he shall besides require such person to affix to the deed or instrument the impression of his left thumb and shall write over such impression at the time and in the manner aforesaid the words "This is the left thumb impression of A. B." (here insert the name of the person whose thumb impression it is).

(15A) Executant, an attorney, authorised person of a corporate body to affix his finger impression to deed or instrument in respect of an immovable property.

(1) —

(a) Every—

(i) executant;

(ii) attorney; or

(iii) board of directors or the authorised person of a corporate body;

executing a deed or instrument in respect of an immovable property, in addition to the provisions of rule (15) shall affix his thumb impression of any hand above or beside his signature to the original, duplicate and the protocol of such deed or instrument;

(b) where such thumb impression of an executant, an attorney or board of directors or an authorised person of a corporate body cannot be obtained, such an executant, an attorney or an authorised person of a corporate body shall affix his finger impression of any hand or toe impression, above or beside his signature to the original, duplicate and the protocol of such deed or instrument;

(c) where a deed or instrument is signed by an attorney, such attorney shall submit to the notary an affidavit affirming that the power of attorney is genuine and in force and the grantor is alive when executing such deed or instrument;

(d) where the transferee is a minor, the legal guardian or guardian, as the case may be, shall be a competent person to act on behalf of the transferee for the purpose of this section.

[S 31(15A) ins by s 16(8) of Act 31 of 2022.]

(16) Deeds affecting immovable property—

(a) He shall not authenticate or attest any deed or instrument other than a will or codicil affecting land or other immovable property, unless the deed or instrument embodies therein or in a schedule annexed thereto an accurate and clear description of the said land or other property affected thereby, showing its boundaries, extent, situation specifying the district, pattu, korale, Divisional Secretary's Division, local authority division and the Grama Niladari Division, and the village within the District in which the land is situated and in case the land is situated in any municipality, town or development area, declared under section 2 of the Municipal Councils Ordinance section 2 of the Urban Councils' Ordinance and section 2 of the Pradeshiya Sabha Act, No. 15 of 1987 respectively, the assessment number and the name, if any, of the street in which it is situated and in the case of a condominium property, where the condominium parcel can be identified, the description of such condominium parcel and other elements, and where the condominium parcel cannot be identified, the whole land or the land parcel.

[S 31(16)(a) subs by s 2 Act 47 of 2011; am by s 16(9)(a) of Act 31 of 2022.]

(b) if such property consist of a share of a land or other property, the deed shall state whether it is a divided or undivided share, and the fractional part which it is of the whole. If it be a divided share, such share shall be clearly and accurately defined by its particular boundaries and extent; if it be an undivided share, the boundaries and extent shall be stated of the land of which it is a share.

[S 31(16)(b) am by s 16(9)(b) of Act 31 of 2022.]

(17) Registers in the land registry to be searched before executing deed affecting land—

(a) before any deed or instrument (other than a will or codicil) affecting any interest in land or other immovable property is drawn by him, he shall search or cause to be searched the registers in the land registry to ascertain the state of the title in regard to such land and whether any prior deed affecting any interest in such land has been registered;

(b) —

(i) he shall obtain from the Registrar of the relevant Land Registry the certified extract of the folio containing the last entry pertaining to such land or immovable property containing the ownership and the registered encumbrances relating to such land or immovable property;

(ii) he shall, if any previous deed has been registered write in ink or print on the front page of the deed the number of the volume and the folio in which the previous deed has been registered; and

(iii) in the case of a deed of transfer or a deed of gift, or deed of exchange or a will, he shall affix to the original of such deed or instrument passport size certified photographs of the parties, to which the notary has affixed his seal and shall keep copies of such national identity card, passport or driving licence attached to the protocol;

[S 31(17)(b) subs by s 16(10)(a) of Act 31 of 2022.]

(c) he shall write on the front page of the deed his full name, number assigned to the notary, address of his office and telephone number. If he is a legal officer working in any organisation, entity or company, he shall specify the registered address of such organisation, entity or company;

[S 31(17)(c) ins by s 16(10)(b) of Act 31 of 2022.]

(d) if a party to any deed or instrument is a corporate body he shall retain a certified copy of the certificate of incorporation or other instrument establishing such corporate entity and details of board of directors; and

[S 31(17)(d) ins by s 16(10)(b) of Act 31 of 2022.]

(e) in the case of a deed in relation to a trust, he shall, state the names, addresses and national identity card numbers of trustees who are acting under a Trust Deed and the provision of such Trust Deed under which they are empowered to execute the deed, in the attestation, and retain a copy of the trust deed.

[S 31(17)(e) ins by s 16(10)(b) of Act 31 of 2022.]

(18) Date of execution of deed to be inserted.

He shall correctly insert in letters in every deed or instrument executed before him the day, month, and year on which and the place where the same is executed, and shall sign the same.

(19) Erasures, interpolations not to be made after execution of deed.

He shall not make any erasure, alteration, or interpolation in any deed or instrument after the same has been signed by the executing party or parties.

(20) Attestation.

He shall without delay duly attest every deed or instrument which shall be executed or acknowledged before him, and shall sign and seal such attestation. In such attestation he shall state—

(a) that the said deed or instrument was signed by the party and the witnesses thereto in his presence and in the presence of one another;

(b) whether the executants of the said deed or instrument are known to him or whether he has identified them by the inspection of the national identity card, bio-page of the passport or the driving licence or whether the witnesses thereto are known to him and in the latter case he shall specify which of the executants or the person acknowledging are known to the said witness;

[S 31(20)(b) subs by s 16(11)(a) of Act 31 of 2022.]

(c) the day, month, and year on which and the place where the said deed or instrument was executed or acknowledged, and the full names of the attesting witnesses and their residences;

(d) whether the same was read over by the person executing the same, or read and explained by him, the said notary, to the said person in the presence of the attesting witnesses;

(e) whether any money was paid or not in his presence as consideration or part of the consideration of the deed or instrument, and if paid, the actual amount in local currency of such payment and if the payment is made by cheque, pay order, bank draft or a banker's cheque the details of such instrument shall be set out in the attestation, in proof of such payment;

[S 31(20)(e) subs by s 16(11)(b) of Act 31 of 2022.]

(f) the number and value of the adhesive stamps affixed to or the value of the impressed stamps on such deed or instrument and the duplicate thereof;

(g) specifically the erasures, alterations, and interpolations which have been made in such deed or instrument, and whether they were made before the same was read over as aforesaid, and the erasures, alterations, and interpolations, if any, made in the signatures thereto, in its serial number, and in the writing on the stamp affixed thereto; and

[S 31(20)(g) am by s 16(11)(c) of Act 31 of 2022.]

(h) in the case of a will—

(i) set out in the attestation of the will that the testator was in good and sound mind to execute the will; and

(ii) enter in the deed register maintained by him, the number assigned to such will, the date and the name of the testator.

[S 31(20)(h) ins by s 16(11)(d) of Act 31 of 2022.]

(21) Form of attestation.

Every such attestation shall be substantially in the form E in the Second Schedule, and shall be legibly signed by him in the language in which the deed or instrument is written, and also with his usual signature if the language or form of that signature be different from that in which such deed or instrument is written. Every erasure, alteration, or interpolation in the attestation shall be authenticated by the notary With the initial letters of his name.

(22) Deed not to be attested outside notary's jurisdiction or in language other than that in which he is authorised to practice.

He shall not authenticate or attest any deed or instrument in any area other than that in which he is authorised to practice, nor in any language other than that in which he is authorised to practice nor authenticate or attest any deed or instrument drawn in any language other than that in which he is authorised to practice.

(23) Deeds to be numbered.

He shall number with consecutive integral numbers the documents executed or acknowledged before him, including wills and codicils, according to the order in which they are executed or acknowledged before him. If he shall change his area, as provided by section 11 of this Ordinance, and if the new area be in a different zone from the old area, he shall number consecutively the documents attested by him in the new area, commencing with number "1".

(24) Protocol to be preserved by notary.

He shall carefully preserve as his protocol a draft or copy of every deed or instrument executed or acknowledged before him, to which shall be attached his signature and those of the party and witnesses to the original deed or instrument, and he shall keep a register thereof with a convenient index for the purpose of easy reference; and every such register shall be substantially in the form F in the Second Schedule, but in the case of wills and codicils only the number and date of the instrument shall be inserted in the register.

(25) Deeds executed before more than one notary.

Where any deed or instrument is executed or acknowledged before more than one notary—

- (a) the notary who first attests such deed or instrument shall comply with all the requirements of rule (20), and every other notary attesting such deed or instrument shall comply with the requirements of paragraphs (a) to (e) of the aforesaid rule and the provisions of paragraph (g) in respect of erasures, alterations and interpolations made in the signatures attested by him or in his serial number;
- (b) every notary attesting the deed or instrument shall number such deed or instrument in accordance with the provisions of rule (23);
- (c) the notary who first attests such deed or instrument shall preserve as his protocol the draft or copy referred to in rule (24), and shall comply with the requirements of that rule, and every other notary attesting such deed or instrument shall supply himself with a certified copy of the deed or instrument, which shall be deemed to be his protocol for the purposes of that rule; and
- (d) every notary attesting such deed shall, in addition, as far as possible, comply with the other provisions of section 31.

(26) Duplicates of deeds to be transmitted to Registrar of Lands—

- (a) —
 - (i) He shall deliver or transmit to the Registrar of Lands of the district in which he resides the following documents, so that they shall reach the registrar on or before the fifteenth day of every month, namely, the duplicate of every deed or instrument (except wills and codicils) executed or acknowledged before or attested by him during the preceding month, together with a list in duplicate, signed by him, of all such deeds or instruments, which list shall be substantially in the form F in the Second Schedule:

Provided, however, that in the case of wills and codicils only the number and date of the document shall be inserted in such list;

[S 31(26)(a) renumbered as (i) by s 3(1) of Act 47 of 2011.]

- (ii) a certified copy of the list prepared under subparagraph (i) above shall be sent to the Commissioner or Secretary of the respective local authority, within whose area of authority the land described in the Schedule is situated;

[S 31(26)(a)(ii) ins by s 3(2) of Act 47 of 2011.]

- (b) if no deed or instrument has been executed before any notary in any month, the notary shall, unless he is absent from Sri Lanka, furnish a nil list for that month on or before the fifteenth day of the following month;
- (c) —
 - (i) where any deed or instrument which is to be executed or acknowledged by two or more parties is signed during any month by one or more, as the case may be, of such parties, the notary shall, notwithstanding that the deed or instrument has not been signed by all such-parties, include such deed or instrument in the list required to be delivered or transmitted under paragraph (a), and shall, if called upon so to do by written notice served on him personally or by registered post and signed by the Registrar of Lands of the district in which the notary resides, produce the duplicate of such deed or instrument for inspection at the office of the registrar on or before such date as may be specified in the notice;
 - (ii) where any such deed or instrument is not signed by all the parties thereto before the expiry of a period of three months from the date on which it is first signed by one of such parties, the notary shall, if called upon so to do by written notice served on him personally or by registered post and signed by the Registrar of Lands of the district in which the notary resides, deliver or transmit to the registrar the duplicate of such deed or instrument; and where any such duplicate has been so delivered or transmitted, the notary shall, at any time during the period of two years succeeding the date of such delivery or transmission, be entitled on demand to the return of the duplicate for the purpose of the completion of the deed or instrument.

(27) ...

[S 31(27) rep by s 16(12) of Act 31 of 2022.]

(28) Transmission to the Registrar of Lands of deeds executed before different notaries.

Where any deed or instrument other than a will or codicil shall be executed or acknowledged by two or more parties before more than one notary, the duplicate of such deed or instrument shall be delivered or transmitted by the notary who first attests such deed or instrument to the Registrar of Lands of the district in which he resides; and it shall not be necessary for the other notary or notaries employed in the execution of such deed or instrument to deliver or transmit any duplicate thereof to such registrar.

(29) Transmission to the Registrar of Lands of deeds affecting lands situated outside district in which notary resides.

If a deed or instrument other than a will or codicil affects a land situated in a district other than that in which the notary before whom it is signed, and by whom it is attested, 'shall reside, such notary, or in case such deed or instrument is attested by two or more notaries, then the notary upon whom is cast the duty of transmitting to the Registrar of Lands the duplicate of such deed or instrument, shall on or before the fifteenth day of the month next following that in which the same was executed (besides transmitting the duplicate in manner aforesaid) deliver or transmit to the Registrar of Lands of the district in which such land shall be situated a copy thereof certified by him as correct, together with a list in duplicate in the form F in the Second Schedule, signed by him, of all such deeds or instruments as relate to lands in such last-mentioned district.

[S 31(29) subs by s 10 of Law 20 of 1976.]

(30) Procedure in regard to deed executed by an attorney.

If he attest any deed or instrument executed before him by means of an attorney, he shall annex a certified copy of the power of attorney obtained from the Registrar-General to the original, and true copies to the duplicate and the protocol thereof.

[S 31(30) am by s 16(13) of Act 31 of 2022.]

(30A) Submission of a deed or instrument for registration.

It shall be the duty of every notary to submit for registration to the Registrar, every deed or instrument attested by him before the expiry of thirty days from the date of

attestation thereof:

Provided that, where such deed or instrument is required to be registered outside the jurisdiction in which he is practicing, he shall submit such deed or instrument for registration before the expiry of sixty days from the date of attestation.

[S 31(30A) ins by s 16(14) of Act 31 of 2022.]

(31) Notice of intention to change office or to discontinue practice to be given to High Court Judge.

He shall give one month's notice to the High Court Judge in the judicial zone in which he is authorised to practice, and also to the Registrar-General, of his intention to change his office or to discontinue his practice, and shall affix a written notice to that effect, signed by him, on the outside door or wall of the High Court holden in the zone,

(32) Notice on change of office.

Whenever he shall change his office he shall without delay give notice of such change to the Registrar of Lands of the district and the High Court Judge in the judicial zone and the Government Agent of the administrative district in which his new office is situated.

(33) Title deed of immovable property to be obtained wherever possible

When a deed transferring any immovable property is executed or acknowledged before a notary, he shall use his best endeavours to obtain the title deed, if any, of such property, and make an endorsement thereon stating the number and date of the deed executed before him and the nature of the transaction and attach his signature thereto,

(34) Notary bound to furnish Registrar-General with explanation whenever called upon.

He shall, in regard to any irregularity, error, or omission discovered or alleged to have been discovered in the discharge of his duties as notary, and which appears to the Registrar-General to be a violation of the law, give an explanation in writing when required by the Registrar-General or by the Registrar of Lands under the order of the Registrar-General, but such explanation shall in no case be called for after the expiry of twenty-four months from the date of the commission of such irregularity or error, or of such omission.

(35) Name to be affixed at entrance to office.

He shall cause his name, with the addition "Notary Public", to be painted or affixed in legible characters in the Sinhala language and the language in which he is authorised to practice in a conspicuous place at or near the entrance to his office or place of business, or, if he has more than one office or place of business, at the entrance to each such place.

(36) Additional rules applicable to notary who is not an Attorney-at-Law

It shall be the duty of every notary, not being an Attorney-at-Law, strictly to observe and act in conformity to notary with the following additional rules, that is to say—

(a) He shall live and hold office at such Notary to hold places as he may elect, subject to office at the approval of the Minister.

(b)⁴ Records to be kept at notary's office.

He shall keep his records at his office or if he has more than one office, at such office as may be approved of by the Registrar-General and shall at all reasonable times permit the Registrar-General, the Government Agent of the administrative district, High Court Judge, District Judge, Judge of the Family Court, or Judge of the Primary Court within the zone, within which such notary resides to inspect such records at such office.

[S 31(36)(b) subs by s 10 of Law 20 of 1976.]

(c) When notary bound to be present in office.

He shall, unless prevented by sickness or other good cause, be present between the hours of 10 a.m. and 1 p.m. on Mondays and Thursdays, or, if such day be a public holiday, on the following day, at the office in which he keeps his records. The taking of instructions for or signature to a deed or instrument shall not be a good cause for absence from office, unless the person whose instructions or signature is to be taken is believed to be on the point of death.

(d) Notary to produce records when required.

He shall at all reasonable times, when required by any of the officers named in the rule (b), produce before him at the nearest land registry, kachcheri, court, resthouse, or other public place such records as may be specified in a notice to be served on such notary. The notice shall be deemed duly served if left at his residence or office.

32. Provisions as to application of rules in section 31 in special cases.

(1) The provisions of rules (20), (23), (24), (25), and (26) set out in section 31, and of rule (16) as to the statement of the boundaries, shall not apply to any of the following deeds or instruments—

- (i) a power of attorney for use out of Sri Lanka;
- (ii) a deed solely affecting property not situated in Sri Lanka;
- (iii) a transfer of stock of any Government;
- (iv) a transfer of stock, shares, or debentures of any company or corporation not having its registered office in Sri Lanka;
- (v) a notice of protest by a ship's officer but not an extended protest.

(2) In the case of any deed or instrument which is to be executed by two or more parties, both or all of whom, as the case may be, do not sign the deed or instrument at the same time and place—

- (i) the deed or instrument shall, for the purposes of the application of rules (6), (7), (23) and (25) set out in section 31, be deemed to be executed or acknowledged at the time when it is first signed by a party, or by two or more parties at the same time and place;
- (ii) the deed or instrument shall, for the purposes of the application of rules (18) and (20) set out in section 31, be deemed to be executed or acknowledged whenever it is signed by a party, or by two or more parties at the same time and place; and
- (iii) the provisions of rule (19) set out in section 31, shall apply after the deed or instrument is first signed by a party, or by two or more parties at the same time and place.

33. Instruments not to be invalid for non-compliance in any matter of form.

No instrument shall be deemed to be invalid by reason only of the failure of any notary to observe any provision of any rule set out in section 31 in respect of any matter of form:

Provided that nothing hereinbefore contained shall be deemed to give validity to any instrument which may be invalid by reason of non-compliance with the provisions of any other written law.

34. Penalty for breaches of rules in section 31.

- (1) Every notary who acts in violation of or disregards or neglects to observe—
- (a) rules (1), (31) or (32) set out in section 31, shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees, in addition to any civil liability he may incur thereby;
- (b) rules (2), (3), (6), (7), (11), (18), (21), (23), (24) or (30A) set out in section 31, shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding twenty thousand rupees, in addition to any civil liability he may incur thereby; or
- (c) any other rule set out in section 31, shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand rupees, in addition to any civil liability he may incur thereby.

(2) Where a notary acts in violation of or disregards or neglects to observe the provisions of rule (26) set out in section 31 the Registrar-General may, by a written notice served on him personally or sent by registered post, call upon such notary to comply with the requirements of the said rule within such further period of time as he may specify in such notice for such purpose. In the event of such notary failing to comply with the terms of such notice, the Minister may, on application made in that behalf by the Registrar-General, suspend the notary from his office as notary.

(3) A notary, whose licence is suspended shall not attest any deed or instrument, from the date of receipt of the notice of such suspension.

(4) The Registrar-General shall, forthwith notify the Registrars of Land and the registrars of the High Courts, District Courts and the Magistrates' Courts, requiring such registrars to display a copy of the notice of such suspension in the relevant land registry or courts' premises.

(5) A notary who fails to submit the duplicates within the time specified in the notice of suspension, shall be guilty of an offence and shall on conviction after a summary trial before a Magistrate, be liable to a fine not exceeding five hundred thousand rupees and the Minister may, on application made in that behalf by the Registrar-General, cancel the licence of such notary.

[S 34 subs by s 17 of Act 31 of 2022.]

35. Power to compound offences.

(1) In any case where the Registrar-General has reasonable grounds for believing that any notary has committed any offence referred to in section 28(3), section 30, section 34, section 37 or section 41, the Registrar-General may, if he thinks fit, instead of instituting criminal proceedings against such notary, accept from him such sum of money as he may consider proper in composition of the offence; and where the Registrar-General has accepted any sum of money from any notary in composition of any alleged offence—

- (i) criminal proceedings shall not be taken, or if already taken shall not be continued in respect of such offence; and
- (ii) such composition shall not have the effect of discharging any person who has given security on behalf of a notary by the hypothecation of immovable property or by the deposit of movable property, or the Insurance Corporation bound as surety from any liability incurred under section 12.
- (2) All moneys received by the Registrar-General in composition of any offence shall be paid into the Treasury.

36. Powers to make rules.

- (1) The Minister may make rules for the conduct of notaries, not being attorneys- at-law, in the discharge of their notarial duties.
- (2) No rule made under subsection (1) of this section shall have effect until that rule has been approved by Parliament, and until the rule has been published in the *Gazette*.
- (3) Every rule made, approved and published in accordance with the preceding provisions of this section shall be as valid and effectual as if it were herein enacted.

37. Notary to use diligence in registering deeds.

Whenever a notary has received instructions to register, and a sufficient sum to meet the necessary expense of registering, any deed drawn or attested by him, and shall in such case fail to use due diligence in effecting such registration, he shall be guilty of an offence, and liable on conviction to a fine not less than seven thousand five hundred rupees and not exceeding twenty five thousand rupees, in addition to any civil liability which he may incur by reason of his default.

[S 37 am by s 5 of Act 12 of 2005.]

38. Notary to try ascertain true consideration.

(1) It shall be the duty of every notary to endeavour to ascertain the true and full consideration for the execution of any deed, and to insert and set forth the same in such deed.

(2) Any notary who shall knowingly and willfully insert or set forth in or upon any such deed any other than the full and true consideration or money directly or indirectly paid or secured, or agreed to be paid or secured for the same, or the actual value of the same, or shall abet the doing thereof, respectively, shall be guilty of an offence, and liable to a fine not less than five thousand rupees and not exceeding fifty thousand rupees for every such offence, in addition to any civil liability which he may incur thereby.

[S 38(2) am by s 5 of Act 12 of 2005, s 18 of Act 31 of 2022.]

39. Penalty on notary acting fraudulently.

If any notary—

- (a) shall attest any fraudulent deed, knowing the same to be fraudulent; or
- (b) shall knowingly and willfully, with intent to prejudice or defraud any person, insert in any deed or instrument whatsoever any word, letter, figure, matter, or thing which ought not to have been inserted therein, or omit to insert therein any word, letter, figure, matter, or thing which ought to have been inserted therein; or
- (c) shall attest any deed without the person whose signature, and the left or right thumb impression or any other finger impression or toe impression, as the case may be he attested and the attesting witnesses having appeared personally before him at the time when such deed was executed or acknowledged; or

[S 39(c) am by s 19(1) of Act 31 of 2022.]

- (d) shall knowingly and willfully make any false statement in the attestation to any deed executed or acknowledged before him; or
- (e) shall willfully, maliciously, or fraudulently misstate or misrepresent to any party thereto the contents or effect of any deed executed or acknowledged before him; or .
- (f) shall by any other willful act, either of commission or omission, commit or attempt to commit any fraud in the execution of his office; or
- (g) shall wilfully, maliciously, or fraudulently deface, mutilate, injure, destroy, or make away with any deed or any draft, minute, or copy of any deed which had been in his charge or custody, or which he was bound to preserve,

every such notary shall in any of such cases be guilty of an offence, and shall be liable on conviction thereof to imprisonment, simple or rigorous, for any period not exceeding ten years, or be liable to a fine of rupees one hundred thousand or both such fine and imprisonment, and to pay such compensation to the person who has suffered any damage or loss as a result of such action of the notary specified in paragraphs (a) to (g) as may be determined by the court.

[S 39 am by s 19(2) of Act 31 of 2022.]

40. Fees of notaries.

(1) The several fees specified in the Third Schedule shall and may be lawfully demanded and taken by notaries for the performance of the duties of their office as therein expressed:

Provided that—

- (a) it shall be competent to any notary or client to agree to a higher or lower fee than that prescribed in the Third Schedule;
- (b) such agreement, unless reduced to writing and signed by the parties, shall not be enforceable in a court of law.

(2) A correct copy of the Third Schedule in the Sinhala, Tamil and English languages of the fees chargeable by notaries shall be at all times posted in some conspicuous place at the High Court holden in every zone and at every District Court, Family Court and Primary Court, and at every Land Registry and kachcheri, and by every notary in each of his offices.

[S 40(2) subs by s 11 of Law 20 of 1976.]

(3) Any notary, if required by the client, shall give a written receipt for money paid to him as fees.

41. Delivery to registrar of documents of notary dying.

(1) If any person being removed from or ceasing to act in the office of notary, or, in case of the death of any such notary, if any of his heirs, executors, or administrators, or any other persons, into whose possession the same shall have come—

- (a) shall willfully lose or injure or destroy, or shall without just and lawful cause willfully neglect or refuse to deliver over, as soon as conveniently may be, to the Registrar of Lands of the district in which such notary was resident, any drafts, minutes, or copies of any deeds executed or acknowledged before such notary, or any instruction book, register, index, deed, or document whatever possessed by such notary in right of his said office; or
 - (b) shall willfully neglect or refuse to deliver over to the Registrar of Lands of the district the seal of office of such notary to be defaced and returned,
- every such person shall be guilty of an offence, and shall on conviction thereof be liable to a fine not exceeding fifty thousand rupees.

[S 41(1) am by s 5 of Act 12 of 2005, s 20 of Act 31 of 2022.]

(2) Where two or more notaries carry on a notarial business in partnership which has been notified to the Registrar-General, and one of the partners dies or retires from the business, the continuing partner may retain during the continuance of the business the documents specified in paragraph (a) of subsection (1). But a list of the documents shall be furnished to the Registrar-General by the continuing partner, who shall be responsible for their safe custody and for their delivery to the Registrar-General.

(3) Where a notary who is an Attorney-at-Law has engaged for the purposes of his business an assistant who is also a notary and such assistant practices as a notary under such an engagement for the purposes of the business of the said notary who is an Attorney-at-Law, and the terms of such engagement have been notified by the parties to the Registrar-General, upon such assistant dying or leaving the service of his principal, the Registrar-General may (subject to the terms of the engagement) empower the said principal to retain the documents specified in paragraph (a) of subsection (1), and all such documents shall thereupon, for the purposes of this Ordinance, be deemed to be documents executed or acknowledged before such principal, or possessed by him in right of his office. But a list of the said documents shall be furnished to the Registrar-General by the principal who shall be responsible for their safe custody and for their delivery to the Registrar-General.

[S 41(3) subs by s 12 of Law 20 of 1976.]

(4) Where the Registrar-General is satisfied that any notary has purchased the goodwill of the notarial business of another notary who carried on business in a place in the area within which the purchaser is authorised to practice, but who has since died or who has ceased to act in the office of notary otherwise than by reason of the cancellation or suspension of his warrant, the Registrar-General may empower the heirs, executors, or administrators of the deceased notary, or the notary so ceasing to act, to transfer to the notary so purchasing the goodwill of the said business the documents specified in paragraph (a) of subsection (1) (not being wills or codicils, or drafts, minutes, or copies of the same), or if such documents have been already delivered to the Registrar-General, may himself transfer the said documents as aforesaid, and the said documents shall thereupon, for all the purposes of this Ordinance, be deemed to be documents executed or acknowledged before the notary purchasing the goodwill or possessed by him in right of his office. But a list of the said documents shall be furnished to the Registrar-General by such notary, who shall be responsible for their safe custody and for their delivery to the Registrar-General.

(5) It shall be lawful to the Registrar-General to extend the application of the provisions of subsections (3) and (4) of this section—

- (a) to any case in which an assistant has died or left the service of his principal within five years prior to the 27th day of October, 1917, notwithstanding that no notice of the terms of the engagement of such assistant has been given to the Registrar-General; or
- (b) to any case in which any notary has died, or has ceased to act in the office of notary within the said period otherwise than by reason of the cancellation or suspension of his warrant:

Provided that the Registrar-General is satisfied that such a course has been assented to by all persons interested.

42. Notary to deliver to the registrar lists of duplicate deeds filed.

Whenever the duplicate of any deed shall be transmitted to the registrar by any notary under any rule in section 31 of this Ordinance, or whenever any document shall be delivered up to any registrar under section 41, such notary or other person transmitting or delivering the same shall tender to the registrar two lists thereof, and the said registrar shall, after ascertaining the correctness thereof, sign the said lists, and return one of them to the said notary or other party, and file the remaining list, and securely keep and preserve the same and the documents specified therein with the other records of his office:

Provided, however, that any document, other than a draft or copy of a will or codicil, which is delivered to the registrar under the last preceding section, may be destroyed by him at any time after the expiry of a period of two years from the date on which the document was delivered to him, if, after inspection duly made, he is satisfied that the duplicate of that document is preserved in the records of his office.

43. Interpretation.

In this Ordinance, unless the subject or context otherwise requires—

“Council of Legal Education” shall have the same meaning as assigned to it by section 2 of the Council of the Legal Education Ordinance (Chapter 276);

[Ins by s 21 of Act 31 of 2022.]

“executant” means—

- (a) in relation to a deed of transfer, the transferor and the transferee; and
- (b) in relation to other deed or instrument the parties to such deed or instrument;

[Ins by s 21 of Act 31 of 2022.]

"High Court Judge" shall mean a Judge of the High Court;

"Registrar-General" includes a Deputy Registrar-General.

[Ins by s 2 and 3 of Law 23 of 1978.]

SCHEDULES

NOTARIES

FIRST SCHEDULE

[SECTION 7]

A

REGULATIONS FOR THE ADMISSION OF ARTICLED CLERKS UNDER SECTION 7

1. Every person intending to be an articulated clerk with a view to qualifying himself for the office of a notary shall be required to sit for a competitive examination. At every such examination the Registrar-General may reserve—
 - (a) not less than fifty *per centum* of the number of vacancies, for notaries' clerks who, at a date to be fixed by the Registrar-General from time to time in respect of each such examination, have been so employed for a continuous period of not less than five years; and
 - (b) the first four places out of the aforesaid fifty per centum for notaries' clerks with not less than 15 years (continuous or non-continuous) service at the aforesaid date; if the notaries' clerks referred to in the aforesaid provisions of this regulation obtain qualifying marks at the examination.
2. Every application by a candidate to sit for the examination referred to in regulation 1 shall-
 - (a) be sent to the Registrar-General;
 - (b) be substantially in form A 1 set out in the Second Schedule;
 - (c) be accompanied by at least two certificates of character, one of which shall be not more than three months old;
 - (d) be accompanied by the birth certificate of the candidate or such other authentic proof of age as may be, acceptable to the Registrar-General; and
 - (e) in the case of a notary's clerk, be accompanied by a certificate or certificates from the notary or notaries under whom he is employed or has been employed in proof of his eligibility under regulation 1.
3. Every application shall be made in the language in which the candidate proposes to practise, and shall be in his own handwriting.
4. No person shall be permitted to sit for the examination unless he has reached the age of eighteen years on the date of the commencement of the examination.
5. The examination shall be conducted by the Commissioner of Examinations, who shall send a report to the Registrar-General, setting out the results of the examination in order of merit.
6. (1) On the receipt of the report referred to in regulation 5 from the Commissioner of Examinations, the Registrar-General shall make inquiries, regarding the character, repute and suitability of such number of the candidates named in the report as he may deem necessary.

(2) The Registrar-General shall, after due consideration of the results of the examination and the information obtained in consequence of the Inquiries made under paragraph (1), select the required number of candidates to be articulated clerks, and shall inform by registered letter each candidate so selected that he has been selected to be an articulated clerk on the results of the examination, and that he is required within three months from the date of the letter, to nominate in writing the Attorney-at-Law with whom he proposes to enter into articles of agreement.

(3) Every candidate who has within the time specified furnished the written nomination required under paragraph (2) shall be issued a licence for the purpose of entering into articles of agreement with the Attorney-at-Law named by him.
7. Every candidate to whom a licence has been issued shall, within six months of the date of the issue of such licence—
 - (a) enter into articles of agreement with the Attorney-at-Law named in the licence and commence apprenticeship; and
 - (b) send a copy of such articles of agreement to the Registrar-General.
8. No person shall be an articulated clerk unless he has obtained a licence from the Registrar-General.
9. Every articulated clerk shall serve his articles for a term of not less than two years.

[First Schedule (9) subs by s 3 of Law 24 of 1973.]

10. If the Attorney-at-Law under whom the articulated clerk is serving is not a notary practising in the language in which the clerk proposes to practise, he shall serve for one year as a clerk of such Attorney-at-Law, and for one subsequent year as a clerk in the office of a notary practising in the language in which he intends to practise and shall, in such a case, obtain a fresh licence from the Registrar-General and enter into fresh articles of agreement with the notary named in such licence. A copy of such articles of agreement shall be sent to the Registrar-General.

[First Schedule (10) subs by s 3 of Law 24 of 1973.]

11. In the event of the Attorney-at-Law to whom any person is articulated dying or discontinuing to practise in the zone in which he practised when such articles were entered into, or for any other good and sufficient reason, the Registrar-General may permit such articulated clerk to transfer his articles to some other Attorney-at-Law, in which case the time during which he shall have served under his original articles shall be reckoned as part of the term of his apprenticeship, notwithstanding such transfer.
12. In proof of service under regulations 9 and 10, the clerk shall, on or before the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, in each year, forward to the Registrar-General a certificate in form B in the Second Schedule to this Ordinance from the Attorney-at-Law or notary under whom he is serving.
13. Any articulated clerk failing to furnish the certificate referred to in regulation 12 shall not be allowed, unless he explains such failure to the satisfaction of the Registrar-

General, to count the period during which he shall have so failed as pan of the period of his apprenticeship.

14. For the purposes of these regulations, the expression "notary's clerk" means a clerk employed by a notary for the purposes of his professional work as a notary.

B

REGULATIONS FOR THE ADMISSION OF NOTARIES UNDER SECTION 7

1. Every articted clerk who has served his articles for a term of not less than two years and is desirous of qualifying as a notary shall be required to sit for the final examination for notaries, for which he shall make a written application to the Registrar-General. Such application shall be substantially in form A2 in the Second Schedule to this Ordinance, and shall be supported by the documents mentioned in paragraph 9 of that form.

2. Every articted clerk who intends to make the application referred to in regulation 1 shall cause the notice of his intended application in Sinhala and in the language in which he intends to practise, to be affixed in some conspicuous part of the High Court holden in the Judicial /one(sic) in which he resides and to be published at least once in the *Gazette* and in a local newspaper in the language in which he intends to practise. Such notice shall be published at least one month before the date of the application to the Registrar-General.

3. No articted clerk shall be eligible to sit for the examination referred to in regulation 1 after the expiry of two years from the date of the completion of his articles:

Provided that in any particular case the Minister may exempt an articted clerk from the operation of this regulation.

4. The Registrar-General shall, on the receipt of the application referred to in regulation 1, transmit such application, if it is in order, to the Council of Legal Education for the purpose of holding the examination mentioned in that regulation. The Council of Legal Education shall hold the examination and send a report to the Registrar-General setting out the results of the examination.

5. On the receipt of the report referred to in regulation 4, the Registrar-General shall, if he considers the applicant duly qualified, make a recommendation to the Minister that the applicant is fit to be appointed a notary public.

SECOND SCHEDULE

FORM A1

[REGULATION 2,—FIRST SCHEDULE—A]

APPLICATION FOR PERMISSION TO SIT FOR THE COMPETITIVE EXAMINATION FOR THE SELECTION OF ARTICLED CLERKS

Date :.....

The Registrar-General,

Colombo.

Sir,

I intend to become an articted clerk with a view to qualifying myself for the office of notary and hereby apply for admission to the competitive examination to be held onfor the selection of articted clerks.

2. My full name is:

3. My place of residence is. :in the district of

4. I shall be not less than 18 years of age on the date of the commencement of the examination. My birth certificate (or other authentic proof of age being) is attached marked (a).

5. I intend to serve as an articted clerk under Mr..... Attorney-at-Law of the Supreme Court.

6. The zone and the language in which I propose to practise are(zone) and (language), respectively.

7. (a) I attach the originals of two testimonials of character and suitability given to me by.....ofandofmarked (b) and (c).

*(b) I have served as a Notary's clerk under the under-mentioned notary/notaries/during the period/periods noted against his/their names.

+ Under notary.....of.....during the period from.....to.....

*(c) I attach certificate/certificates from the notary/notaries referred to above in proof of my employment as clerk to a notary during the period/periods referred to above.

8. I request that I may be granted permission to sit for the competitive examination for the selection of articted clerks.

Signature of Applicant.

Postal address:

*Strike out inapplicable words.

[* Repeat as often as may be necessary.]

FORM A2

[REGULATION 1,—FIRST SCHEDULE—B]

APPLICATION FOR PERMISSION TO SIT FOR THE NOTARIAL FINAL EXAMINATION AND FOR ADMISSION AS A NOTARY PUBLIC

Date :

The Registrar-General, Colombo.

Sir,

I hereby apply for permission to sit for the Notarial Final Examination and for eventual admission as a Notary.

2. My full name is:

3. My place of residence isin the district of.....

4. I intend to practise in the.....zone.

5. I have attained the age of twenty years.

[Second Schedule (5) subs by s 4 of Law 24 of 1973.]

6. I served my articles under Mr.Attorney-at-Law of the Supreme Court, and Mr.Notary Public, the date of entering into articles being and the date of completion being

7. I propose to draw, authenticate or attest deeds in thelanguage.

8. The nature of the security I intend to offer is as follows—

9. I attach—

(a) the licence granted to me by the Registrar-General to be an articled clerk marked (a);

(b) proof that the notice referred to in regulation 2 was affixed in some conspicuous part of the High Court holden in the zone marked (b);

(c) a copy of, or an extract from, the Gazette, and the local newspaper in which the notice referred to in regulation 2 was published marked (c);

(d) a certificate from the Attorney-at-Law and the notary (if any), to whom I had been apprenticed that I have duly served my term of articles and that in the opinion of such Attorney-at-Law and notary, I am a fit and proper person to be appointed a notary marked (d); and

(e) my birth certificate or such other authentic evidence of age to prove I have attained the age of twenty years marked (e).

[Second Schedule (9)(e) subs by s 4 of Law 24 of 1973.]

Postal address:

Signature of Applicant.

FORM B

[REGULATION 12— FIRST SCHEDULE—A]

CERTIFICATE BY ATTORNEY-AT-LAW OR NOTARY

I,Attorney-at-Law of the Supreme Court of the Republic of Sri Lanka (or Notary Public, as the case may be), certify that the articled clerk named in the schedule hereto annexed has during the quarter endedwell and truly served me as clerk, and diligently discharged his duties as such and pursued his studies for the notarial profession.

(Signature).....

Date

Schedule referred to

Name of Articled Clerk Address Date of Articles Zone in which Clerk intends to practise Language in which Clerk intends to practise

FORM B1

[SECTION 3]

[Second Schedule Form B1 ins by s 22(1) of Act 31 of 2022.]

I, Attorney-at-Law and Notary Public of the Judicial Zone of, do hereby certify that I have commenced practicing as a Notary on and have been in active practice for a consecutive period of ten years and that Mr/Mrs/Ms Attorney-at-Law has pursued his studies under me on notarial practice for a period of one year since

Date

.....
(signature)

Attorney-at-Law and Notary Public

(Imprint of the Seal)

FORM C

[SECTION 12(1)]

DECLARATION TO BE MADE BEFORE JUDGE OF HIGH COURT

I, A B do sincerely promise and declare that I will truly and faithfully and to the best of my ability execute the office of a notary in pursuance of and in conformity with the authority given to me by warrant of the Minister bearing date theday of.....

FORM D

[SECTION 27]

CERTIFICATE BY REGISTRAR, HIGH COURT

I, A B; Registrar of the High Court holden in the zone ofdo hereby certify that C D, of.....hath this day delivered and left with me the declaration in writing signed by him required by the Notaries Ordinance, and I further certify that the said C D is duly enrolled as a notary and authorised to practise as such in thelanguage in the judicial zone of.....within the district of.....

In witness whereof I have is.....day of....., at, set my hand on this certificate.

(Signed) A. B., Registrar.

[SECOND SCH FORM D AM BY S 3 OF ACT 13 OF 2013.]

FORM E

[SECTION 31(21)]

[Second Schedule Form E subs by s 22(2) of Act 31 of 2022.]

FORM OF ATTESTATION

I, Notary Public of (Address of Notary Public) in the Judicial Zone of do hereby certify and attest that the foregoing instrument having been read over by (or, read and explained by) me, the said notary, to the said executants (names), who have signed this deed (illegibly/as Juvanis, as the case may be) and affixed their (thumb of left/right hand or any other finger or toe) impression in the presence of (insert the names of the witnesses in full and the addresses) holder of National Identity Card/Passport/Driving Licence No., the subscribing witnesses hereto, and who signed (illegibly/as, as the case may be) respectively, and the same was signed by the said executants, the said witnesses and also by me the said Notary, in my presence and in the presence of one another, all being present at the same time on the day of at

And I certify that the executant is known to me/witnesses are known to me/I have checked their identity by the inspection of their (national identity card/passport/driving licence) and prior to the execution of the foregoing instrument, I have inspected the identity card/passport/driving licence of the executant/s.

And I further certify and attest that I have affixed hereto recent photographs of the executants to the original of the deed or instrument and that (in the case of a transfer or a gift) the stamp duty to the value of Rs. (Rs. in figures) was paid to the credit of the Provincial Council in the State Bank of in proof of which the original of such stamp duty paying in slip No. dated is affixed to the duplicate of this instrument and, copies are affixed to the original and the protocol/(in all other cases) the original of this instrument bears stamps of the value of Rs. and the duplicate stamps of the value of Rs.

And I further certify that the withinmentioned consideration (was paid in my presence by the Purchaser to the Vendor/Lessee to the Lessor, or was not paid in my presence. However the Vendor/Lessor acknowledges the receipt of the said consideration from the Purchaser/Lessee prior to the execution hereof).

(in case of a will) And I further certify and attest that the testator was in good and sound mind to execute the will.

And I further certify and attest that on page in line the word/letter was erased and written over in ink/deleted prior to the execution hereof.

And I have annexed a certified copy of the registered power of attorney to the original, and true copies to the duplicate and protocol of this deed. (in case of power of attorney)

And I also certify that I have renewed my licence for the year/I have applied for renewal of the licence for the current year.

Date:

.....

(signature)

Notary Public

(Imprint of the Seal)

FORM F

[SECTION 31(24), (26) AND (29)]

REGISTER AND MONTHLY LIST OF DEEDS

1	2	3	4	5	6	7	8
No. Date	Nature of Instrument	Names of Parties Grantor Grantee	District of Registration	Name of each local authority affected by each property in the Deed	Consideration	Stamps On Duplicate	

[Column 6 heading subs by s 4 of Act 47 of 2011.]

8. For every act of honour on acceptance of payment supra protest..	5 0
For every duplicate of such protest 2 50	
9. For copy of a bill paid in part, and of receipt	1 50
10. For noting protest of ship or vessel, including the copying of it in the book of registry or protest book	7 50
11. For drawing, engrossing, attesting, and recording protest of ship or vessel, for every folio of 120 words or less	3 50
12. For every notarial copy or extract of deeds where parties require same (excepting the attestation), -	
For every folio of 120 words	0 50
Fee for attesting same	2 50
13. For every duplicate deed engrossed, attested, and transmitted to the Registrar of Lands, half of the charges allowed for drawing, engrossing, and attesting such deed.	
14. For preparing certificate of the Minister in charge of the subject of Foreign Affairs or other officer to any document intended to be sent abroad	2 50
15. For attendance, either at the notary's office between the hours of 5 p.m. and 9 a.m. or elsewhere, for any purpose, for every hour or part of an hour	2 50
16. For attendance at the registrar's office for the purpose of ascertaining the existence of incumbrances on one land	2 50
17. For each additional land in the same deed	0 50
18. For writing an application for that purpose	0 50
19. For attendance at any place other than the notary's house or office, a charge of Re. 1 per mile going and 50 cents on return, or for any distance under a mile, shall be allowed as travelling expenses	

1 This is a reference to sections 3 and 4 prior to their amendment by Law No. 20 of 1976 and Law No. 24 of 1973.

2 The reference to Magistrates' Courts in subsections (3) and (4) of this section is omitted and replaced by reference to Primary Courts, as the civil jurisdiction of Magistrates' Courts was taken over by Primary Courts.

3 Subsection (3) is omitted as under the existing law there is no special procedure for appeals from an interlocutory order of the High Court.

4 See the footnote to Section 18.

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