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THE NOTARIES ACT, 1952

(Act No. LIII of 1952)

[11th August 1952]

An Act to regulate the profession of notaries.

Be it enacted by Parliament as follows:

1. **Short title, extent and commencement.** -This Act may be called the Notaries Act, 1952.
- (2) It extends to the whole of India.
- (3) It shall come into force on such 1[date] as the Central Government may, by notification in the official Gazette, appoint.

1. **14-2-1956.**

2. **Definitions.** -In this Act, unless the context otherwise requires,

1(a) [* * * *]

- (b) “Instrument” includes every document by which any right or ability is, or purports to be, created, transferred, modified, limited, ended, suspended, extinguished or recorded;
- (c) “Legal practitioner” means any advocate or agent of the Supreme Court or any advocate, vakil or attorney of any High Court or any pleader authorized under any law for the time being in force to practice in any court of law;
- (d) “Notary” means a person appointed as such under this Act:

Provided that for a period of two years from the commencement of the Act, it shall include also a person who, before such commencement, was appointed a notary public **2**[under] the Negotiable Instruments Act, 1881 MVI of 18811, and is, immediately before such commencement, in practice in **3**[any part of India:

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

- (e) “Prescribed” means prescribed by rules made under this Act;
- (f) “Register,” means a register of Notaries maintained by the Government under Section 4;
- (g) “State Government” in relation to a Union Territory means the administrator thereof.

- 1. Omitted by Act No. 25 of 1968 (w.e.f. 15-8-1968).**
- 2. Substituted by Act 25 of 1968 for “either under” (w.e.f. 15-8-1968)**
- 3. Subs. by Act 25 of 1968 (w.e.f. 15-8-1968).**

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

4. Registers. –

- (1) The Central Government and every State Government shall maintain, in such form as may be prescribed, a register of the notaries appointed by that Government and entitled to practice as such under this Act.
- (2) Every such register shall include the following particulars about the notary whose name is entered therein, namely:
 - (a) His full name, date of birth, residential and professional address;
 - (b) The date on which his name is entered in the register;
 - (c) His qualifications; and
 - (d) Any other particulars, which may be prescribed.

5. Entry of names in the register and issue or renewal of certificates of practise. -

- (1) Every notary who intends to practise as such shall, on payment to the Government appointing him of the prescribed fee, if any, be entitled-
 - (a) To have his name entered in the register maintained by that Government under Section 4; and
 - (b) To a certificate authorizing him to practise for a period of three years from the date on which the certificate is issued to him.
- (2) Every such notary who wishes to continue, to practise after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government appointing him and payment of the prescribed fee, if any, be entitled to have his certificate of practice renewed for three years at a time.

6. Annual publication of lists of notaries. -The Central Government, and every State Government shall, during the month of January each year, publish in the official Gazette a list of notaries appointed by that Government and **in** practise at the beginning of that year together with such details pertaining to them as may be prescribed. ,

7. Seal of notaries. -Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. Functions of notaries. –

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

(a) Verify, authenticate, certify or attest the execution of any instrument;

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

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

(d) Note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;

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

(f) Prepare bottomry and respondentia bounds, charter parties and other mercantile documents;

(g) Prepare, attest or authenticate any instrument intended to take effect in ally country or place outside India in such form and language as may conform to the, law of the place where such deed is entitled to operate;

- (h) Translate and verify the translation of, any document from, one language into another;
- (i) Any other act, which may be prescribed.

(2) No act specified in subsection (1) shall be deemed to be a notarial act except when a notary under his signature and official seal does it.

9. Bar of practise without certificate.

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

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

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

1[Provided that in relation to the State of Jammu and Kashmir the said period of two years shall be computed from the date on which this Act comes into force in that State.)

1. Ins. by Act No. '5 of 1968 (w.e.f. 15-8-1968.)

10. Removal of names from register. -The Government appointing any notary may, by order, remove from the register maintained by it under Section 4 the name of the notary if he—

- (a) Makes a request to that effect; or
- (b) Has not paid any prescribed fee required to be paid by him; or

(c) Is undercharged insolvent; or

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

11. Construction of references to notaries public in other laws. -Any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practise under this Act.

12. Penalty for falsely representing to be a notary, etc.-Any person who-

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

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

13. Cognizance of offence-

(1) No Court shall take Cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorized by the Central Government or a State Government by general or special order in this behalf.

(2) No Magistrate other than a Presidency Magistrate or a Magistrate of the First Class try an offence punishable under this Act.

14. Reciprocal arrangements for recognition of notarial acts does by foreign notaries. -If the Central Government is satisfied that by law or practice of any country or place outside India, the notarial acts done by notaries within India are recognized for all or any limited purposes in that Country or place, the Central Government may, by notification in the official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognized within India for all purposes, or as the case may be, for such limited purposes as may be specified in the notification.

15. Power to make rules.

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

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

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

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

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

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

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

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

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

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

(i) Any of the matter which has to be, or may be, prescribed,

1(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after

it is made, before such House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect; as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Ins. by Act No. 20 of 1983 (w.e.f. 15-3-1984)

16. Amendment of Act XXVI of 1881-[Repealed by Act 36 of 1957.]