

Notaries Act, 1952

Section 43 - SECTION 05: ENTRY OF NAMES IN THE REGISTER AND ISSUE OR RENEWAL OF CERTIFICATES OF PRACTICE

(1) Every notary who intends to practise as such¹⁴["may"], on payment to the Government appointing him of the prescribed fee, if any, be entitled-(a) to have his name entered in the Register maintained by that Government under section 4-, and(b) to a certificate authorizing him to practice for a period of¹⁵["five years"] from the date on which the certificate is issued to him.¹⁶(2) The Government appointing the notary, may, on receipt of an application and the prescribed fee, renew the certificate of practice of any notary for a period of five years at a time.

State Amendments

SECTION 05A: SPECIAL PROVISION REGARDING REGISTER OF NOTARIES FOR THE STATE OF MAHARASHTRA(1) Notwithstanding anything contained in this Act, the State Government of Maharashtra may, by order published in the Official Gazette, amend the Register, maintained before the 1st day of May 1960 by the State Government of Bombay, by deleting therefrom the name of any notary whose professional address as recorded in the Register, falls outside the State of Maharashtra :Provided that, before passing any order as aforesaid, the State Government of Maharashtra shall make such inquiry as it deems necessary, and give an opportunity to the person concerned to make his representation, if any.(2) After the amendment of the Register as aforesaid,-(a) the Register as so amended shall, for all purposes of this Act, be deemed to be the Register for the State of Maharashtra: and(b) all persons whose names remain thereon shall (for the residue of the period for which they were appointed by the State Government of Bombay) be deemed to have been appointed by the State Government of Maharashtra and accordingly, the certificates of practice issued to them under section 5-shall be amended so as to restrict their area of practice to the State of Maharashtra."-The Central Acts on State and Concurrent Subjects (Maharashtra Adaptation) Order, 1960 (with retrospective effect from 1-5-1960).

SECTION 06: ANNUAL PUBLICATION OF LISTS OF NOTARIESThe Central Government and every State Government shall, during the month of January each year, publish in the Official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

SECTION 07: SEAL OF NOTARIESEvery notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

SECTION 08: 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 protest¹³the 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 underthe Negotiable instruments Act, 1881, or serve notice of such note or protest;(d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;(e) administer oath to, or take affidavit from, any person;(f) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;(g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside India in such form and language as may conform to the law of the place where such deed is intended to operate;(h) translate, and verify the translation of, any document from one language into another;¹⁷(ha) act as a Commissioner to record evidence in any civil or criminal trial if so directed by any court or authority,(hb) act as an arbitrator, mediator or conciliator, if so required;(i) any other act which may be prescribed.(2) No act specified in sub-section (1) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

SECTION 09: BAR OF PRACTICE 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 sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.(2) Nothing contained in sub-section (1) shall, until the expiry of two years from the commencement¹⁸of this Act, apply to any such person as is referred to in the proviso to

clause (d) of section 2-19[Provided that in relation to Jammu and Kashmir the said period of two years shall be computed from the20date on which this Act comes into force in that State.]SECTION 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 an undischarged 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 .22["or"]23(e) is convicted by any court for an offence involving moral turpitude; or(f) does not get his certificate of practice renewed.SECTION 11: CONSTRUCTION OF REFERENCES TO NOTARIES PUBLIC IN OTHER LAWSAny reference to a notary public in any other law shall be construed as a reference to a notary entitled to practice under this Act.SECTION 12: PENALTY FOR FALSELY REPRESENTING TO BE 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 to24["one year"], or with fine, or with both.SECTION 13: COGNIZANCE OF OFFENCE(1) No Court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorised 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 shall try an offence punishable under this Act."The Committee consider that protection should be given to notaries in respect of cognizance of offences. They think that protection should be given only to notaries who commit an offence acting or purporting to act in the discharge of their functions under this Act. This clause has been inserted to achieve this object."- S.C.R.SECTION 14: RECIPROCAL ARRANGEMENTS FOR RECOGNITION OF NOTARIAL ACTS DONE BY FOREIGN NOTARIESIf the Central Government is satisfied that by the law or practice of any country or place outside- India, the notarial acts done by notaries within India are recognised for all or any limited purposes in that country or place, the Central Government may, by notification' in the Official Gazette21, declare that the notarial acts lawfully done by notaries within such country or place shall be recognised within India for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.SECTION 15: POWER TO MAKE RULES(1) The Central Government may, by notification in the Official Gazette,make rules25to 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 to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish;27(c) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, area of practice or enlargement of area of practice and exemption whether wholly or in part, from such fees in specified classes of cases.(d) the fees payable to a notary for doing any notarial act;(e) the form of Registers and the particulars to be entered therein;(f) the form and design of the seal of a notary;(g) the manner in which inquiries into allegations of professional or other misconduct of notaries may be made;(h) the acts which a notary may do in addition to those specified in section 8-and the manner in which a notary may perform his functions;(i) any other matter which has to be, or may be prescribed.26[(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of 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.]SECTION 16: AMENDMENT OF ACT 26 OF 1881[Repealed by the Repealing and Amending Act, 1957 (36 of 1957),section 2-and Schedule I.]Footnotes:

15-8-1968).