



ANALYSIS

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1992, No. 6

An Act to provide for the appointment of Notaries Public

(24 November 1992)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled and by the authority of the same as follows:

1. Short Title and commencement - (1) This Act may be cited as the Notaries Public Act 1992.

(2) This Act shall come into force on a day to be appointed by the Minister and notified by publication in the Gazette.

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

"Chief Justice" means the Chief Justice of the High Court of the Cook Islands;

"Court" means the High Court of the Cook Islands;

"Judge" means a Judge of the High Court of the Cook Islands;

"Registrar" means the Registrar of the High Court of the Cook Islands.

3. Appointment of Notaries Public - The Chief Justice may, by instrument under his hand, appoint any barrister or solicitor practising in the Cook Islands and who has demonstrated to the satisfaction of the Chief Justice that he or she has a knowledge and understanding of the functions and duties of a Notary Public adequate to enable him or her to carry out those functions and duties to be a Notary Public for the Cook Islands to discharge the duties assigned to such office whether by the laws in force in the Cook Islands, or by the practise of commerce.

4. Notaries Public to be sworn and enrolled - (1) Every person appointed to be a Notary Public pursuant to this Act shall, before entering upon the duties of his office -

- (a) take the oath as hereinafter provided; and
- (b) in the case of a person other than a person employed by the Government of the Cook Islands or any of its agencies or instrumentalities, pay to the Registrar a fee of \$200.00;
- (c) whereupon the Registrar shall enroll his or her name in a book to be called the "Roll of Notaries Public" which shall be kept for that purpose in the office of the Registrar.

(2) Every person so enrolled shall be entitled to a certificate of enrolment under Seal, and save as provided in Section 7 of this Act no person whose name is not enrolled as aforesaid shall be entitled to perform the duties of a Notary Public within the Cook Islands.

(3) The oath to be sworn on appointment by a Notary Public shall be in the following form, that is to say -

"I,..... do swear that I will faithfully exercise the office of a Notary Public; I will faithfully make contracts or instruments for or between any party or parties requiring the same, and I will not add or diminish any thing without the knowledge or consent of such party or parties that may alter the substance of the fact; I will not make or attest any act, contract or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a Notary Public according to the best of my skill and ability. So help me God."

5. Notaries Public to be officers - Every person discharging the duties of a Notary Public shall be deemed to be an officer of the Court.

6. Revocation of appointments - (1) The Chief Justice may revoke the appointment made under section 3 of any Notary Public who shall be guilty of fraudulent or improper conduct in the discharge of his duties as a Notary Public, or who shall make any charge or demand any payment for any notarial acts in excess of those prescribed.

(2) The Registrar shall remove from the Roll of Notaries Public the name of any person whose appointment has been revoked under the provisions of subsection (1) and the certificate of enrolment of such person shall be delivered up to the Registrar who shall cancel it.

7. Saving existing Notaries Public - It shall be lawful for any person who before the commencement of this Act lawfully carried out the duties of a Notary Public within the Cook Islands to continue to carry out the duties of a Notary Public within the Cook Islands and any such person shall not be required to comply with the requirements of Section 3 of this Act.

8. Penalty for unlawfully practising as a Notary Public - Save as provided in Section 4 of this Act any person who shall hold himself out to be a Notary Public or who shall receive any fee or reward as a Notary Public, and who at the time is not the holder of a certificate of enrolment then in force, shall be guilty of an offence and liable to a fine not exceeding \$500.00.

9. Notary Public to refuse to act in suspicious circumstances - (1) A Notary Public shall refuse to act in any case where it appears to him that the circumstances are suspicious and do not warrant the protest or other notarial act demanded.

(2) Any person who considers himself aggrieved by the refusal of a Notary Public to note the protest or to do any other notarial act demanded may apply to a Judge for an order calling upon the Notary Public to act in the execution of his office.

(3) Before applying for such an order the person wishing so to apply shall cause reasonable notice of the application to be given to the Notary Public refusing to act and to such persons in the Cook Islands (if any) as may be interested in the subject of the protest or other notarial act demanded.

10. Notary Public to mark refusal of document - Whenever a Notary Public shall refuse to note the protest or to do any notarial act demanded of him, he shall endorse the logbook, bill of exchange or other document with a note of his refusal, signed and dated by him.

11. Penalty for false certificate, etc. - Any Notary Public or other person who wilfully certifies or propounds any false statement or document or who fraudulently with intent to deceive conceals, withholds or perverts any fact or document pertinent to the subject of protest or other notarial act shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years.

12. Power to make rules prescribing fees - The Chief Justice may make rules prescribing the fees which may be charged by a Notary Public in respect of notarial acts.

13. Schedule - The Fees which may be charged by a Notary Public in respect of notarial acts shall be those specified in the Schedule.

This Act is administered by the Justice Department

SCHEDULE

Fee Rule No. 1

PART I

MARINE PROTESTS

NZD

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| 1. | For noting a marine protest and furnishing 1 certified copy if required | 35.00 |
| 2. | For filing a request for survey and issuing order of survey | 30.00 |
| 3. | For receiving report of survey, filing original in archives, and furnishing, if required, 1 certified copy of request, order and report of survey - | |
| | for the first 200 words or part thereof | 50.00 |
| | for each additional 200 words or part thereof | 7.00 |
| 4. | For extending marine protest, filing original and furnishing 1 certified copy if required (exclusive of any fee for oaths or declaration or for drawing) - | |
| | for the first 200 words or part thereof | 50.00 |
| | for each additional 200 words or part thereof | 7.00 |
| 5. | For drawing marine protest, per folio | 7.00 |

PART II

NOTING AND PROTESTING BILLS OF EXCHANGE

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| 6. | For instructions to note bill of exchange and filing 1 copy thereof | 12.00 |
| 7. | For Notary's endorsement of bill of exchange (under seal) | 15.00 |
| 8. | For issuing notice of dishonor to party dishonoring | 12.00 |
| 10. | For drawing and extending protest of bill of exchange by Notary under seal including filing 1 copy thereof | 50.00 |
| 11. | For each additional copy furnished | 6.00 |
| 12. | For any other protest, filing the original, and furnishing 1 certified copy if required (exclusive of any fee for drawing, if required, the body of the protest) - | |
| | for the first 200 words or part thereof | 50.00 |
| | for each additional 200 words or part thereof | 7.00 |
| 13. | For drawing protest, per folio | 7.00 |
| 14. | For administering an oath or receiving a declaration of affirmation with attestation | 12.00 |

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| 15. | For administering an oath or receiving a declaration of affirmation without attestation of signature | 15.00 |
| 16. | For each exhibit thereto | 4.00 |
| 17. | For each signature attested by a Notary Public in any document not otherwise provided for | 15.00 |
| 18. | For certifying to a copy of a document or part of a document - for the first 100 words or, being a photographic copy, the whole document | 25.00 |
| | for every additional 100 words or part thereof | 35.00 |
| 19. | For uniting documents and attaching notary seal to the fastening | 6.00 |
| 20. | For directing search for, or obtaining, from a public record office or elsewhere, extracts from local registers, or copies of wills, deeds or other matters, in addition to the expenses incurred and any fees for attestation | 25.00 |
| 21. | For notarially certifying the execution of any document, preparing, completing and attaching necessary certificate | 50.00 |
| 22. | For affixing notary signature and seal if required to any document not otherwise provided for by this Schedule | 17.00 |
| 23. | For each notary public seal affixed to a document, packet or article, when no signature is required | 12.00 |
| 24. | For any other notarial act not specified above. | 17.00 |
