

CAYMAN ISLANDS



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THE NOTARIES PUBLIC LAW, 2013

(LAW 11 OF 2013)

THE NOTARIES PUBLIC LAW, 2013
ARRANGEMENT OF SECTIONS

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CAYMAN ISLANDS

Law 11 of 2013.

I Assent

Duncan Taylor

Governor.

29th April, 2013

**A LAW TO PROVIDE FOR THE APPOINTMENT OF NOTARIES
PUBLIC AND THE REGULATION OF THEIR PRACTICE; TO REPEAL
AND REPLACE THE NOTARIES PUBLIC LAW (2006 REVISION); AND
FOR INCIDENTAL AND CONNECTED MATTERS**

ENACTED by the Legislature of the Cayman Islands.

- | | |
|---|-----------------|
| 1. This Law may be cited as the Notaries Public Law, 2013. | Short title |
| 2. In this Law - | Interpretation |
| “Caymanian” has the same meaning as in the Immigration Law (2012 Revision); | (2012 Revision) |
| “Clerk” means the Clerk of the Grand Court; | |
| “Governor”, means the Governor acting on the advice of the Cabinet of the Islands except in subsection (6) of section 11; | |
| “permanent resident” has the same meaning as in the Immigration Law (2012 Revision); | (2012 Revision) |
| “register” means the register of notaries public established pursuant to section 6; and | |
| “the Convention” means the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at the Hague, October 5, 1961. | |

Eligibility for
appointment as notary
public

3. (1) A Caymanian or any permanent resident of the Islands who -
- (a) has been employed in a management position in a company or in a public office for a period of three or more years;
 - (b) has been employed as, or has practised as, an attorney-at-law for a period of three or more years in the Islands or any other jurisdiction;
 - (c) has been employed as, or has practised as, a certified public or chartered accountant for a period of three years or more;
 - (d) has been employed in or has practised any other profession specified from time to time by the Governor by notice in the Gazette and government websites for such period of time as may be specified; or
 - (e) is of good character, and is considered by the Governor to be qualified, by virtue of his professional or business experience, to carry out the duties of a notary public,

and is ordinarily resident in the Islands, has never been convicted of a crime punishable with imprisonment nor been found guilty of any act that constitutes misconduct in a professional respect or misconduct under this Law and has completed the prescribed training programme for notaries public, is eligible to apply for appointment as a notary public.

(2012 Revision)

- (2) A person described at subsection (1)(b) or at section 3(1) of the Legal Practitioners Law (2012 Revision) is exempt from the requirement to complete the prescribed training programme.

Authorization and
application for
appointment
Schedule 1

4. (1) An applicant shall apply in writing to the Attorney General in the form set out in Schedule 1 with the following documents attached -
- (a) proof of his Caymanian status or permanent residency;
 - (b) two character references provided by an employer or former employer, a justice of the peace, a notary public, a minister of religion, a police officer in a gazetted rank, a medical doctor, a certified public or chartered accountant, a member of the Legislative Assembly or an attorney-at-law;
 - (c) a police clearance certificate;
 - (d) a photograph of the applicant certified by a justice of the peace, a notary public, a minister of religion, a police officer in a gazetted rank, a medical doctor, a certified public or chartered accountant, a member of the Legislative Assembly or an attorney-at-law, to be a true likeness of the applicant; and
 - (e) any additional information that the Governor may require in considering an application under this section.

- (2) The Attorney General, upon receipt of the completed application, shall submit either -

- (a) his recommendation for authorization;
- (b) a request for further information; or
- (c) his recommendation for refusal,

to the Governor.

(3) The Governor may authorize the appointment by the Clerk of an eligible applicant as a notary public.

5. A person in respect of whom the Governor has given an authorization under section 4 shall, upon - Appointment of notaries public

- (a) taking before the Clerk the form of oath in Schedule 2; Schedule 2
- (b) depositing with the Clerk an impression of the embossed notarial seal, substantially in the form set out in Schedule 3, to be used by him in his capacity as a notary public; Schedule 3
- (c) paying to the Treasury the sum of five hundred dollars and producing the receipt for such payment to the Clerk; and
- (d) giving an undertaking signed by the applicant in which he agrees to file with the Clerk a notice setting out any of the following eventualities that may occur subsequent to his appointment as a notary public -
 - (i) change to his name;
 - (ii) change to his ordinary residence;
 - (iii) change to his status as a Caymanian or a permanent resident;
 - (iv) change to his profession or occupation;
 - (v) criminal conviction or determination of professional misconduct; or
 - (vi) adjudication as a bankrupt,

be appointed a notary public.

6. (1) The Clerk shall establish a register and shall enter the name of every person who has been appointed as a notary public and the date of his appointment. Register of notaries public

(2) The Clerk shall endorse the register with an appropriate notation where a notary public's appointment -

- (a) lapses under section 8;
- (b) lapses by virtue of the notary public's residency outside of the Islands for more than twelve months; or
- (c) is suspended under section 11 or section 14.

(3) The Clerk shall remove from the register the name of any person whose appointment is revoked under sections 8, 11 or 14.

7. (1) Upon appointment of a person as a notary public, the Clerk shall issue a certificate to the person in the form set out in Schedule 4. Certificate
Schedule 4

(2) On appointment as a notary public, the certificate shall be valid until the thirty-first day of January in the year following the appointment.

(3) Where the notary public complies with the requirements under section 8, the Clerk shall endorse the certificate to the effect that the person named therein is authorized to act as a notary public until the thirty-first day of January in the following year.

Payment of annual fees

8. (1) Every notary public shall pay to the Treasury on or before the thirty-first day of January in each year subsequent to his first appointment as a notary public the following sums -

- (a) in the case of a notary public resident in Cayman Brac or Little Cayman, the sum of two hundred and fifty dollars; or
- (b) in the case of a notary public resident in Grand Cayman, the sum of five hundred dollars,

and where the notary public has not paid the sum within the time specified, his appointment as a notary public lapses and he shall not be authorized to perform any notarial act.

(2) Subject to subsection (3), upon payment of the annual fees, and the penalty of two hundred and fifty dollars, the lapsed appointment of a notary public shall be reinstated by the Clerk but such reinstatement shall take effect from the date of the payment of the prescribed fees and not from an earlier date.

(3) Where a notary public's appointment lapses for a period in excess of six months his appointment shall be revoked by the Clerk.

(4) The Clerk shall publish and update quarterly a list of all current notaries on the relevant Government websites.

Notarial acts

9. A notary public may perform -

Schedule 5

- (a) any of the notarial acts listed in the second column of Schedule 5; or
- (b) any act that is required to be performed by a notary public under any Law of the Islands including the provisions of any treaty or convention and any protocol to such treaty or convention that is applicable to the Islands.

Fees

Schedule 5

10. (1) A notary public shall not charge for the performance of any notarial act a sum in excess of the fees listed in Schedule 5, and where he provides a service or carries out an act for which fees are not provided, the notary public's fees shall be as provided for under any rules of court or any other written law.

(2) Where the provisions of subsection (1) are contravened, the notary public's conduct shall be considered as misconduct in his capacity as a notary public.

11. (1) The appointment of a notary public may be revoked or suspended by the Governor, on the advice of the Attorney General, where - Proceedings for misconduct

- (a) he is convicted of an offence punishable with imprisonment or is found guilty of any act that constitutes misconduct, whether in his capacity as a notary public or otherwise;
- (b) he contravenes the provisions in section 10; or
- (c) he has failed to file with the Clerk a notice in accordance with section 14.

(2) Where the appointment of a notary public is revoked or suspended, the Attorney General shall direct the Clerk to endorse a notation of such suspension in the register or remove the name of the notary public from the register, as the case may be.

(3) Any court before which a notary public is convicted of an offence punishable with imprisonment or before which he is found guilty under subsection (1) shall make a report of such conviction or finding to the Attorney General who shall in turn advise the Governor.

(4) Where any person makes a complaint on oath charging a notary public with misconduct in his capacity as notary public, the Attorney General shall enquire into the facts and report his findings to the Governor in Cabinet, and where the Governor is of the opinion that the notary public's acts constitute misconduct, he may suspend or revoke the notary public's appointment and direct the Clerk to endorse a notation of such suspension or to remove his name from the register, as the case may be.

(5) Every complaint charging a notary public with misconduct shall be made to the Attorney General and shall contain a statement of the material facts on which the person complaining relies.

(6) Notwithstanding subsections (1) to (4), the Governor may revoke the appointment of any notary public where he is of the opinion that the notary public is unfit, incapable or incompetent to carry out the duties of the office.

(7) Where a notary public's appointment has been suspended or revoked, the Clerk shall cause notice of such fact to be published in the Gazette and by official notice on the relevant Government websites.

(8) A notary public who is aggrieved by a decision of the Governor made under this section may appeal therefrom to a Judge in Chambers in the manner and within the time prescribed by law or by the rules made, from time to time, by the Court relating to appeals in civil matters.

(9) In subsection (6), "Governor" means the Governor acting in his discretion.

Offences	<p>12. (1) Any person who falsely represents himself to be a notary public or, not being a notary public, purports to carry out any notarial act commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of twelve months, or to both.</p> <p>(2) A notary public who performs any notarial act while his appointment has lapsed, has been suspended or has been revoked commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of twelve months, or to both.</p>
Notarial Acts Book Schedule 6	<p>13. (1) Every notary public shall maintain a book, called a “Notarial Acts Book” which shall be in the form set out in Schedule 6 in which he shall record the details of each notarial act carried out by him and shall preserve the record of each such notarial act for a period of not less than ten years from the making thereof and shall, after the expiration of that period, deliver the book to the Clerk for retention by him in the archives of the Grand Court.</p> <p>(2) Any person whose appointment as a notary public has lapsed, has been suspended or has been revoked under this Law shall, within seven days from the date of such lapse, suspension or revocation, as the case may be, deliver all Notarial Acts Books in his possession to the Clerk for retention as part of the archives of the Grand Court.</p> <p>(3) Any person who, not being a notary public, comes into possession of a Notarial Acts Book shall forthwith deliver such book to the Clerk.</p> <p>(4) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for a term of six months, or to both.</p>
Duty to inform Clerk (2012 Revision)	<p>14. (1) A notary public whose name, residence or status under the Immigration Law (2012 Revision) changes, shall, within thirty days of such change, notify the Clerk in writing of that fact, providing the Clerk with the details on his new name, residence or status under that Law.</p> <p>(2) A notary public who has been convicted, has been found by a professional body to have carried out acts that constitute professional misconduct, such body being set up to inquire into acts of professional misconduct within the respective profession, or has been adjudged a bankrupt, shall within seven days of any such decision, notify the Clerk in writing of the conviction, finding or judgment.</p> <p>(3) Failure to inform the Clerk under this section within the stated time periods may result in the immediate suspension of the appointment of the notary public and he shall be liable under the provisions of section 12(2) of this Law should he purport to carry out any notarial acts.</p>

(4) The Governor shall, on the advice of the Attorney General, take such steps to uphold, suspend or revoke the appointment of a notary public pursuant to any determinations he may make under this section.

15. (1) The Governor may make Regulations for the better carrying out of this Law and, without derogating from the generality of the foregoing, such Regulations may provide for - Regulations

- (a) the fees which may be charged for the carrying out of any notarial act;
- (b) the annual fees or the fees payable upon the application for appointment as a notary public;
- (c) the conduct of notaries public, including the manner in which the records are to be kept;
- (d) the manner in which the Clerk shall preserve or dispose of seals or certificates surrendered to him;
- (e) the programme of training under section 3, any handbook, or directions applicable to notaries public;
- (f) the accreditation of any person, agency or educational institution for the delivery of the programme of training under section 3;
- (g) the establishment of a body that will design and evaluate the programme of training under section 3 and advise generally on the standards of conduct for notaries public;
- (h) the designation of a department of Government as the competent authority to carry out acts of certification by virtue of the Convention and the regulation of the competent authority; or
- (i) any other matter related to the discharge of the duties or the functions of notaries public.

(2) The Governor may by Order amend any fees or penalties under this Law.

16. The Notaries Public Law (2006 Revision) is repealed.

Repeal of Notaries
Public Law (2006
Revision)

17. (1) Notwithstanding the provisions of section 3 of this Law, the appointment of a notary public under the Notaries Public Law (2006 Revision), such notary public having successfully completed the prescribed training programme, shall be valid under this Law.

Transitional provisions
(2006 Revision)

(2) A person under subsection (1) who is in good standing may continue to practise as a notary public for up to six months after the coming into force of this Law and at the expiration of that six month period, if not before, he shall provide proof of his completion of the prescribed training programme and the Clerk shall

make a notation in the register that he meets the requirements for appointment as a notary public under this Law and is appointed as such.

(3) The appointment of a notary public under subsection (1) shall lapse where he is unable to or does not provide proof of satisfying the requirements of the successful completion of the prescribed training programme within six months after the coming into force of this Law.

(4) Where a notary public's appointment lapses under subsection (3) but he provides proof to the Clerk of the successful completion of the prescribed training programme within twelve months of the coming into force of this Law, the Clerk shall reinstate his appointment upon payment of any annual fees and the penalty under section 8.

(5) Where a notary public under this section does not provide proof of the successful completion of the prescribed training programme within twelve months of the coming into force of this Law, his appointment shall be revoked and he shall promptly deliver all seals and Notarial Acts Books to the Clerk for retention as part of the archives of the Grand Court.

(2012 Revision) (6) A person described at section 3(1)(b) of this Law or at section 3(1) of the Legal Practitioners Law (2012 Revision) who had been appointed as a notary public before the coming into force of this Law is exempt from the requirement under this section to complete the prescribed training programme.

(2006 Revision) (7) A reference to the Notaries Public Law (2006 Revision) in any enactment, instrument or other document made by virtue of the Notaries Public Law (2006 Revision) shall, after the repeal of that Law, unless the context requires otherwise, be construed as a reference to this Law.

(8) A reference to a notary public appointed under the Notaries Public Law (2006 Revision) in any enactment, instrument or other document passed or made before the repeal of that Law shall be construed, unless the context requires otherwise, as a reference to a notary public appointed under this Law.

SCHEDULE 1

(Section 4)

Form Of Application For Appointment As Notary Public

To: The Honourable Attorney General
Attorney General's Chambers
Grand Cayman

I, _____ of _____ apply, in
accordance with the Notaries Public Law, 2013, to be appointed as a Notary

Public. I certify that the following information set out below and concerning myself is true -

1. Date of birth
2. Place of birth
3. Status under the Immigration Law (2012 Revision)
4. Place of business
5. Ordinary residence
6. Profession or occupation
7. Date of successful completion of prescribed course of training under this Law
8. Professional or other qualifications held

and that I have not been convicted of any crime punishable with imprisonment nor have I been found guilty of any act that constitutes misconduct in a professional respect or under this Law.

Dated this day of , 20 .

Signed _____

Applicant

Instructions to applicant

This application form shall be accompanied by the following documents -

1. (a) two character references provided by an employer or former employer, a justice of the peace, a notary public, a minister of religion, a police officer (gazetted rank), a medical doctor, a certified public or chartered accountant, a member of the Legislative Assembly or an attorney-at-law;
- (b) police clearance certificate;
- (c) a photograph of the applicant certified by a justice of the peace, a notary public, a minister of religion, a police officer (gazetted rank), a medical doctor, a certified public or chartered accountant, a member of the Legislative Assembly or an attorney-at-law to be a true likeness of the applicant;

- (d) a certificate from the accredited person, agency or institution at which the prescribed programme of training was successfully completed or documents to substantiate that the applicant is exempt from training programme;
- (e) proof of Caymanian or permanent residency status; and
- (f) such other documents as the Governor may require.

SCHEDULE 2

(Section 5)

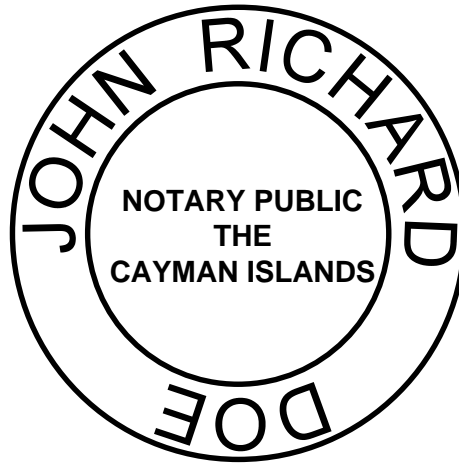
Form of Oath

I, A. B., do swear that I will faithfully exercise the office of a notary public. I will faithfully carry out such notarial duties as may be required for any party or between any parties requiring the same, and I will not add or diminish anything without the knowledge and consent of such party or parties that may alter the substance of the facts. I will not make or attest any act, contract or instrument in which I shall know there is violence or fraud or is contrary to law; 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.

SCHEDULE 3

(Section 5)

Example of Notarial Seal



SCHEDULE 4

(Section 7)

Certificate of Notary Public

IT IS HEREBY CERTIFIED that _____ whose
signature and seal of office are appended hereto is admitted and sworn a notary
public for the Cayman Islands and is authorized to act as such until the 31st day
of January, 20 ____.

Signature of holder

Dated this _____ day of _____, 20 ____.

Clerk of the Court

(Renewed until the 31st day of January, 20 ____.

Dated this _____ day of _____, 20 ____.

Clerk of the Court)

(Renewed until the 31st day of January, 20 ____.

Dated this _____ day of _____, 20 ____.

Clerk of the Court)

(Renewed until the 31st day of January, 20 ____.

Dated this _____ day of _____, 20 ____.

Clerk of the Court)

(Renewed until the 31st day of January , 20 .

Dated this day of , 20 .

(Clerk of the Court)

SCHEDULE 5

(Sections 9 and 10)

Notarial Acts and Fee Schedule

Item	Fee (\$)
<i>Bills of Exchange</i>	
1. Noting protest for non-acceptance and recording the same.	15
2. Noting protest for non-payment and recording the same.	15
<i>Ship's Protests</i>	
3. Noting protest and recording the same.	15
4. Drawing, engrossing and recording an extended marine protest together with confirmation of the same.	65
<i>Survey of Ships</i>	
5. Warrant of Survey (under seal) and recording the same.	25
6. Return of Survey (under seal) and recording the same.	25
7. Certificate of character attached to the Report of Survey (under seal).	25
<i>Bottomry and Respondentia Bonds</i>	
8. Drawing and engrossing of bottomry and respondentia bonds in triplicate and recording the same.	65
9. Acknowledgement of master to bond.	15
10. Confirmation of bond together with certificate attached thereto (under seal).	35
11. Acknowledgement of assignment of bond and certificate	

(under seal) attached in triplicate. 35

Miscellaneous

- | | |
|---|--|
| 12. Administering an oath when required by the law of a foreign country. | 15 |
| 13. Verification (under seal) of auctioneer's or agent's signature to accounts. | 25 |
| 14. Declaration before a notary public with a certificate (under seal). | 25 |
| 15. Certificate (under seal) attached to a power of attorney. | 25 |
| 16. Identification of an interpreter. | 15 |
| 17. Any notarial copy of a document. | one half
of the fee
charged
for the
original |
| 18. Certificate (under seal) attached to any notarial copy of a document. | 25 |
| 19. Recording any document for which no fee is fixed therein, per folio of seventy-two words. | 15 |
| 20. Any certificate of record. | 25 |
| 21. Witnessing of any document not hereinbefore mentioned. | 15 |

SCHEDULE 6

(Section 13)

Notarial Acts Book

1	2	3	4	5	6
Date of Notarial act	Nature of notarial act	Title and date of document (if applicable)	Names of party or parties to document	Name of person whose signature has been verified or to whom oath administered	Fee Charged

Passed by the Legislative Assembly the 25th day of March, 2013.

Mary J. Lawrence

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.