

**THE GAZETTE OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of July 15, 2022

SUPPLEMENT

(Issued on 18.07.2022)



NOTARIES (AMENDMENT)

A

BILL

to amend the Notaries Ordinance (Chapter 107)

*Ordered to be published by the Minister of Justice, Prison Affairs and
Constitutional Reforms*

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 30.00

Postage : Rs. 15.00

This Gazette Supplement can be downloaded from www.documents.gov.lk



STATEMENT OF LEGAL EFFECT

Clause 2 : This clause replaces section 3 of the Notaries Ordinance (Chapter 107) (hereinafter referred to as the “principal enactment”) and the legal effect of the section as amended is to require an Attorney-at-Law to have minimum of ten years of consecutive practice as a notary before issuing a certificate.

Clause 3 : This clause amends section 12 of the principal enactment and the legal effect of the section as amended is to increase the value of the security bond.

Clause 4 : This clause amends section 13 of the principal enactment and the legal effect of the section as amended is to increase the fine.

Clause 5 : This clause amends section 20 of the principal enactment and the legal effect of the section as amended is to exclude opinion of the Minister in respect of cancellation of warrant of a convicted notary.

Clause 6 : This clause amends section 21 of the principal enactment and the legal effect of the section as amended is to exclude the age factor in determining the incapacity of a notary and to increase the fine.

Clause 7 : This clause amends section 24 of the principal enactment and the legal effect of the section as amended is to increase the fine.

Clause 8 : This clause amends section 28 of the principal enactment and the legal effect of the section as amended is to enhance the scope of this section.

Clause 9 : This clause amends section 31 of the principal enactment and the legal effect of the section as amended is to enhance the scope of this section.

Clause 10 : This clause amends section 34 of the principal enactment and the legal effect of the section as amended is to enhance the scope of this section.

Clause 11 : This clause amends section 38 of the principal enactment by increasing the penalty.

Clause 12 : This clause amends section 39 of the principal enactment and is consequential to the amendment made in clause 9.

Clause 13 : This clause amends section 41 of the principal enactment and the legal effect of the section as amended is to increase the penalty.

Clause 14 : This clause amends section 43 of the principal enactment and the legal effect of the section as amended is to include a new definition relating to the Council of Legal Education.

Clause 15 : This clause amends the Second Schedule to the principal enactment and enhances the scope of the Second Schedule.

Clause 16 : The provisions of this clause are consequential to the amendments made by the above clauses.

Notaries (Amendment)

L.D.—O. 24/2014

AN ACT TO AMEND THE NOTARIES ORDINANCE (CHAPTER 107)

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Notaries (Amendment) Act, No. of 2022. Short title

5 **2.** Section 3 of the Notaries Ordinance (Chapter 107) (hereinafter referred to as the “principal enactment”) is hereby repealed and the following section substituted therefor:- Replacement
of section 3
of Chapter
107

10 “Attorneys-
at-law,
qualified for
admission as
notaries 3. 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
15 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
20 specified in or under this Ordinance shall be
entitled, on an application to a warrant
authorizing him to practice as notary in the
language in which he has passed the
examination in conveyancing, within the
25 judicial zone in which he resides.”.

3. Section 12 of the principal enactment is hereby amended in paragraph (b) of subsection (1) thereof, by the substitution for the words “amount of two thousand rupees,” of the words “amount of fifty thousand rupees”. Amendment
of section 12
of the
principal
enactment

4. Section 13 of the principal enactment is hereby amended by the substitution for the words “to a fine not less than ten thousand rupees”, of the words “to a fine not less than twenty-five thousand rupees”. Amendment of section 13 of the principal enactment
- 5 5. Section 20 of the principal enactment is hereby amended by the substitution for the words “which, in the opinion of the Minister”, of the words, “under this Ordinance, which”. Amendment of section 20 of the principal enactment
6. Section 21 of the principal enactment is hereby amended as follows:- Amendment of section 21 of the principal enactment
- 10 (a) in paragraph (e) of subsection (1) thereof, by the substitution for the words “incompetence, age”, of the word “incompetence”; and
- 15 (b) in subsection (4) thereof, by the substitution for the words “to a fine not less than two thousand five hundred rupees” of the words “to a fine not less than ten thousand rupees”.
7. Section 24 of the principal enactment is hereby amended by the substitution for the words “to a fine not less than ten thousand rupees and not exceeding fifty thousand rupees” of the words “to a fine not less than one hundred thousand rupees and not exceeding five hundred thousand rupees”. Amendment of section 24 of the principal enactment
- 20 8. Section 28 of the principal enactment is hereby amended by the insertion immediately after subsection (1) of that section of the following subsection: - Amendment of section 28 of the principal enactment
- 25 “(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
- 30 previous year, to the Registrar of Lands.”.

(4) by the insertion, immediately after rule (7) thereof, of the following new rule: -

- 5 “Stamping of document relating to a transfer, a gift or exchange
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- (7A) (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 deeds or instruments relating to a transfer, a gift or 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.”.
- (5) in rule (9) thereof, by the substitution for the words, “He shall not authenticate or attest any deed or instrument unless the person executing the same be known to him or to at least two of the attesting witnesses thereto;” of the words “He shall not authenticate or attest any deed or instrument unless all 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;”;

(6) by the substitution for the rule (14) thereof, of the following: -

5 “Full names of parties and witnesses to be ascertained (14) He shall, before any party or witness signs or affixes the left or right thumb impression or any other finger impression or toe impression, ascertain the full name of such party or witness and if a party to any deed or instrument is a corporate body cause to be affixed the seal of the corporate body and obtain the signature of the board of directors or any person authorized by the board by resolution to sign such deed or instrument and, if the name of such party or witness differs from the name given in the identification documents of party or witness, he shall, in his attestation of such deed or instrument, describe such party 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 authorizing the executant to sign such deed or instrument to the protocol of such deed or instrument.”.

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(7) by the insertion, immediately after rule (15) thereof, of the following new rule: -

30 “Notary to obtain an affidavit from the attorney at the time of execution of a deed or instrument (15A) Where a deed or instrument is signed by a holder of a power of attorney, the notary shall, obtain an affidavit from such attorney to the effect that the Power of Attorney is genuine and in force and the grantor of such Power of Attorney is alive at the time of execution.”.

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(8) in rule (16)–

5 (a) in paragraph (a) thereof, by the substitution for the words, “the assessment number and the name, if any, of the street in which it is situated.”, of the following: -

10 “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.”; and

15 (b) in paragraph (b) thereof, by the substitution for the words from “which it is a share: Provided, however” to the end of that paragraph of the words “which it is a share.”;

(9) (a) by the repeal of paragraph (b) of rule (17) thereof, and the substitution therefor of the following:-

20 “(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;

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

- 5 (iii) in the case of a deed of transfer or a deed of gift, or deed of exchange 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;”;
- 10 (b) by the addition, immediately after paragraph (b) thereof, of the following new paragraphs: -
- 15 “(c) he shall write at the head 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 organization, entity or company, he shall specify the registered address of such organization, entity or company;
- 20 (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
- 25 (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 section of such Trust Deed under which they are empowered to execute the deed, in the attestation, and retain a copy
- 30 of the trust deed.”;

(10) in rule (20) thereof,—

(a) by the repeal of paragraph (b) thereof, and the substitution therefor of the following:—

5 “(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,
10 bio page of the passport or 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”;

15 (b) by the repeal of paragraph (e) thereof, and
the substitution therefor, of the following:—

20 “(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
25 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.”;
and

(c) in paragraph (g) thereof, by the substitution for the words “affixed thereto.” of the words “affixed thereto; and”;

(d) by the addition, immediately after paragraph (g) thereof, the following new paragraph: -

“(h) in case of a will-

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

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

(11) by the repeal of rule (27) thereof;

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(12) by the substitution in rule (30) thereof, from the words “he shall preserve a true copy of the registered power of attorney with his protocol” to the end of that rule, of the words “he shall annex a certified copy of the power of attorney obtained from Registrar General to the original, and true copies to the duplicate and the protocol thereof.”;

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(13) by the insertion, immediately after rule (30) thereof, of the following new rule:-

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“Submission of a deed or instrument for registration

(30A) (1) 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:

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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.

5 (2) In computing the periods stated in this subsection, Saturdays, Sundays and Public Holidays shall be excluded.”.

10. Section 34 of the principal enactment is hereby repealed and the following section substituted therefor:-

Replacement of section 34 of the principal enactment

10 “Penalty for breaches of rules in section 31

34. (1) Every notary who acts in violation of or disregards or neglects to observe-

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(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;

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(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

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(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.

5 (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
10 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.

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

20 (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.

25 (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
30 exceeding five hundred thousand rupees and the Minister may, on application made in that behalf by the Registrar-General, cancel the license of such notary.”.

11. Section 38 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “not exceeding twenty five thousand rupees” of the words “not exceeding fifty thousand rupees”. Amendment of section 38 of the principal enactment
- 5 12. Section 39 of the principal enactment is hereby amended as follows:- Amendment of section 39 of the principal enactment
- (1) by the substitution, in paragraph (c) thereof for the words, “signature or mark” of the words “signature, and the left or right thumb impression or any other finger impression or toe impression, as the case may be”; and
- 10
- (2) by the substitution, for the words “for any period not exceeding five years.” of the words “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.”.
- 15
- 20
13. Section 41 of the principal enactment is hereby amended in subsection (1) thereof by the substitution for the words “twelve calendar months, or to a fine not less than two thousand rupees and not exceeding five thousand rupees or to both.”, of the words “two years, or to a fine not less than five thousand rupees and not exceeding fifty thousand rupees, or to both.”. Amendment of section 41 of the principal enactment
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14. Section 43 of the principal enactment is hereby amended by the insertion of the following definition immediately before the definition of expression “High Court Judge”:- Amendment of section 43 of the principal enactment
- 30
- “ “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);”.

15. The Second Schedule to the principal enactment is hereby amended as follows:-

Amendment of the Second Schedule to the principal enactment

- (1) by the insertion immediately after Form B thereof, of the following new form which shall have effect as Form BI of the principal enactment:-

[Section 3]

“Form B1

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);

- (2) by the repeal of Form E of that Schedule, and the substitution therefor, of the following form: -

[Section 31(21)]

“FORM E

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) holders of (national identity card / passport, driving license), 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 the National Identity Card No....., the subscribing witnesses hereto, and who signed (illegibly/ as, as the case may be,) respectively, and affixed their

(thumb of left/right hand or any other finger or toe) impression 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 theday ofat

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 license) 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 theProvincial 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 bearsstamps of the value of Rs..... and the duplicatestamps 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)”.
.....

16. For the avoidance of doubt, it is hereby declared that the provisions of this Act shall-

Avoidance of
doubt

- 5 (a) not affect any deed or instrument lawfully executed prior to the date of commencement of this Act and pending registration in accordance with the provisions of Registration of Documents Ordinance (Chapter 117);
- 10 (b) not derogate from the powers of any Provincial Council to levy or recover any stamp duty on any instrument or deed executed prior to the date of commencement of this Act;
- (c) not affect any action or suit pending before a court of law or any decision of a court of law given prior to the date of commencement of this Act.

15 **17.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text
to prevail in
case of
inconsistency

