

CHAPTER 12

THE NOTARIES PUBLIC AND COMMISSIONERS FOR OATHS ACT

An Act relating to Notaries Public and Commissioners for Oaths.

[27th January, 1928]

Ords. Nos.

5 of 1928

38 of 1955

[R.L. Cap. 12]

G.N. No. 22 of 1928

Acts Nos.

49 of 1964

1 of 1966

3 of 1971

13 of 1972

9 of 1996

[PCh12s1]1. Short title

This Act may be cited as the Notaries Public and Commissioners for Oaths Act.

[PCh12s2]2. Interpretation Ord. No. 38 of 1955 s. 2

In this Act, unless the context requires otherwise—

"practise as a commissioner for oaths" means perform, *mutatis mutandis*, the functions and duties commonly performed by a commissioner for oaths in England;

"practise as a notary public" means perform, *mutatis mutandis*, the functions and duties commonly performed by a notary public in England;

"roll" means the roll of notaries public and commissioners for oaths kept by the Registrar of the High Court in accordance with the provisions of section 4.

[PCh12s3]3. Persons entitled to practise as notaries public and commissioners for oaths Ord. No. 38 of 1955 s. 3; Act No. 9 of 1996 Sch.

(1) Any of the following persons shall, except as provided in subsection (2), be entitled to practise as a notary public and Commissioner for Oaths in Mainland Tanzania in accordance with the provisions of this Act and to levy fees in accordance with the First Schedule—

- (a) an advocate; and
- (b) a person entitled to practise as a notary public in England, Scotland, Northern Ireland or the Republic of Ireland.

(2) The following persons shall not be entitled to practise as notaries public or commissioners for oaths—

- (a) any advocate who is suspended from practice until the period of suspension ends;
- (b) any person whose name is removed from the roll of advocates otherwise than at his own request, until his name is restored to the roll of advocates;
- (c) any person whose name is removed from the roll of notaries public and commissioners for oaths or who is suspended from practice as a notary public or

commissioners for oaths in any reciprocating commonwealth country for professional misconduct, until his name is restored to the roll.

(3) In this section the expression "advocate" has the same meaning as in the Advocates Act *, and the expression "roll of advocates" means the roll of advocates kept by the Registrar of the High Court in accordance with the provisions of Part II of that Act.

[PCh12s4]4. Enrolment and granting of certificates Ord. No. 38 of 1955 s. 4

(1) Any person mentioned in section 3 who is entitled to practise as a notary public and commissioner for oaths shall, on application to the Registrar of the High Court and payment to him of the prescribed fee, and upon signing a roll to be kept by the Registrar, be granted a certificate in the form in the Second Schedule, which certificate shall, subject to the provisions of section 5, entitle him to practise as a Notary Public and Commissioner for Oaths in Mainland Tanzania so long as it is in force.

(2) Every certificate shall cease to be in force after the 31st December next following the date of issue, unless it is renewed.

(3) Every certificate shall be renewed, by endorsement, upon the application of the holder and payment of the prescribed fee.

(4) The granting of a certificate under this section and its renewal shall be recorded in the roll.

(5) When a certificate granted under this section is lost, destroyed or mutilated it shall be replaced by a fresh certificate upon the application of the person entitled to it and payment of the prescribed fee.

[PCh12s5]5. Suspension or removal from roll Ord. No. 38 of 1955 s. 5; Act No. 9 of 1996 Sch.

(1) A notary public and commissioner for Oaths may be suspended from practising or his name may be removed from the roll by order of a judge of the High Court if he is guilty of unprofessional conduct or if he otherwise becomes a person who, under subsection (2) of section 3, would not be entitled to practise as a notary public or commissioner for oaths:

Provided that no such order shall be made until the notary public and commissioner for Oaths has had opportunity of showing cause against such order.

(2) Proceedings to suspend or remove from the roll the name of a notary public and commissioner for oaths shall be commenced by an application to a judge of the High Court in chambers for a rule to issue to the notary public and commissioner for oaths named to show cause why he should not be suspended or why his name should not be removed from the roll, as the case may be.

(3) The application may be made by the Attorney-General or by the person aggrieved by the action of the notary public and commissioner for oaths complained against.

(4) In the event of a notary public or commissioner for oaths being suspended from practice or his name being removed from the roll in proceedings under subsection (3), any certificate issued to him under the provisions of section 4 shall be deemed to be suspended for the duration of such period of suspension or, in the case of the removal of his name from the roll, to be cancelled.

(5) Any person so suspended or whose name has been removed from the roll shall be at liberty to appeal against the order of suspension or removal of his name within thirty days of the making of the order to the Court of Appeal.

(6) Pending the hearing of the appeal, any person who has been suspended from practise or whose name has been removed from the roll shall not be entitled to practise except where the period of suspension ends before the hearing of the appeal, in which event he shall be at liberty to resume his practice after the period of suspension has ended.

(7) On appeal to the Court of Appeal, the Court may confirm or set aside the order appealed against or, in the case of an order of suspension, may vary the period and may make any incidental order that it may deem necessary.

(8) The Registrar of the High Court shall send to the High Court of a reciprocating country a certified copy of every order (including orders made on appeal) made under or by virtue of this Act as to removing the name of any person from the roll, as to restoring the name of any person to the roll or as to suspending any person from practice.

(9) In subsection (8), the expression "reciprocating commonwealth country" has the same meaning as in section 28 of the Advocates Act *.

[PCh12s6]6. Penalty for unlawfully practising Ord. No. 38 of 1955 s. 6

(1) Subject to the provisions of section 10, any person who holds himself out to be a notary public or commissioner for oaths or receives any fee or reward as a notary public or commissioner for oaths, unless he holds a valid certificate granted under this Act, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings and for a

second or any subsequent offence to imprisonment for a period not exceeding six months or to a fine not exceeding two thousand shillings or to both.

(2) Nothing in this section shall be construed as exempting any person from any prosecution under the provision of any other law to which he would otherwise be liable:

Provided that no person shall be punished twice for the same offence.

[PCh12s7]7. Bar on commissioner for oaths practising when interested

No commissioner for oaths shall exercise any of his powers as a commissioner for oaths in any proceedings or matter in which he is advocate to any of the parties or in which he is interested.

[PCh12s8]8. Jurat to state when oath is taken

Every notary public and commissioner for oaths before whom any oath or affidavit is taken or made under this Act shall state truly in the jurat of attestation at what place and on what date the oath or affidavit is taken or made.

[PCh12s9]9. Fees for certificates

(1) The fees in the Third Schedule are hereby prescribed for the matters set out in that schedule.

(2) The High Court may by notice published in the Gazette amend the First Schedule.

[PCh12s10]10. Certain public officers to have powers of a notary public and commissioner for oaths G.N. No. 3 of 1971; Act No. 13 of 1972 Schedule; G.N. No. 32 of 1971; Act No. 9 of 1996 Sch.

(1) Every officer to whom this section applies shall have the powers and duties of a notary public in respect of administering oaths, taking affidavits, attesting signatures and certifying copies of documents and shall also have all the powers and duties of a commissioner for oaths under this Act.

(2) This section shall apply to—

(a) any person employed by the Government of the United Republic and who, under the provisions of section 3 of the Advocates Act *, is entitled to practise as an advocate of the High Court;

(b) any person employed by the Tanzania Legal Corporation established by the Tanzania Legal Corporation (Establishment) Order, and who, under the provisions of section 3 of the Advocates Act, is entitled to practise as an advocate of the High Court;

(c) the Registrar of the Court of Appeal, the Registrar of the High Court and every Deputy Registrar;

(d) a magistrate;

(e) an Administrative Officer in the service of the Government of the United Republic;

(3) Any fee taken by an officer to whom this section applies for any matter under this Act shall be paid by such officer—

(a) where such officer is an employee of the Tanzania Legal Corporation into the general revenue of that Corporation;

(b) in any other case, into the general revenue of the United Republic.

[PCh12s11]11. Foreign service officers to have powers of a notary public Ord. No. 46 of 1961 s. 2; Act No. 1 of 1966 s. 2

(1) Every foreign service officer exercising his functions in any country or place outside Tanzania may in that country or place administer any oath and take any affidavit, and also do any notarial act which any person entitled to practise as a notary public and commissioner for oaths in Tanzania can do in that part of Tanzania in which he is so entitled, and every oath, affidavit and notarial act administered, sworn or done by or before any such person shall be as effectual as if duly administered, sworn or done by or before any lawful authority in Tanzania.

(2) Any document purporting to have affixed, impressed, or subscribed on or to it the seal or signature of any person authorised by this section to administer an oath in testimony of any oath, affidavit, or act being administered, taken, or done by or before him, shall be admitted in evidence without proof of the seal or signature being the seal or signature of that person, or of the official character of that person.

(3) This section shall extend to Tanzania Zanzibar as well as to Mainland Tanzania.

[PCh12s12]12. Minister may empower foreign diplomatic or consular officers to exercise powers of notaries Act No. 1 of 1966 s. 3

(1) Where an arrangement is made between the Government of the United Republic and the Government of any other State that members of the diplomatic, consular or other foreign service of that State shall perform services on behalf of the Government of the United Republic in a country or place in which for the time being the United Republic has no diplomatic, consular or other foreign service representative, the Minister

for the time being responsible for external affairs may, by order published in the Gazette, authorise members of the diplomatic, consular or other foreign service of that State while exercising their functions as such in that country or place to administer any oath, take any affidavit and do any notarial act which any person entitled to practise as a notary public and commissioner for oaths in Tanzania can do within that part of Tanzania in which he is so entitled; and every oath administered, affidavit sworn or notarial act done by or before any such person shall be as effectual as if duly administered, sworn or done by or before a lawful authority in Tanzania.

(2) Any document purporting to have affixed, impressed or subscribed to it the seal or signature of any person authorised under this section in testimony of any oath or affidavit or other notarial act administered, sworn or done by or before him and containing in the jurat or attestation a statement of the date and place thereof and the full name and capacity in which such person is serving shall be admitted in evidence without proof of the seal or signature being the seal or signature of that person or of the facts included in that statement.

(3) This section shall extend to Zanzibar as well as to Mainland Tanzania.

[PCh12s13]13. High Court may make rules with the President's approval

The High Court may, with the approval of the President, make rules for carrying into effect the objects of this Act.

FIRST SCHEDULE

FEES

(Section 3)

1. Fees for notarial acts: Shs. Cts.

(a) For any protest, if not exceeding 200 words, filing the original and furnishing one certified copy if required. (This is to be exclusive of any fee for drawing, if required, the body of the protest)... 30 00

(b) If the protest exceeds 200 words, for every additional 100 words, or part thereof ... 4 00

(c) For administering an oath, or receiving a declaration or affirmation without attestation of signature ... 2 00

(d) For administering an oath or receiving a declaration or affirmation with attestation of signature ... 10 00

(e) For every exhibit relating to item (d) 1 00

(f) For attesting a signature, or administering an oath or receiving a declaration or affirmation, for the purpose of obtaining relief from income tax
2 00

(g) For each signature attested by a notary public in any document not otherwise provided for 8 00

(h) For certifying a copy of any document, if not exceeding 100 words... ..
4 00

(i) If the document or part of a document exceeds 100 words, for every additional 100 words or part thereof ... 2 00

(j) 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 expenses incurred and any fees for attestation ... 8 00

(k) For affixing notarial signature and seal, if required, to any document not otherwise provided for in this schedule ... 8 00

(l) For every notary public seal affixed to a document, packet or article, when no signature is required... 8 00

(m) Any other notarial act not specified above... 10 00

2. Fees which may be levied by Commissioners for Oaths: Shs. Cts.

(a) For taking an affidavit or declaration ... 2 00

(b) For every exhibit to an affidavit or declaration ... 1 00

(c) For attending to administer an oath or affirmation or to take a declaration elsewhere than at the office or place of business of the commissioner for oaths, in addition to expenses incurred and the ordinary fee thereof ... 10 00

SECOND SCHEDULE

FORM OF CERTIFICATE

THE NOTARIES PUBLIC AND COMMISSIONERS FOR OATHS ACT (CAP. 12)

THE HIGH COURT OF TANZANIA

(Section 4(1))

Certificate to practise as a Notary Public and Commissioner for Oaths in Mainland
Tanzania.

It is hereby certified that

.....

has this day been admitted to practise as a Notary Public and Commissioner for Oaths in
Mainland Tanzania.

This Certificate expires on the 31st December, 20..... unless renewed.

Registrar of the High Court

Fee paid Shs. 60.00.

Renewed until

Fee paid Shs. 40.00

20.... (L.S)

Registrar of the High Court

(Repeat form of renewal as often as required.)

THIRD SCHEDULE

FEES FOR CERTIFICATES G.N. No. 22 of 1928

(Section 9)

Shs. Cts.

(a) Fee payable on application for a certificate to practise as a Notary Public
and Commissioner for Oaths... .. 60 00

(b) Fee payable on each annual application for renewal of the certificate... ..
40 00

(c) Fee payable on application for lost, destroyed or mutilated certificate to be
replaced 10 00