



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

**NOTARIES (AMENDMENT)
ACT, No. 31 OF 2022**

[Certified on 31st of October, 2022]

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Notaries (Amendment) Act, No. 31 of 2022

[Certified on 31st of October, 2022]

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. 31 of 2022. Short title

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 Section 3 of the Notaries Ordinance (Chapter 107) (hereinafter referred to as the "principal enactment") is hereby repealed and the following section substituted therefor:- Replacement of section 3 of Chapter 107

"Attorneys-at-law, qualified for admission as notaries

3. (1) 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 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 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 judicial zone in which he resides.

(2) Every notary who has been issued a warrant under subsection (1) shall, prior to commencement of practice as a notary, hand over a letter of commencement to the Registrar of the relevant land registry."

Amendment of section 12 of the principal enactment

3. Section 12 of the principal enactment is hereby amended as follows:-

- (1) by the repeal of in paragraph (b) in subsection (1) thereof and the substitution therefor, of the following:-

“(b) execute a bond before the High Court by depositing a sum of rupees ten thousand, to the due and faithful discharge of his duties as a notary, which shall be credited to the Consolidated Fund; and”;

- (2) by the repeal of subsection (2) thereof and the substitution therefor, of the following:-

“(2) Every bond referred to in paragraph (b) of subsection (1) shall be signed in the presence of the High Court Judge having jurisdiction over the area specified in the warrant of the notary.”; and

- (3) by the repeal of subsection (3) thereof.

Amendment of section 13 of the principal enactment

4. Section 13 of the principal enactment is hereby amended by the substitution for the words “given such bond and security” of the words, “given such bond” and 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”.

Repeal of section 14 of the principal enactment

5. Section 14 of the principal enactment is hereby repealed.

Repeal of section 15 of the principal enactment

6. Section 15 of the principal enactment is hereby repealed.

7. Section 16 of the principal enactment is hereby repealed. Repeal of section 16 of the principal enactment
8. Section 17 of the principal enactment is hereby amended by the substitution for the word "security" of the word "bond". Amendment of section 17 of the principal enactment
9. Section 19 of the principal enactment is hereby amended by the repeal of subsection (1) thereof and substitution therefor of the following:- Amendment of section 19 of the principal enactment
- “(1) Where a notary has been indicted before a High Court, the Minister may, on the application of the Attorney-General, suspend him from the office of notary pending his trial.”.
10. 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
11. Section 21 of the principal enactment is hereby amended as follows:- Amendment of section 21 of the principal enactment
- (a) in paragraph (e) of subsection (1) thereof, by the substitution for the words “incompetence, age”, of the word “incompetence”; and
- (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”.
12. 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 Amendment of section 24 of the principal enactment

rupees” of the words “to a fine not less than one hundred thousand rupees and not exceeding five hundred thousand rupees”.

Amendment of section 26 of the principal enactment

13. Section 26 of the principal enactment is hereby amended as follows:-

- (1) in subsection (2) thereof, by the substitution for the word “security”, of the word “bond”;
- (2) in subsection (3) thereof, by the substitution for the word “security” of the word “bond”.

Amendment of section 27 of the principal enactment

14. Section 27 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the word “March” of the word “April”.

Amendment of section 28 of the principal enactment

15. Section 28 of the principal enactment is hereby amended by the insertion immediately after subsection (1) thereof of that section of the following subsection: -

“(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 previous year, to the Registrar of Lands.”.

Amendment of section 31 of the principal enactment

16. Section 31 of the principal enactment is hereby amended as follows:-

- (1) by the substitution for the rule (3) thereof, of the following: -

“Signature not to be taken on blank papers or incomplete forms

(3) He shall not require, permit, or suffer any executant or any witness to any deed or instrument executed or to be executed before him to sign or make a mark of such executant or witness, or such executant to affix the left or right thumb impression or any other finger impression or toe impression, as the case may be, to such deed or instrument or any duplicate or protocol, or require such executant or witness to sign or make the mark of such executant or witness and such executant to affix the left or right thumb impression or any other finger impression or toe impression, as the case may be, upon any paper or other material intended to be used afterwards for any such purpose, until the whole of such deed or instrument shall have been written or engrossed thereon, and in any event no signature or affixing of the left or right thumb impression or any other finger impression or toe impression of such executant shall be obtained for any deed or instrument on a blank paper or in any incomplete form.”;

- (2) by the substitution for the rule (4) thereof, of the following:-

“Material on which deeds may be written

(4) He shall not authenticate or attest any deed or instrument unless the same is written, typed or printed on durable parchment paper or blue sheet.”;

(3) by the substitution for the rule (5) thereof, of the following:-

“Deeds to be written on divided or undivided paper

(5) (a) He shall authenticate or attest any deed or instrument which is written on one entire undivided parchment paper or blue sheet: or

(b) where he uses two or more separate sheets of paper, he shall-

(i) number every page;

(ii) place his signature on each such paper; and

(iii) cause every executant, holder of power of attorney (hereinafter referred to as the “attorney”), or authorized person of a corporate body, as the case may be, to place his signature and affix left or right thumb impression or any other finger impression or toe impression to each such paper.”;

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

“Assurance of the payment of the required stamp duty

(6) He shall not authenticate or attest any deed or instrument unless he has an assurance that the required stamp duty is provided.”;

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

"Stamping of document relating to a transfer, a gift or an exchange

(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 deed or instrument relating to a transfer, a gift or an 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.";

- (6) 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 one 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;";

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

“Full names of executants and witnesses to be ascertained (14) He shall, before any executant or witness signs or makes a mark and before any executant affixes his left or right thumb impression or any other finger impression or toe impression, ascertain the full names of the executant and witnesses to such deed or instrument and if an executant to any deed or instrument is a corporate body, cause to be affixed the seal of the corporate body and obtain the signatures 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 executant or witness differs from the name given in the identification documents of such executant or witness, he shall, in his attestation of such deed or instrument, describe such executant 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.”;

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

“Executant,
an attorney,
authorized
person of a
corporate
body to affix
his finger
impression to
deed or
instrument in
respect of an
immovable
property

(15A). (1) (a) Every-

(i) executant;

(ii) attorney ; or

(iii) board of directors or the
authorized person of a
corporate body;

executing a deed or instrument in
respect of an immovable property, in
addition to the provisions of rule (15)
shall affix his thumb impression of any
hand above or beside his signature to
the original, duplicate and the
protocol of such deed or instrument;

- (b) where such thumb impression of an
executant, an attorney or board of
directors or an authorized person of a
corporate body cannot be obtained,
such an executant, an attorney or an
authorized person of a corporate body
shall affix his finger impression of any
hand or toe impression, above or
beside his signature to the original,
duplicate and the protocol of such
deed or instrument;
- (c) where a deed or instrument is signed
by an attorney, such attorney shall
submit to the notary an affidavit
affirming that the Power of Attorney is
genuine and in force and the grantor is
alive when executing such deed or
instrument;
- (d) where the transferee is a minor, the
legal guardian or guardian, as the case
may be, shall be a competent person to
act on behalf of the transferee for the
purpose of this section.”;

(9) in rule (16)–

(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: -

“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

(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.”;

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

“(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;

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

(iii) in the case of a deed of transfer or a deed of gift, or deed of exchange or a will, 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;”;

(b) by the addition, immediately after paragraph (b) thereof, of the following new paragraphs: -

“(c) he shall write on the front page 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;

(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

(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 provision of such Trust Deed under which they are empowered to execute the deed, in the attestation, and retain a copy of the trust deed.”;

(11) in rule (20) thereof,—

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

“(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, bio-page of the passport or the 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.”;

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

“(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 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.”;

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

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

“(h) in the case of a will-

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

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

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

(13) 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 the Registrar General to the original, and true copies to the duplicate and the protocol thereof.”;

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

“Submission of a deed or instrument for registration (30A) 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:

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.”.

Replacement of section 34 of the principal enactment

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

“Penalty for breaches of rules in section 31

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

- (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;
- (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
- (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.

(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 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.

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

(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.

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

Amendment of section 38 of the principal enactment

18. 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 39 of the principal enactment

19. Section 39 of the principal enactment is hereby amended as follows:-

- (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
- (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.”.

Amendment of section 41 of the principal enactment

20. Section 41 of the principal enactment is hereby amended in subsection (1) thereof by the substitution for the words from “to simple or rigorous” to the end of that subsection of the words, “to a fine not exceeding fifty thousand rupees.”.

Amendment of section 43 of the principal enactment

21. Section 43 of the principal enactment is hereby amended by the insertion of the following definitions immediately before the definition of the expression “High Court Judge”:-

“ “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);

“executant” means—

- (a) in relation to a deed of transfer, the transferor and the transferee; and
- (b) in relation to other deed or instrument the parties to such deed or instrument;

22. 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 B1 of the principal enactment:—

“Form B1 [Section 3]

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: -

“FORM E [Section 31(21)]

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), 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 National Identity Card/ Passport/ Driving Licence No. the subscribing witnesses hereto, and who signed (illegibly/as as the case may be) respectively, 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 licence) 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)™.

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

Avoidance of
doubt

- (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);
- (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;
- (d) not make a notary who has commenced his practice prior to the date of commencement of this Act, liable to execute a bond in terms of section 12 of the principal enactment.

Sinhala text to
prevail in case
of inconsistency

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

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