

Notary Public Act, 2063

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Act No. 9 of the Year of 2063 B.S.

An Act Made to Provide for Notary Public

Preamble: Whereas, it is expedient to make legal provisions regarding Notary public by confirm real person in preparing documents and putting signature on the document and to control fraud and fraudulent activities and to provide for simple and easy way in translating document and to maintain the interest of the general public,

Now, therefore be it enacted by the House of Representatives in the first year of the Declaration of House of Representative, 2063 (2006)

Chapter-1

Preliminary

1. **Short Title and Commencement:** (1) This Act may be called "Notary Public Act, 2063".
- (2) This Act shall come into force on such date as the Government of Nepal may appoint in Nepal Gazette by a Notification.
2. **Definitions:** In this Act unless the subject or context otherwise requires,-:
- (a) "Notary Public" means a person who holds certificate of Notary Public in pursuant to Section 14.
- (b) "Council" means Nepal Notary Public Council as established pursuant to section 3.
- (c) "Chairperson" means chairperson of the Council.
- (d) "Member" means member of the Council and this expression also includes the Chairperson.
- (e) "Secretary" means person appointed or designated pursuant to Section 7.

- (f) "Certificate" means the certificate awarded to work as Notary Public pursuant to Section 14.
- (g) "Document" means any document between two or more persons to transfer, to amend or to extend any kind of right or to create liability and this expression also includes a document which is to be used in foreign country or affidavit to be submitted in the court or office or any other document of similar nature.
- (h) "Paper" means a paper issued from government or public office or private organization and this expression also includes the Document.
- (i) "Certification" means the act of certification of a document by the Notary Public pursuant to Section 27.
- (j) "Representative" means the following persons:
 - (1) Person having obtained authorized power of attorney pursuant to the prevailing law to certify documents, or
 - (2) Person authorized, to put signature on behalf of a firm, company or an autonomous body incorporated pursuant to Prevailing Law.
- (k) "Law Practitioner" means a person registered as a law practitioner pursuant to the Prevailing Law.
- (l) "Prescribed" or "as prescribed" means 'prescribed' or 'as prescribed' in Rules framed under this Act.

Chapter-2

Establishment of council and Provision Regarding its Functions, Duties and Powers

- 3. **Establishment of Council:** (1) A Council named as Nepal Notary Public Council has been established to manage the translation of the paper and certification of document in an easy and accessible manner.
 - (2) The office of the Council Shall be located in the Kathmandu valley.
- 4. **The Council to be an Autonomous Body:** (1) The council shall be an autonomous corporate body with perpetual succession.
 - (2) There shall be a separate seal for the functioning of the Council.

- (3) The Council may acquire, possesses and sell moveable and immoveable property as an individual.
- (4) The council may file a case in its own name and a case may be filed against it, as an individual.

5. Composition of the Council: (1) The composition of the Council shall be as following:

- (a) Attorney General - Chairperson
- (b) President, Nepal Bar Association - Member
- (c) Secretary, Ministry of law, Justice and Parliamentary affairs - Member
- (d) Secretary (Law) office of the Prime minister and Council of Ministers - Member
- (e) Secretary, Nepal Law Commission - Member
- (f) Secretary, Ministry of Land Reform and Management - Member
- (g) Secretary, Ministry of Foreign Affairs - Member
- (h) Registrar, the Supreme Court - Member

- (2) The secretary as of Section 7 shall work as the secretary the Council.
- (3) The procedure relating to the meetings of the council shall be as prescribed.

6. Functions, Duties and Powers of the Council: In addition to the functions, duties and powers mentioned in other places of this Act, the Council shall have the following functions, duties and powers:

- (a) To prepare (draft) and implement the policy regarding Notary Public.
- (b) To distribute the Certificate of Notary public.
- (c) To monitor the activities of the Notary Public that whether or not this Act or code of conduct made by the council is abided by .
- (d) To form committee, as required and confer powers, duties and functions to such committee.
- (f) To appoint the auditor, and

(g) To perform other functions as prescribed.

7. **Secretary:** (1) There shall be a secretary to function as an administrative chief of the Council.

(2) The Council shall appoint, an individual who holds a graduate degree in law, to the post of secretary as prescribed.

(3) Until the period of the appointment of the secretary pursuant to Sub-section (2), the Government of Nepal may designate a Gazetted Officer of judicial service, in request of the Council, to work as the secretary of the Council.

(4) The tenure of office of the secretary shall be of four years.

(5) Notwithstanding anything contained in Sub-section (4), if the Secretary does not function honestly or he/she falls in bad conduct or his/her work is not satisfactory, then the Council may remove him/her at any time.

(6) Before removing the secretary from the post pursuant Sub-section (5), he/she shall be provided opportunity to submit clearance.

(7) The functions, powers, duties, remuneration and terms and conditions of service of the secretary shall be as prescribed.

8. **Employees of the Council:** (1) The number of employees in the Council as per necessity.

(2) The appointment, terms of service remuneration and facility of the employees of the council shall be as prescribed.

9. **Fund of the Council:** (1) There shall be a separate Fund of the Council.

(2) The following amounts shall be credited to the fund created under Sub-section (1):

(a) Money obtained from Government of Nepal.

(b) Money obtained from any individual or organization.

(c) Money obtained as fee from the person who receives certificate.

(d) Money received as the guarantee .

(e) Money obtained from other sources.

- (3) All the expenditures of the council shall be borne in from the Fund, mentioned Sub-section (1).

Provided that, the moneys mentioned in Clause (d) shall not be expended in the functions of the council.

- (4) Operation of the Fund of the Council shall be done as prescribed.
(5) Audit of the Council shall be done as prescribed.

Chapter- 3

Provisions Relating to the Certificate of the Notary Public

10. **Practice of Notary Public is Prohibited without Certificate:** No one shall practice as a Notary Public without obtaining certificate pursuant to this Act.
11. **Bar to Practice without Passing Examination:** (1) Out of the functions of the Notary Public, a person who wants to get certificate for translation and other special function as prescribed by the Council shall have to pass the examination relating to the Notary public.
- (2) The examination mentioned in Sub-section (1) may conducted by the Council itself or the council may cause to conduct such examination to any of the institution which provides training in relation to law and justice or which conducts examination of the law practitioner.
- (3) The course content, types of examination and other provisions relating to examination pursuant Sub-section (1) shall be as prescribed.
12. **Qualification of Notary public:** The following persons shall be eligible to be a Notary Public:
- (a) A law **parctitioner** who has continuously practiced law for a period of Seven years.
- (b) A person who has retired from at least Gazetted class two officer of the Nepal judicial service.
13. **Disqualification of Notary Public:** The following persons shall be disqualified to be a Notary Public:

- (a) Person who has not passed the examination conducted pursuant to Section 11.
- (b) Person who is not qualified pursuant to Section 12.
- (c) Person who has been punished as an offender by the court of law in the cases of Murder, Theft, Dacoit, Fraud, Fraudulence, Corruption, Rape, Consumption and trafficking of Narcotic Drug, trafficking in person or serious offence of similar nature.
- (d) Person having not good character.
- (e) Non-Nepali citizen
- (f) Person having declared insolvent.
- (g) Person not having in normal mental condition.

14. Provision relating to Certificate: (1) Any Person interested to obtain a certificate of Notary Public shall apply to the Council in the prescribed form accompanied by the prescribed fees.

- (2) If the Council receives application pursuant to Sub-section (1), it shall form a committee to verify such application and recommend accordingly as prescribed.
- (3) If the committee formed pursuant to Sub-section (2) recommends to certificate and the recommendation seems reasonable upon verification, Council shall issue certificate in the prescribed form taking gurantee from the applicant as stated in Section 17.
- (4) The working place of the Notary Public shall be as mentioned in the certificate.

15. Description relating to Notary Public to be Sent: (1) After distributing certificate pursuant to section 14, the Council shall send the descriptions of the Notary Public such as name, surname, address and other necessary description, to the Bar Association and the District Court where the Notary Public is going to work .

- (2) After receiving description as stated in Sub-section (1) the concerned Bar Association and District Court shall make such description public.

16. Validity and Renewal of Certificate: (1) The certificate issued pursuant to Section 14 shall be valid for Five years.

- (2) A person who wants to renew certificate, shall apply before the Council along with prescribed fees, sixty days before expiry of the certificate.
- (3) If an application is received pursuant to Sub-section (2), the Council may renew the certificate upon conducting inquiry as required.
- (4) The other provisions regarding renewal of certificate shall be as prescribed.

17. Guarantee to be Submitted : (1) Person intending to obtain certificate shall submit Fifty Thousand rupees in cash or a bank guarantee equal to that amount, as an guarantee, from the bank as appointed by the Council.

- (2) The guarantee amount mentioned in Sub-section (1), shall be used for the liability arised out of the prescribed work performed in the capacity of Notary Public.
- (3) If the guarantee amount submitted by the Notary Public if is reduced to bear the liability as mentioned in Sub-section (2), then, equal to the reduced amount in cash or in the form or bank guarantee, shall be submitted to the Council with in 30 days.
- (4) Other provisions regarding guarantee shall be as prescribed.

18. Cancellation of the Certificate: (1) The certificate of the Notary Public shall be cancelled in following conditions:

- (a) if declared guilty and punished by the court in the crime as stated in Clause (c) and (d) of Section 13,
- (b) if case of his/her death,
- (c) if the mental condition is not normal,
- (d) if certificate is not renewed,
- (e) it law practitioner certificate is cancelled or if the name is removed from the registration of the law practitioner.

- (f) if Notary public him/herself voluntary applies for the revocation of the certificate
- (2) If Notary Public commits misconduct or acts against this Act or Rules here under, the Council may cancel his/her certificate.
- (3) Before cancelling a certificate pursuant to Sub-section (2), the Council shall provide fifteen days time to the Notary Public to submit his/her clarification.
- (4) If a certificate is cancelled pursuant to this Section, the Council shall inform the concerned District court and Bar Association immediately.

Chapter-4

Provisions relating to Functions and Duties of the Notary Public

19. **Functions may be Performed by the Notary Public:** The Notary Public may, subject to the provisions of this Act, perform the following functions:
- (a) Certification of any document;
 - (b) To translate a paper written in one language into another language, and
 - (c) To attest the copy of any original paper.
20. **Activities not to be Performed by the Notary Public:** The Notary Public shall not perform the following activities:
- (a) To do certification of the document which is not registered in the register-book of his/her office,
 - (b) To certify any document which itself is an original document,
 - (c) To do certification of document which is to be done by himself /herself,
 - (d) To do certification of the document which is concerned to his/her own transaction and interest,
 - (e) To do certification of the document which is concerned to his/her close relatives,

Explanation: For the purpose of this Clause "close relatives" shall mean relatives as prescribed,

- (f) To disclose any known fact received in the course of certification of the documents, without the consent of the concerned person, except as provided in the law,
- (g) To add and delete or amend or alter in the Document or Paper which is laying safely with the Notary Public,
- (h) To do certification of a document without fulfilling the procedure prescribed in Section 27,
- (i) To do certification of any document unauthorisely or negligently,
- (j) To take excess fees for certification or translation of document than fixed for it ,
- (k) To translate doubtful paper,
- (l) To translate differing the stated date, number or content of the document,
- (m) To do the function of Notary Public beyond the jurisdiction,
- (n) To do certification of document without presenting the person who has to make the document before himself/herself.
- (o) To function against the Code of Conduct.
- (p) To function in contravention of this Act or Rules made thereunder, and
- (q) To do other work as prescribed.

21. Oath to be Taken: The Notary Public shall have to take oath as prescribed before beginning the work.

22. Office to be Established: (1) The Notary Public shall establish an office in his/her working place.

(2) The Office as stated in Sub-section (1) shall not be opened more than one places.

(3) Notary Public shall keep a sign-board outside the office stating name and license number on it and the certificate in the office which could be seen by all .

23. Register-Book to be Maintained: (1) Notary Public shall maintain separate register books relating to the certification and translation of the documents .

- (2) The matters to be stated in the register book pursuant to Sub-section (1) shall be as prescribed.
 - (3) Notary Public shall have to keep the document certification register safely among the register books, as stated in Sub-section (1), to the period of five years after the end of the last page of the record book.
- 24. Files to be Maintained:** (1) To safely keep the certified document or translated paper, Notary Public shall have to maintain a separate file in his/her office.
- (2) In the file as stated in Sub-section (1) a copy should be kept stating the name, surname and address of the person who causes for the certification of the document and translation of the paper.
 - (3) The file maintained by the Notary Public pursuant to Sub-section (1) shall be submitted to the Council by the Notary Public if he/she gives up such work and by his/her successor if he/she dies or becomes mentally abnormal.
- 25. Report to be Submitted:** (1) The Notary Public shall prepare an annual report of his/her activities and submit it to the in the concerned District court and Council every year within last day of *Baishakha*.
- (2) The Notary Public, conducting certification of document relating to the transfer of immoveable property shall have to send the details to the concerned Land Revenue Office, every month.
 - (3) The matters to be included in the report pursuant to Sub-section (1) shall be as prescribed.
- 26. To be Regarded as official Misconduct:** Any act, committed by the Notary Public *pursuant to Section 20, shall be considered official misconduct.

* Amended by Some Nepal Acts Amendment Act, 2064 (2008)

Chapter - 5

Provisions relating to Certification of the Document and Translation of the Paper

27. **Procedure relating to Certification of:** (1) A person, who wants certification of document, shall have to apply to the Notary Public as prescribed.
- (2) While applying pursuant to Sub-section (1), the applicant shall present two witnesses who know him/her before the Notary Public. While presenting witness in that way document which shows the identity of witness should be submitted.
 - (3) when an application pursuant to Sub-section (1) is received, Notary Public shall have to confirm whether the person who put signature on the document is real or not.
 - (4) While confirming a person pursuant to Sub-section (3), a Notary Public may ask for additional paper, inquire with applicant and his/her witness or take written statement of the applicant on the matter.
 - (5) If the Notary Public is going to certify a document which is to be submitted to an office or Court, then, the Notary Public may cause to take oath of the applicant as prescribed.
 - (6) If the Notary Public knows the applicant personally or if the applicant is confirm on the basis of paper asked pursuant to Sub-section (2) or examination of the witness presented by the applicant then, the Notary Public may do certification by causing to put, signature and thumb impression of the applicant on the document as prescribed.
 - (7) Other provisions relating to certification of the document shall be as prescribed.
28. **Procedure relating to Translation of Paper:** (1) A person, who wants to translate paper shall have to apply to the Notary Public for translation of the paper as prescribed.
- (2) If an application is received pursuant to Sub-section (1), then, the Notary Public shall have to confirm whether such paper is authentic or not.

- (3) If there is any doubt in relation to the authenticity of the paper, then, the Notary public may investigate or verify such paper or may inquire to the office or institution which has issued the paper.
 - (4) If the paper seems authentic by the inquiry pursuant to Sub-section (1), then, the Notary public shall have to translate the paper and have to verify such paper as prescribed.
 - (5) Other provisions relating to translation of the paper shall be as prescribed.
29. **Procedure relating to Attestation:** Procedures to be followed by the Notary Public, in the course of attestation of a copy of the original paper, shall be as prescribed.
30. **Fees to be taken by the Notary Public:** Fees to be taken by the Notary Public for certification of the document or translation of paper shall be as prescribed.

Chapter-6

Provisions relating to Supervision, Inquiry and Suspension

31. **May do Supervision and Monitoring:** (1) The Council may supervise or monitor the activities and functions of the Notary Public or may ask for paper, information or clearance from the Notary Public in relation to his/her functions and activities.
- (2) The paper, information or clearance asked by the Council pursuant to Sub-section (1), shall be given in the time, to the Council by the Notary Public to the council in time.
32. **Complain, Inquiry and Suspension:** (1) Anyone who knows the misconduct of any Notary Public, may complain to the Council, within two years from the date of cause of action.
- (2) If a complaint is filed pursuant to Sub-section (1) or any misconduct of the Notary Public reveals in the course of supervision or monitoring pursuant to Section 31 or by any other source, then, the Council may ask the concerned Notary Public for clarification or information in the prescribed

time frame or may ask him/her to appear before itself for recording statement.

- (3) If it seems appropriate to suspend the Notary Public on the basis of the statement recorded or information collected or clarification received pursuant to Sub-section (2), the Council may suspend such Notary Public.
- (4) The period of suspension pursuant to Sub-section (3) shall not exceed more than two months and within that period the Council shall have to complete the function relating to complain.
- (5) The other provisions relating to investigation of the complain shall be as prescribed.

Chapter-7

Provision relating to Penalties and Compensation

- 33. Penalty:** (1) A person, who practice as a Notary Public without obtaining Certificate pursuant this Act, shall be punished with an imprisonment for a period of three years or fined upto One Hundred Fifty Thousand Rupees or with both.
- (2) A Notary Public who, commits misconduct shall be punished with the imprisonment for up to Four years or a fine upto of Two Hundred Thousand Rupees or with both.
 - (3) If the content written in the document brought for certification is proved false, the person preparing such document shall be punished with imprisonment for a period upto four years or a fine upto Two Hundred Thousand Rupees or with both.
 - (4) If the oath taken by a person pursuant to Sub-section (5) proved false, such person shall be punished with the imprisonment upto three months or a fine upto Fifteen Thousand Rupees or with both.
 - (5) if a person who becomes a witness the certification of the document, confirms wrong person or gives wrong description or statement or makes wrong written statement shall be punished with imprisonment for a period

upto six months or be fined upto Twenty Five Thousand Rupees or with both.

- (6) if a person who causes for certification of a document fraud with , fraudlent or deceptively accompaning with the Notary Public such person shall be punished with the imprisonment upto one year or a fine upto Fifty Thousand Rupees or with both.
- (7) if a person, who translates or causes for translation changes the date , numerical or content, such person shall be punished with imprisonment upto three Months or fined not exceeding Fifteen Thousnad Rupees or with both.
- (8) If, a person who commits any act against this Act or Rule framed thereunder, except as provided in this Section, shall be punished with the imprisonment upto Three Months or a fine upto Fifteen Thousand Rupees or with both.

34. Compensation: (1) if a person who suffers harm or losses due to the misconduct of the Notary Public, the aggrieved person may file suit for compensation in the concerning District Court within two years from the date of occurrence of the misconduct.

- (2) Notwithstanding anything contained in Sub-section (1), the person signing in the document or his/her representative, shall be equally liable for the harm or loss caused by the misconduct of the Notary Public in the following conditions:
 - (a) If the misconduct is occurred while doing function of the person who puts signature on the document, and
 - (b) if the person has consented, knowingly that the Notary Public is committing a misconduct.

Chapter-8

Miscellaneous

35. **To be Considered as a Post of Public Responsibility:** The Notary Public shall be considered as the post of public responsibility.
36. **Seal of the Notary Public and it's Use:** (1) The Seal of the Notary Public shall be as prescribed.
- (2) The seal of Notary Public pursuant to Sub-section (1) shall not be used in other functions except in the function of the Notary Public.
37. **To Frame and implement the Code of Conduct:** The council shall frame and implement a code of conduct which is to be abided by the Notary Public.
38. **Record of the Notary Public to be Maintained:** The Council shall maintain the record of the Notary Public as prescribed.
39. **Special Provisions regarding Translation:** (1) Notwithstanding anything contained in this Act, the institution established pursuant to the prevailing law with a power to translate the papers, at the time of the commencement of this Act, may translate the papers with approval of the Council.
- (2) The institution which has obtained approval pursuant to Sub-section (1), shall follow the procedures as stated in Section 28 while translating paper.
- (3) If the institution, which has obtained approval pursuant to Sub-section (1), translates any paper against this Act, the chief of the institution shall be liable for penalty pursuant to Section 33.
40. **No bar to File a case pursuant to Prevailing Law:** The Notary public, person who causes certification of document or who translates a paper causes for at the against this Act and that Act is punishable under any other law, in that case this Act shall not bar to file a case pursuant to such other law.
41. **Delegation of Powers:** If an act committed by the Notary Public or a person who causes for certification of a document or translation of a paper against this Act is punishable under any prevailing law, this Act shall not be deemed to a bar to file a case against them.

42. **Government of Nepal to be the Plaintiff:** (1) The Government of Nepal shall be the plaintiff in the cases under this Act.
- (2) A case under this Act shall be regarded as included in the schedule-1 of Government cases Act, 2049.
43. **Liaison with Government of Nepal:** The Ministry of Law & Justice shall liaison the council with Government of Nepal.
44. **Power to Frame Rules:** The Council may frame necessary Rules to implement the objectives of this Act.