

2024-03-28

OBJECTS AND REASONS

This Bill would revise the law relating to the appointment and regulation of Notaries Public in Barbados and provide for related matters.

Arrangement of Sections

1. Short title
2. Interpretation
3. Appointment as a notary public
4. Application and authorisation to be appointed as Notary public
5. Appointment of notary public
6. Notary Public Certificate
7. Roll of notaries public
8. Renewal and payment of fees
9. Notarial acts
10. Fees
11. Proceedings for misconduct: suspension or revocation
12. Notarial Acts Register
13. Duty to notify Registrar of changes and events
14. Power to obtain information
15. Penalty for misfeasance

- 16.** Offences
- 17.** Regulations
- 18.** Amendment of Schedules
- 19.** Repeal of Act 2017–9
- 20.** Commencement

FIRST SCHEDULE

Notaries Public - Ex Officio

SECOND SCHEDULE

Notary Public Application

THIRD SCHEDULE

Impression of Notarial Seal

FOURTH SCHEDULE

Form of Oath

FIFTH SCHEDULE

Application, Registration and Renewal Fees

SIXTH SCHEDULE

Notary Public Certificate

SEVENTH SCHEDULE

Notarial Acts and Fees

EIGHTH SCHEDULE

Notarial Acts Register

BARBADOS

A Bill entitled

An Act to revise the law relating to the appointment and regulation of Notaries Public in Barbados and provide for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

- 1.** This Act may be cited as the *Notaries Public Act, 2024*.

Interpretation

2. In this Act,

“attorney-at-law” has the meaning assigned to it by the *Legal Profession Act*, Cap. 370A;

“Minister” means the Minister responsible for notaries public;

“Registrar” means the Registrar of the Supreme Court.

Appointment as a notary public

3.(1) A person may be appointed as a notary public if he satisfies the requirements for appointment under this Act.

(2) Any person holding or acting in a public office specified in the *First Schedule* shall be *ex officio* a notary public for Barbados.

(3) A person may be appointed as a notary public if that person

- (a) is a citizen or permanent resident of Barbados;
- (b) is the holder of a CARICOM Skilled National Certificate and is ordinarily resident in Barbados;
- (c) has never been convicted of an offence punishable by imprisonment;
- (d) has never been found guilty of any act that constitutes misconduct in a professional respect or misconduct under this Act;
- (e) has not been adjudged bankrupt; and
- (f) meets any of the criteria specified in this section.

(4) A person referred to in subsection (3) is eligible for appointment if that person

- (a) is an attorney-at-law
 - (i) who has been practising law in Barbados for at least 15 years; and

- (ii) who is in good standing with the Barbados Bar Association; or
 - (b) is a certified public or chartered accountant
 - (i) who has been practising in Barbados for at least 15 years; and
 - (ii) who is in good standing with a recognised accounting body.
 - (c) possesses at least 15 years professional or business experience in Barbados and is of good character.
- (5) Every person other than an attorney-at-law shall complete a course of training prescribed by the Attorney-General.

Application and authorisation to be appointed as Notary public

4.(1) Subject to subsection 3, a person who wishes to be appointed as a notary public shall submit an application in writing to the Registrar in the form set out in the *Second Schedule*.

(2) An application made under subsection (1), shall be accompanied by the following documents:

- (a) proof of the applicant's citizenship or permanent residence;
- (b) 2 character references, one from among the following persons:
 - (i) an employer or former employer;
 - (ii) a Justice of the peace;
 - (iii) a notary public;
 - (iv) a minister of religion;
 - (v) a police officer of the rank of inspector or above,
 - (vi) a certified public or chartered accountant;
 - (vii) an attorney-at-law;
 - (viii) a medical doctor; or
 - (ix) a member of Parliament.

- (c) a police certificate of character issued within 3 months of the date of the application;
 - (d) a photograph of the applicant, certified by any one of the persons listed at paragraph (b) to be a true likeness of the applicant;
 - (e) proof of admission to practise law in Barbados;
 - (f) proof of qualification as a certified public accountant or chartered accountant; and
 - (g) any other information that the Registrar may require.
- (3) The Registrar shall, upon receipt of the application, review the application and if satisfied that he is fit for appointment, appoint the applicant or if not so satisfied refuse to appoint him.

Appointment of notary public

- 5.(1) On receipt of the application, pursuant to
- (a) section 4(3)(a) and upon the applicant subscribing to the oath set out in the *Fourth Schedule*, the Registrar may appoint the applicant; or
 - (b) section 4(3)(b) refuse to appoint the applicant.
- (2) If the Registrar refuses to appoint an applicant, the Registrar shall inform the applicant giving the applicant the reasons for refusal.
- (3) Every person appointed as a notary public shall deposit with the Registrar an impression of the embossed notarial seal, in the form set out in the *Third Schedule*, to be used by him in his capacity as notary public and pay the prescribed fee to the Registrar.

Notary Public Certificate

- 6.(1) Upon appointment as a notary public, and the payment of the registration fee set out in the *Fifth Schedule*, the Registrar shall issue a Notary Public Certificate to the person appointed a notary public, in the form set out in the *Sixth Schedule*.

- (2) The Notary Public Certificate referred to in subsection (1) shall be valid until the 31st day of January in the following year in which it was issued.
- (3) The Registrar shall cause to be published in the *Official Gazette*,
 - (a) in the month of February in every year, an alphabetical list of persons who have at the 31st January in that year obtained a Notary Public Certificate;
 - (b) as soon as practicable after he obtains a Notary Public Certificate, the name of any person obtaining a Notary Public Certificate after the 31st January in any year.

Roll of notaries public

- 7.(1) The Registrar shall keep a register, which may be in an electronic form, to be known as the “Register of Notaries Public” in which the Registrar shall register
- (a) the name of every person appointed as a notary public under this Act;
 - (b) the date of appointment of the person;
 - (c) the address of the person; and
 - (d) the profession of the person.
- (2) The Registrar shall endorse the Register of Notaries Public with an appropriate notation if an appointment
 - (a) lapses under section 8;
 - (b) lapses by virtue of the notary public’s residency outside of Barbados for more than 12 months; or
 - (c) is suspended or renewed.
 - (3) The Registrar shall remove from the roll, the name of any person whose appointment has been revoked under this Act.

(4) The Registrar shall cause to be published annually, a list of all current notaries public in the *Official Gazette* and any relevant Government websites.

Renewal and payment of fees

8.(1) A notary public shall, on or before the 31st day of January in each year following the year of his first appointment, pay the prescribed annual renewal fee as set out in the *Fifth Schedule*.

(2) Where a notary public fails to pay the prescribed renewal fee by the date specified in subsection (1), his appointment as a notary public shall lapse and he shall cease to perform any notarial act.

(3) Subject to subsection (5), a notary public may pay an annual renewal fee at a later date, with an additional penalty equal to one-half of the annual fee.

(4) Upon payment of the penalty and the fee subsection (3), the lapsed appointment shall be reinstated and an endorsement for renewal made on the date of the payment.

(5) Where an appointment lapses for a period of more than 6 months, without reasonable cause or excuse, the notary public's appointment shall be revoked.

Notarial acts

9.(1) A notary public may perform

(a) the notarial acts set out in the column I of the *Seventh Schedule*;

(b) any act that is required to be performed by a notary public

(i) under any other enactment; and

(ii) in accordance with the provisions of any treaty or agreement to which Barbados is a party; or

(c) all the powers and authorities exercisable by custom to a notary public.

(2) Notwithstanding the requirement in law to exercise the powers of a notary public in the physical presence of an individual, regulations made under this Act

may prescribe the conditions for the notary public to exercise his notarial powers remotely.

(3) In any case where the circumstances surrounding a request for the notary public to do any act referred to in subsection (1) appears suspicious, the notary public shall refuse to act.

(4) When any notarial act shall be refused to be noted or done, the notary public so refusing shall mark in the logbook, bill of exchange or other document, his refusal with his signature and the date of refusal subscribed thereon.

(5) A person aggrieved by the refusal of a notary public to perform a notarial act may apply to Registrar for a review of the notary public's refusal.

Fees

10.(1) A notary public shall charge for each notarial act set out in column I the *Seventh Schedule*, the fee set out in column II of that *Schedule*.

(2) A notary public who charges a high fee than that prescribed for a notarial act commits an act of misconduct.

(3) All fees collected by a notary public who is a public officer listed in the *First Schedule*, shall be paid into the Consolidated Fund.

(4) Notwithstanding subsection (1), a notary public, other than a notary public *ex officio*, may waive the fee set out in the *Seventh Schedule* for any notarial act done.

(5) The sum set out in the *Seventh Schedule* shall apply notwithstanding any enactment providing for a different sum for that notarial act.

Proceedings for misconduct: suspension or revocation

11.(1) The appointment of a notary public may be suspended by the Registrar if the notary public

(a) allows his name to be used by another person to perform notarial acts;

- (b) charges or accepts a fee for a notarial act in contravention of section 9;
or
 - (c) fails to file a notice in accordance with section 13, with the Registrar.
- (2) The appointment of a notary public may be revoked, if the notary public is
 - (a) convicted of an offence punishable by imprisonment;
 - (b) adjudged bankrupt;
 - (c) deemed unfit and the High Court has made an order appointing a receiver for that notary public; or
 - (d) found guilty of any act that constitutes misconduct whether in his capacity as a notary public or in his profession or occupation; or
 - (e) has been or has been found negligent in the discharge of his duty;
- (2) Where the appointment of notary public is
 - (a) suspended; or
 - (b) revoked,

the Registrar shall endorse a notation of the suspension in the Register of Notaries Public or remove the name of the notary public from the register, as the case may be.

- (3) A person who has reason to believe that a notary public has committed an act of misconduct, may make a complaint on oath to the Registrar setting out the nature of the alleged misconduct.
- (4) The Registrar shall refer the complaint referred to in subsection (3) to the Attorney General.
- (5) The Attorney General shall investigate the complaint made in accordance with subsection (3) and report his findings to the Registrar and give the Registrar such directions as the Attorney General deems fit and the Registrar shall following those directions.

(6) Notwithstanding subsections (1) to (6), the Registrar may revoke the appointment of any notary public if the Registrar has reasonable cause to believe that the notary public is unfit, incapable or incompetent to carry out the duties of the office.

(7) Where a notary's public appointment has been suspended or revoked, the Registrar shall cause a notice of the suspension or revocation to be published in the *Official Gazette* and by any other means that would bring it to the attention of members of the public.

(8) A notary public who is aggrieved by a decision of the Registrar given under subsection (6) may appeal to the Attorney General.

Notarial Acts Register

12.(1) Every notary public shall keep and maintain a register to be called a "Notarial Acts Register" in the form set out in the *Eighth Schedule* in which he shall record the details of every notarial act done by him and shall preserve the record for a period of at least 7 years from the execution of the act.

(2) A notary public whose appointment has

- (a) lapsed;
- (b) been suspended; or
- (c) been revoked,

shall within 14 days of the date of the lapse, suspension or revocation, as the case may be, deliver all Notarial Acts Registers in his possession to the Registrar.

(3) A person who, not being a notary public, comes into possession of a Notarial Acts Register shall immediately deliver the Register to the Registrar.

(4) A notary public or any other person who contravenes this section is guilty of an offence and is liable to a fine of \$1 000.

Duty to notify Registrar of changes and events

13.(1) A notary public shall, within 30 days of the occurrence of any of the following events, notify the Registrar in writing of

- (a) a change to his name under the *Change of Name Act*, Cap. 212A or under any other enactment;
- (b) a change of his address;
- (c) a change of his status, nationality or permanent resident; and
- (d) a change of his profession or occupation.

(2) A notary public shall, with 7 days of the occurrence of any of the following events, notify the Registrar in writing

- (a) if he is convicted of an offence punishable by imprisonment;
- (b) of the decision by a professional body that he is guilty of professional misconduct; or
- (c) of an adjudication that he is bankrupt.

(3) The Registrar shall revoke the appointment of a notary public to whom subsection (2), applies.

Power to obtain information

14. The Registrar may, for the purpose of ascertaining whether a notary public is in compliance with this Act, and the conditions of his appointment, by notice in writing require the notary public to

- (a) furnish the information required to be kept by the notary public under section 7(1);
- (b) produce a copy of the Notarial Acts Register required to be kept by the notary public under section 11; and
- (c) produce any other information that the Registrar requires.

Penalty for misfeasance

15. Any notary public who

- (a) wilfully certifies or propounds any false statement or document; or
- (b) fraudulently or with intent to deceive, conceals, withholds or perverts any fact pertinent to the subject of a notarial act,

is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 3 years or to both and in addition, the Registrar shall revoke his appointment.

Offences

16.(1) A person who

- (a) performs any notarial act without having been appointed as a notary under this Act; or
- (b) holds himself out to be a notary public or receives any fees or reward as a notary public,

without having been appointed as a notary public is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 3 years or to both.

(2) A notary public who performs any notarial act while his appointment has been suspended or revoked is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 3 years or to both.

(3) This section does not affect the power of any consular officer in Barbados to do any notarial act which he is authorised to do.

Regulations

- 17.** The Minister may make regulations prescribing
- (a) the fees which may be charged for the execution of any notarial act;
 - (b) the fees payable upon the application and renewal as a notary public;
 - (c) the conduct of notaries, including record keeping protocols;
 - (d) the manner in which the Registrar shall store, preserve or dispose of seals and certificates submitted to the Registrar;
 - (e) training courses and other educational materials for notaries;
 - (f) the accreditation of any person, agency or educational institution for the delivery of training courses;
 - (g) any other matter related to the discharge of the duties or functions of notaries; and
 - (h) anything that is authorised or required by this Act to be prescribed.

Amendment of Schedules

- 18.** The Minister may by Order amend the *Schedules* to this Act.

Repeal of Act 2017–9

- 19.** The *Notaries Public Act, 2017* (Act 2017-9) is repealed.

Commencement

- 20.** This Act shall come into operation on a date to be fixed by proclamation.

FIRST SCHEDULE*(Section 3(2))**Notaries Public - Ex Officio*

- (a) Solicitor-General
- (b) Deputy Solicitor-General
- (c) Permanent Secretary in the Ministry responsible for Foreign Affairs
- (d) Permanent Secretary in the Ministry responsible for Home Affairs
- (e) Permanent Secretary in the Ministry responsible for International Business
- (f) Permanent Secretary in the Office of the Attorney General
- (g) Permanent Secretary in the Prime Minister's Office
- (h) Deputy Permanent Secretary in the Ministry responsible for Foreign Affairs
- (i) Deputy Permanent Secretary in the Ministry of Home Affairs
- (j) Deputy Permanent Secretary in the Ministry responsible for International Business
- (k) Deputy Permanent Secretary in the Ministry responsible for the Office of the Attorney General
- (l) Supervisor of Insolvency
- (m) Registrar of the Supreme Court
- (n) Deputy Registrar of the Supreme Court
- (o) Assistant Registrar of the Supreme Court
- (p) Registrar of Corporate Affairs and Intellectual Property Office
- (q) Deputy Registrar of Corporate Affairs and Intellectual Property Office
- (r) Assistant Registrar of Corporate Affairs and Intellectual Property Office
- (s) Registrar of the Land Registry
- (t) Deputy Registrar of the Land Registry
- (u) Assistant Registrar of the Land Registry
- (v) Director of International Business
- (w) Deputy Director International Business
- (x) Cabinet Secretary, Cabinet Office

SECOND SCHEDULE

(Section 4(1))



Notaries Public Act, 2024
(Act 2024-)

Place passport sized
photograph of applicant
here

Notary Public Application

1. Name of the applicant: _____

2. Gender: Male Female
3. Date of birth: _____
4. Place of birth: _____
5. Nationality: _____
6. Address: _____

Second Schedule - (Cont'd)

7. Contact information: _____
(Telephone number) (Home) *(Telephone number) (Cell)*

_____ *(Telephone number) (Work) (Ext.)* *(Facsimile number)*

_____ *(Email address)*

8. Status in Barbados: Citizen Permanent resident

9. Employment status: Employed Self-employed Retired

10. If employed, state your profession or occupation: _____

11. Professional or other qualifications: _____

12. Work experience: _____

13. Has your application to become a notary public ever been denied: Yes No

14. If your answer to question 13 is "yes", please give reason for this below:

Second Schedule - (Cont'd)

15. Were you previously appointed as a Notary Public? Yes No
16. If your answer is "yes", please state when you were appointed a notary public and in which jurisdiction you were appointed a notary public.
17. If your answer to question 15 is "yes", was your appointment revoked, suspended, or lapsed? If so, please provide an explanation.

I, _____ of _____
apply, in accordance with the *Notaries Public Act, 2024* (Act 2024-) to be appointed as a notary public. I certify that the information set out in this application concerning myself is true 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 misconduct under this act.

Dated this _____ day of _____, 20_____.

Signed: _____
(Applicant)

Second Schedule - (Concl'd)

INSTRUCTIONS TO APPLICANT

This application form shall be accompanied by the following documents:

- (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 of the rank of inspector or above, a medical doctor, a certified public or chartered accountant, a member of the Legislative Assembly or an attorney-at-law;
- (b) police certificate of character;
- (c) a photograph of the applicant certified by a justice of the peace, a notary public, a minister of religion, a police officer of the rank of inspector or above, a medical doctor, a certified public or chartered accountant, a member of Parliament or an attorney-at-law to be a true likeness of the applicant;
- (d) proof of professional or other qualification;
- (e) proof of citizenship or permanent residency status;
- (f) certificate of good standing as required by section 3(3)(a) for an attorney-at-law and section 3(3)(b) for a certified public or chartered accountant; and
- (g) such other documents as the Registrar or the President may require.

An applicant may provide the information required at items 10, 11 and 12 in a curriculum vitae of no more than three (3) pages.

THIRD SCHEDULE

(Section 5(3))



Notaries Public Act, 2024
(Act 2024-)

Impression of Notarial Seal

Place Impression of Notarial Seal here

FOURTH SCHEDULE

(Section 5(1)(a))

Form of Oath

I, _____ 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.

FIFTH SCHEDULE*(Sections 6(1) and 8(1))*

Notaries Public Act, 2024
(Act 2024-)

Application, Registration and Renewal Fees

Type of Fee	Amount payable \$
1. Registration Fee	1000.00
2. Annual Renewal Fee	1000.00

SIXTH SCHEDULE

(Section 6)



Notaries Public Act, 2024
(Act 2024-)

Notary Public Certificate

Pursuant to the *Notaries Public Act, 2024* (Act 2024-) it is hereby certified that _____ whose name is registered on the Roll is entitled to practise as a Notary Public during the year 20 _____ and for ensuing January.

Dated this _____ day of _____ 20 _____.

Registrar of the Supreme Court

SEVENTH SCHEDULE*(Sections 9(1)(a), 10(1), 10(4) and 10(5))*

Notaries Public Act, 2024
 (Act 2024-)

Notarial Acts and Fees

Column I

Column II

Notarial Act	Fees \$
Issue of a notarial certificate	50.00
Certification of exhibits (per exhibit)	10.00
Affixing notarial seal (per seal)	50.00
Witnessing the execution of any document	20.00
Attestation of any document	50.00
Administering of oaths and affirmations	50.00
Presenting and noting protest on:	
Bill of Exchange or promissory note	50.00
Extending protest on Bill of Exchange or promissory note	50.00

*Seventh Schedule - (Concl'd)*Column I - *(Concl'd)*Column II - *(Concl'd)*

Notarial Act	Fees \$
Minute or noting ship protest	25.00
Extending ship protest according to complication and length	50.00
Furnishing copy of extended protest	20.00
Declaration to ship protest for the Master and each additional declarant	50.00
Any act not specified in this <i>Schedule</i> or in any other enactment	50.00

EIGHTH SCHEDULE

(Section 12(1))



Notaries Public Act, 2024
(Act 2024-)

Notarial Acts Register

Nature of Notarial Act	Date of Notarial Act	Title and date of document (if applicable)	Name of parties to document	Name of person whose signature has been verified or to whom oath administered	Fee charged
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Read three times and passed the House of Assembly this
day of _____, 2024.

Speaker

Read three times and passed the Senate this _____ day of
, 2024.

President