



# Public Notaries Act 1843

## 1843 CHAPTER 90 6 and 7 Vict

An Act for removing Doubts as to the Service of Clerks or Apprentices to Public Notaries, and for amending the Laws regulating the Admission of Public Notaries. [24th August 1843]

### Textual Amendments

- F1** Act as it applies to the Isle Of Man repealed (*prosp.*) by 1998 c. 43, ss. 1(1), 2(3), [Sch. 1 Pt. X](#) Group5.

### Modifications etc. (not altering text)

- C1** Short title given by [Short Titles Act 1896 \(c. 14\)](#)  
**C2** Preamble (which recites [Public Notaries Act 1801 \(c. 79\)](#)) omitted under authority of [Statute Law Revision Act 1891 \(c. 67\)](#)

### Commencement Information

- I1** Act wholly in force at Royal Assent

**[<sup>F2</sup>1.] Public Notaries may retain Clerks or apprentices in their Business as such or as Attorneys and Notaries if so practising, and Persons serving them not disqualified.**

Every person who has been duly admitted, sworn, and enrolled a public notary in England may take, have, and retain any clerk or apprentice to serve him under the provisions of the said recited Act or of this Act in the proper business of a public notary, or if such person is also an attorney or solicitor in any of the courts of law or equity, or a proctor in any ecclesiastical court in England or Wales, to serve him at the same time in the general business of a notary as well as that of an attorney, solicitor, or proctor; and no person who shall have regularly and duly served any such public notary, being also an attorney, solicitor or proctor, for the time required by the said recited Act or this Act, and be otherwise entitled to be admitted a public notary, shall be prevented or disqualified from being so admitted a public notary by reason of his having also served a clerkship to such public notary or his partner as an attorney, solicitor or proctor during the same time or any part thereof.]

*Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Public Notaries Act 1843. (See end of Document for details)*

**Textual Amendments**

**F2** Ss. 1, 2 repealed (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 124(3), 125(7), [Sch. 20](#)

**Modifications etc. (not altering text)**

**C3** References to solicitors, attorneys or proctors to be construed as references to solicitors: [Solicitors Act 1974 \(c. 47\)](#), s. 89(6)

[<sup>F3</sup>2 **No Public Notary to retain a Clerk or Apprentice, unless in actual Practice.**

Provided always, that no public notary may have and retain any such clerk or apprentice to serve him, under the provisions of the said Act or of this Act, if he has been admitted, sworn, and enrolled a public notary for the purpose only of carrying on any business, or holding or exercising any office or appointment, and not as a general practitioner; nor shall any public notary be allowed to have and retain such clerk or apprentice after he shall have discontinued or left off or during such time as he shall not actually practice and carry on the profession or business of public notary.]

**Textual Amendments**

**F3** Ss. 1, 2 repealed (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 124(3), 125(7), [Sch. 20](#)

[<sup>F4</sup>3 **Persons serving Five Years to a Notary to be entitled to Admission as Notaries.**

.....<sup>F5</sup> in case any person shall have been or shall be bound by any contract to serve and shall have actually served as a clerk or apprentice for the term of five years any public notary as aforesaid, and shall have caused an affidavit to be made and filed as to the due execution of such contract, and shall have complied with the other provisions of the said recited Act, save as to the length of service, then and in such case every such person shall be qualified and entitled to be sworn, admitted, and enrolled a public notary to practise in England, as fully and effectually as any person having been bound and having served seven years as required by the said recited Act, would be qualified and entitled to be sworn, admitted, and enrolled a public notary under and by virtue of the said recited Act: Provided always, that no person shall be entitled to be admitted and enrolled a public notary at the expiration of the term of five years, if bound for a longer time, without the affidavit required by the said recited Act as to the execution of any contract be not filed within the time required by the said Act the same may be filed by the proper officer after the expiration thereof, but the service of such clerk shall be reckoned to commence and be computed from the day of filing such affidavit, unless the master of the faculties shall otherwise order; and such service shall be as effectual, and the public notary and clerk shall be equally bound for and during the term, reckoning as aforesaid, as if such term had been originally intended and mentioned in the contract.]

**Textual Amendments**

**F4** S. 3 repealed (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 57(3)(d)(11), 59(1), 124(3), 125(6)(7), [Sch. 19 para. 13](#), [Sch. 20](#)

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**F5** Recital omitted under authority of Statute Law Revision Act 1891 (c. 67)

#### **4 Master of the Faculties may require Testimonials of Ability, &c.**

The master of the faculties for the time being may make any general rule or rules requiring testimonials, certificates, or proofs as to the character, integrity, ability, and competency of any person who shall hereafter apply for admission or re-admission as a public notary to practise either in England or in any of her Majesty's foreign territories, colonies, settlements, dominions, forts, factories, or possessions, whether such person shall have served a clerkship or not, and from time to time alter and vary such rules as to the master of the faculties shall seem meet, and may admit or reject any person so applying, at his discretion, any law, custom, usage, or prescription to the contrary notwithstanding.

#### **5 Appeal.**

Provided always that if the master of the faculties shall refuse to grant any faculty to practise as a public notary to any person without just and reasonable cause, then the chancellor of England or the lord keeper of the great seal for the time being, upon complaint thereof being made, shall direct the Queen's writ to the said master of the faculties to the effect and shall proceed thereon according to the intent and meaning of the <sup>M1</sup>Ecclesiastical Licences Act 1533, and in manner and form as is therein provided and set forth in case of the refusal of any licences, dispensations, faculties, instruments, or other writings, as fully and effectually, and with the same powers and authority, as if the same were here inserted and re-enacted.

#### **Marginal Citations**

**M1** 1533 c. 21.

#### **6 Saving the Rights of Scriveners Company.**

Provided always, that nothing herein—contained [<sup>F6</sup>nor any service under this Act] shall authorize any person to be admitted a public notary to practise within the jurisdiction of the Incorporated Company of Scriveners of London.

#### **Textual Amendments**

**F6** Words repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

#### **Modifications etc. (not altering text)**

**C4** S. 6 restricted by Administration of Justice Act 1969 (c. 58), s. 29, which s. 29 is repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 57(3)(f), 124(3)

#### **7 Oath on Admission of Notary.**

Every person to be admitted and enrolled a public notary shall, before a faculty is granted to him authorizing him to practice as such, . . . <sup>F7</sup>make oath before the said

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master of the faculties, his surrogate or other proper officer, in substance and to the effect following:

“I A.B. do swear, that I will faithfully exercise the office of a public notary; I will faithfully make contracts or instruments for or between any party or parties requiring the same, and I will not add or diminish any thing without the knowledge and consent of such party or parties that may alter the substance of the fact; I will not make or attest any act, contract, or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a public notary, according to the best of my skill and ability.” . . . <sup>F7</sup>

#### Textual Amendments

**F7** Words repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)

VALID FROM 01/01/2010

#### **[<sup>F8</sup>7A** Effect of admission or grant of faculty

- (1) Despite any provision made by the Public Notaries Acts, a person's entitlement to carry on an activity which is a notarial activity is to be determined in accordance with the Legal Services Act 2007.
- (2) Nothing in the Public Notaries Acts is to be regarded, for the purposes of paragraph 5(2) of Schedule 3 to the Legal Services Act 2007 (exempt persons in relation to notarial activities) as authorising a person to carry on such an activity.
- (3) For this purpose—
  - “the Public Notaries Acts” means this Act and the Public Notaries Act 1801;
  - “exempt person” and “notarial activity” have the same meaning as in the Legal Services Act 2007.]

#### Textual Amendments

**F8** [S. 7A](#) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 5](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with art. 9)

## **8 Oaths, etc. may be taken by Commissioners.**

The master of the faculties for the time being, or his surrogate, shall and he is hereby authorized and empowered to issue commissions to take any oaths, affidavits, affirmations, or declarations required by law to be taken before the grant of any faculty, marriage licence, or other instrument issuing from the said office of faculties; and all oaths, affidavits, affirmations, or declarations taken before the commissioner so appointed, and the faculty, marriage licence, or other instrument granted in pursuance thereof, shall be as valid and effectual as if such oath, affidavit, affirmation, or declaration was taken before the said master or his surrogate, anything in any Act or law to the contrary thereof notwithstanding.

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[<sup>F9</sup> **Application to strike a Notary off the Roll for Defect in Articles, &c. to be made within 12 Months.**

No person who has been admitted and enrolled a public notary shall be liable to be struck off the rolls for or on account of any defect in the articles of clerkship, or in the registry thereof, or in his service under such articles, or in his admission and enrolment, unless the application for striking him off the roll be made within twelve months from the time of his admission and enrolment; provided that such articles, registration, service, admission, or enrolment be without fraud.]

**Textual Amendments**

**F9** S. 9 repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

**10 Persons practising as Notaries not being duly authorized to forfeit 50/.**

In case any person shall, in his own name or in the name of any other person, make, do, act, exercise, or execute or perform, any act, matter, or thing whatsoever of or in anywise appertaining or belonging to the office, function, or practice of a public notary, for or in expectation of any gain, fee, or reward, without being able to prove, if required, that he is duly authorized so to do, every such person for every such offence shall forfeit and pay the sum of fifty pounds, to be sued for and recovered by action of debt, plaint, or information in [<sup>F10</sup>the High Court], or, if the cause of action shall have arisen in any colony or place to her Majesty belonging out of England, then in the supreme court of law of such colony or place, provided the action for the recovery thereof shall be commenced within twelve months next after the fact committed; and, save so far as they are altered or repealed, or repugnant to the provisions of this Act, the like remedies for recovering thereof, and all other the rules, directions, powers, and provisions contained in the said recited Act, [<sup>F11</sup>and also in the <sup>M2</sup>Public Notaries Act 1833], shall and may severally and respectively attach and be in force as fully and effectually as if the said penalties were imposed, or the said remedies were given, or the same powers, rules, directions, and provisions were particularly enacted, in or by this Act, or repealed and re-enacted.

**Textual Amendments**

**F10** Words substituted by virtue of Supreme Court of Judicature (Consolidation) Act 1925 (c. 49), ss. 18, 224(1)

**F11** Words repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

**Modifications etc. (not altering text)**

**C5** S. 10 amended by Common Informers Act 1951 (c. 39), s. 1, **Sch.**

**Marginal Citations**

**M2** 1833 c. 70.

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**Changes to legislation:**

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