

## PART XII

### **RULES TO PRESCRIBE AND REGULATE THE PROCEDURE AND PRACTICE OF THE COURT IN THE EXERCISE OF ITS JURISDICTION UNDER THE NOTARIES PUBLIC ACT 1990**

#### **Interpretation**

1 - In this Part-

“**Act**” means the *Notaries Public Act 1990*;

“**application**” means an application for appointment as a notary public;

“**notary public**” means a notary public appointed under section 5 of the Act.

#### **Application for appointment**

2- (1) A person may apply for appointment as a notary public by-

(a) filing with the Registrar the following documents: -

- (i) an application form in accordance with Form 1 in Appendix W;
- (ii) an affidavit in support of the application which verifies the facts relied on for the application;
- (iii) any other affidavit in support of the application; and

(b) paying to the Court the fee specified in item 1 of the Table of Fees and Percentages in Schedule 2 to the Supreme Court Rules 2000 as the fee payable on the commencement of a cause or matter.

(2) The Registrar is to endorse on the application form the place at which and the time at and day on which the application is to be heard.

(3) An applicant must serve a copy of the application form and any affidavit in support on the Law Society not later than 2 days after the day on which those documents are filed.

#### **Notice of application to be advertised**

3- An applicant must, not less than 21 days and not more than 42 days before the day on which an application is to be heard, cause a notice in accordance with Form 2 in Appendix W to be published-

- (a) once in the newspaper known as “The Mercury”; and
- (b) if the applicant intends to practice as a notary public ordinarily in a district outside Hobart, once in a daily newspaper generally circulating in that district.

## **Objections**

4- A person may object to an application made by another person for appointment as a notary public by, not later than 5 days before the day on which the application is to be heard -

- (a) filing with the Registrar a notice of objection in accordance with Form 3 in Appendix W; and
- (b) serving on the applicant-
  - (i) a copy of the notice of objection; and
  - (ii) a copy of any affidavit on which the person who objects to the application wishes to rely in opposing the application.

## **Qualifications for appointment as notary public**

5- The Court may appoint a person as a notary public if it is satisfied that-

- (a) the person is a barrister or solicitor-
  - (i) of not less than 5 years' standing; or
  - (ii) of less than 5 years' standing whose name, at all times during a continuous period of not less than 5 years, was on the roll of barristers when not on the roll of practitioners or on the roll of practitioners when not on the roll of barristers; and
- (b) the person is of good fame and character; and
- (c) the person is competent to act as a notary public; and
- (d) the person has sufficient knowledge in respect of the functions and powers of notaries public to enable the person to properly perform the functions and exercise the powers of a notary public; and
- (e) that there is a need for the appointment of a notary public in the district where the person is practising as a barrister or solicitor

## **Oaths**

6 - A notary public is to take -

- (a) the oath or affirmation of a notary public set out in Appendix X; and
- (b) the oath of allegiance set out in the *Promissory Oaths Act 1869*

## **Certificates of appointment**

. 7 - A certificate of appointment of a person as a notary public is to be in accordance with Form 4 in Appendix W.

## **Roll of notaries public**

8 - (1) The following particulars are to be entered on the Roll of notaries public in respect of each person named on the Roll: -

- (a) the address of the person;
- (b) the authority by which the person was appointed or deemed to have been appointed as a notary public and the date of that appointment;
- (c) any condition imposed on the person's appointment;

(d) the district in which the person ordinarily practiced as a barrister or solicitor immediately before the person was appointed or deemed to have been appointed as a notary public;

(e) details of any action taken against the person under section 10 of the Act.

(2) The names and particulars entered on the Roll are to be made available for public inspection during the ordinary business hours of the Registry of the Supreme Court.

**Service**

9 - A document required to be served under this Part is to be served in accordance with Division 9 of Part 7 of the Supreme Court Rules 2000.

**APPENDIX W**

**FORMS**

**FORM I**

**Rule 2**

**APPLICATION FOR APPOINTMENT AS NOTARY PUBLIC**

In the matter of the *Notaries Public Act 1990*

and

In the matter of an application by ABC for appointment

as a notary public

1, ABC of in Tasmania apply to be appointed as a notary public. I intend to practice as a notary public ordinarily in the district of

.....

*(Here set out the facts relied on for the application)*

Dated ..... Signature of applicant or his or her solicitor.

The applicant's address for service is .....

Subject to any direction from the Court it is not intended to serve this application on any person other than the Law Society.

\_\_\_\_\_

**NOTICE OF HEARING**

This application is set down for hearing in court at the Supreme Court Building .....in Tasmania on..... at .....a.m./p.m.

FORM 2

Rule 3

NOTICE OF APPLICATION

*Notaries Public Act 1990*

**TAKE NOTICE** that I, ABC of in Tasmania have applied to be appointed as a notary public. I intend to practice as a notary public ordinarily in the district of .....

My application for appointment is to be heard by the Supreme Court of Tasmania at .....on ..... at ..... a. m. /p. m.

**ANY PERSON WHO WISHES TO OBJECT TO MY APPOINTMENT** may file with the Registrar of the Court a notice of objection in accordance with Form 3 in Appendix W of the *Rules of the Supreme Court 1965*. A copy of the notice of objection, together with any affidavit which is to be relied on in opposition to my application, is to be served on me at the address given below. The documents are to be filed and served not later than *specify date*).

The actions listed above will entitle you to appear before the Court and be heard in opposition to my application for appointment.

My address for service is .....



FORM 3

Rule 4

**OBJECTION TO APPLICATION**

In the matter of the *Notaries Public Act 1990*

and

In the matter of an application by ABC for  
appointment as a notary public

I,.....of .....

in Tasmania object to the application made by ABC for appointment as a notary public.

My grounds for this objection are -

*(Here set out the grounds relied on for the objection.)*

Dated..... Signature of person objecting or his or her solicitor.

My address for service is .....

**FORM 4**

**Rule 7**

**CERTIFICATE OF APPOINTMENT AS NOTARY PUBLIC**

**THE SUPREME COURT OF TASMANIA**

By order of this Honourable Court made on *(date)*, ABC..... of .....  
in Tasmania, Barrister/Solicitor, was appointed as a notary public [, subject to the conditions that ,]  
and accordingly from that day is empowered to practise as a notary public.

IT IS DECREED BY THIS COURT, having witnessed ABC taking the oath/affirmation of a notary public  
and the oath of allegiance, that the instruments made by him/her as a notary public are to be given full  
faith as well in judgement as thereout.

Given under my hand this day of 19

Seal

Registrar of the Supreme Court.

APPENDIX X

*Rule 6*

**OATH AND AMRMATION**

**OATH OF NOTARY PUBLIC**

I, .....do swear - that  
I will act uprightly, justly and according to the best of my skill and ability in all things in my practice as a  
notary public; and that I will make contracts and instruments for any party or parties requiring them and  
that I will not add or diminish anything that may alter the substance of the fact without the knowledge or  
consent of that party or those parties; and  
that I will not make or attest any contracts or instruments which I know to involve duress or fraud.

**SO HELP ME GOD.**

**AFFIRMATION OF NOTARY PUBLIC**

I, .....do solemnly, sincerely and truly declare and affirm -  
that I will act uprightly, justly and according to the best of my skill and ability in all things in my practice

as a notary public; and that I will make contracts and instruments for any party or parties requiring them and that I will not add or diminish anything that may alter the substance of the fact without the knowledge or consent of that or those parties; and

that I- will not make or attest any contracts or instruments which I know to involve duress or fraud.

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