



Western Australia.

ANNO SECUNDO

EDWARDI VII. REGIS.

No. VIII.

AN ACT to confirm the appointments of certain Public Notaries, and to provide for such appointments in future.

[Assented to, 18th November, 1902.]

WHEREAS doubts have arisen whether Public Notaries acting in Western Australia have been duly appointed, and it is expedient that the appointments of such Notaries should be confirmed and that provision should be made for the future appointment of such Notaries to exercise in the said State the functions attaching, by the law of the said State or by the law and custom of the United Kingdom of Great Britain and Ireland and of other countries, to the office and authority of a Public Notary, and to make other provisions in regard to Public Notaries practising in the said State: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Preamble.

1. THIS Act may be cited as the Public Notaries Act, 1902.

Short title.

Interpretation.

2. IN this Act, unless the context otherwise requires,—

“ Court ” means the Supreme Court of Western Australia.

“ Prescribed ” means prescribed by rules of Court.

“ Established Public Notary ” means—

(a.) Every person heretofore appointed by the Governor or otherwise to act as a Public Notary in Western Australia, and whose appointment has been notified in the *Gazette* ; and

(b.) Every person heretofore appointed to act as a Public Notary in the United Kingdom or some part thereof by the Court of the Faculties of His Grace the Lord Archbishop of Canterbury.

Confirmation of appointments and acts of established Notaries.

3. EVERY established Public Notary shall be, and, subject to the next following section, shall continue to be authorised to act as a Public Notary within the said State, and all acts heretofore done by any such Notary shall have the same force and effect as if he had been in all respects duly appointed to act as a Public Notary within the said State under this Act.

Established Notaries may become appointed under this Act.

4. EVERY established Public Notary shall, upon application to the Registrar of the Court made within twelve months from the commencement of this Act, and upon taking the oath, be appointed a Public Notary, and have his name entered upon the Roll.

Qualification of Notaries to be appointed under this Act in future.

5. NO person shall be appointed a Public Notary under this Act, unless he—

(a.) Is appointed under the next preceding section ; or

(b.) Is a practitioner of the Court of three years' standing ; or

(c.) Is a practitioner of the Court, and has practised for seven years as a Public Notary in some part of His Majesty's dominions.

Application to the Chief Justice.

6. (1.) EVERY person, other than a person applying under section four, who seeks to be appointed a Public Notary shall apply, in the prescribed manner, to and satisfy the Chief Justice that—

(a.) The applicant is competent and qualified to act as a Public Notary, and is of good character and reputation, and has not been suspended from practice as a legal practitioner or struck off the Rolls ; and that

(b.) There is need for the appointment of a Public Notary at the place where the applicant is practising.

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(2.) On being satisfied of all the matters aforesaid, the Chief Justice may grant to the applicant a certificate in the prescribed form.

(3.) The applicant, after obtaining the certificate shall, in the prescribed manner, advertise his intention to apply to the Full Court, on a day not earlier than four weeks from the first advertisement, for appointment as a Public Notary.

Intention to apply to Supreme Court to be advertised.

7. ANY person desiring to object to the appointment of any applicant may be heard before the Court by himself or counsel, with or without witnesses, to oppose such appointment: Provided that written notice, stating the grounds of such objection, shall be lodged in the Court seven days at least before the day on which the application for appointment is made.

Objection to appointment.

8. SUBJECT to section four, no person shall be appointed a Public Notary except by order of the Full Court.

Appointment by Full Court.

9. BEFORE his name is entered on the roll hereinafter provided, every person appointed a Public Notary shall make oath before the Master of the Court or some Commissioner duly appointed to take affidavits therein, to the effect following:—

Oath to be taken by persons appointed.

“I, _____, do swear that 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: So help me, God.”

10. (1.) A ROLL shall be kept by the Registrar of the Court containing the names of Public Notaries, and every person appointed a Public Notary under this Act shall, after making oath as aforesaid, be entitled to enter his name on the roll. The Registrar, on the application of any person whose name shall appear on the roll, shall, from time to time, issue to him a certificate in the form or to the effect of the First Schedule to this Act, and shall affix thereto the seal of the Court.

On appointment, Notaries to sign roll and receive certificates.

(2.) Every such person shall, from the date mentioned in the certificate as the day on which his name was entered on the roll, be entitled to exercise all such powers and authorities within the State as may be lawfully exercised by Public Notaries in the said United Kingdom or in Western Australia.

(3.) The roll shall, during office hours, be open to the inspection of any person without fee or reward, and a certificate under the hand of the Registrar as to any matter appearing in or by the said roll shall be conclusive evidence thereof

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Court may suspend
and strike off
Notaries.

11. (1.) THE Full Court, on the application of any person, may, on such terms and conditions as may seem fit,—

(a.) Suspend any Public Notary from practice, and call in and detain his certificate ;

(b.) Strike the name of any Public Notary off the roll, and cancel his certificate.

(2.) Where a practitioner of the Court, being a Notary Public, is suspended from practice or struck off the rolls under the Legal Practitioners Act, 1893, he shall, without further order, be suspended from practice as a Notary Public for a similar term, or be struck off the Roll of Notaries, as the case may be.

Judges may make
rules.

12. THE Judges of the Court may from time to time make rules—

For ascertaining the qualification, character, and competency of persons applying to be appointed Public Notaries under this Act ;

For regulating the investigation of charges of misconduct of Public Notaries in the practice of their profession, and for imposing conditions to be observed by applicants for re-appointment ;

Prescribing the duties of and the fees to be charged by Public Notaries ; and

Generally for carrying this Act into effect.

Fees payable to
Supreme Court.

13. THE fee set forth in the Second Schedule shall be paid to the Master of the Court, and be used for the purposes of the Supreme Court Library.

Penalty on unau-
thorised persons
practising as Public
Notaries.

14. (1.) NO person other than a Public Notary appointed under this Act, and whose name appears on the roll, and who is not at the time suspended from practice, shall do, execute, or perform any act, matter, or thing appertaining to the office, function, and practice of a Public Notary for or in expectation of any gain, fee, or reward, or advertise or hold himself out as a Public Notary. Every person acting contrary to this section shall, if convicted by a Court of summary jurisdiction, on the information of any person, pay a fine of Ten pounds.

(2.) This section shall not apply to any established Notary until the expiration of twelve months from the commencement of this Act.

In the name and on behalf of the King I hereby assent
to this Act.

E. A. STONE, Administrator.

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Schedule I.

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This is to certify that _____ of [*residence or place of business and occupation*] has been duly appointed to act as Public Notary within Western Australia, and that his name was entered on the roll of Public Notaries on the _____ day of _____ 19____, and still remains on such roll.

Dated at Perth this _____ day of _____ 19____.

[Seal.]

Registrar of the Supreme Court.

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Schedule II.

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On every appointment as a Public Notary (other than an appointment under section four) £5 0 0