

Zambia

Notaries Public and Notarial Functions Act, 1968

Chapter 35

Legislation as at 31 December 1996

FRBR URI: /akn/zm/act/1968/40/eng@1996-12-31

There may have been updates since this file was created.

PDF created on 21 February 2024 at 19:36.

Collection last checked for updates: 31 December 1996.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Notaries Public and Notarial Functions Act, 1968

Contents

Part I – Preliminary	1
1. Short title	1
2. Interpretation	1
Part II – Appointment and enrolment of notaries public	1
3. Appointment of notaries public	1
4. Admission fee	2
5. Enrolment	2
6. Notarial seal	2
Part III – Functions and duties of notaries public	2
7. Functions of notaries public	2
8. Notary to refuse to act in certain cases; subject to appeal to Court	3
9. Duty of notary in case of refusal	3
10. Jurat to state when oath is taken	3
11. Notary not to act when interested	3
Part IV – Persons other than notaries public authorised to perform notarial functions	3
12. Magistrates to have limited powers of notaries public	3
13. Notarial powers of certain customs officers	4
14. Seal of person acting ex officio	4
15. Ambassadors, consuls, etc., abroad to have powers of notaries public	4
16. Persons performing notarial functions ex officio officers of Court	4
17. Act not to affect powers elsewhere conferred	4
Part V – Fees for notarial services	5
18. Prescribed fees	5
19. Notarial fees of public and local officers, customs officers and magistrates	5
Part VI – Revocation of appointment and suspension of notaries public, and revision of Roll	5
20. Revocation of appointment of notaries public	5
21. Revocation of appointment of notaries public	5
22. Revision of Roll	6
23. General power of Chief Justice to restore name to Roll	6
Part VII – Offences	6
24. Unqualified persons acting as notaries	6
25. Notary acting during suspension, an offence	6
26. Notary public acting after being removed or struck off, an offence	7
27. Misfeasance	7

28. Contempt of court	7
Part VIII – Miscellaneous	7
29. Existing notaries	7
30. Roll of Notaries Public	7
31. State Counsel for Zambia not to act as notaries public	8
32. Rules	8
First Schedule (Section 5)	8
Second Schedule (Section 18)	10

Zambia

Notaries Public and Notarial Functions Act, 1968

Chapter 35

Commenced on 1 March 1968

[This is the version of this document as it was at 31 December 1996 to 30 August 2009.]

[40 of 1968; 13 of 1994; [Statutory Instrument 179 of 1990](#)]

An Act to make better provision for the appointment and enrolment of notaries public; for the regulation of the duties of the office of notary public; for the empowering of magistrates, ambassadors and other specified public officers to perform specific notarial acts; and for matters incidental thereto and connected therewith.

Part I – Preliminary

1. Short title

This Act may be cited as the Notaries Public and Notarial Functions Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**authorized person**" means a person empowered to exercise notarial functions under Part IV;

"**the Court**" means the High Court for Zambia;

"**the Registrar**" means the Registrar of the High Court and shall include the Deputy Registrar thereof;

"**the Roll**" means the list of notaries public kept by the Registrar for the purposes of this Act pursuant to section thirty.

"**the Association**" means the Law Association of Zambia established by section three of the Law Association of Zambia Act;

[[Cap. 31](#)]

"**State Counsel for Zambia**" has the meaning attributed to it by section two of the Legal Practitioners Act.

[[Cap. 30](#)]

Part II – Appointment and enrolment of notaries public

3. Appointment of notaries public

- (1) The Chief Justice may, by instrument under his hand, appoint as a notary public any legal practitioner who has, for a period of not less than five years immediately preceding his application for appointment as a notary public, been engaged in the practice of law in Zambia:

Provided that the Chief Justice, in his discretion and for good cause shown, may appoint a legal practitioner as a notary public notwithstanding that such practitioner has been engaged in the practice of law in Zambia for a period less than five years.

- (2) For the purposes of this section, "the practice of law" includes active employment in a judicial or legal capacity in the Judicial Department, the Attorney-General's Chambers the Lands Department,

the Department of the Director of Legal Aid or the Administrator-General's Department, or in such other department of Government or of any municipal, township or rural council as the Minister may, by statutory instrument, prescribe.

4. Admission fee

Every person appointed as a notary public pursuant to section three shall pay to the Association the sum of three hundred and seventy-five fee units in respect of such appointment.

[As amended by Act [No. 13 of 1994](#)]

5. Enrolment

(1) Upon production to the Registrar of—

- (a) an instrument of appointment signed by the Chief Justice; and
 - (b) a receipt from the Association acknowledging payment of the fee prescribed by section four;
- and upon the person appointed taking and subscribing before the said Registrar the oath or making the affirmation in lieu thereof set out in the First Schedule, the Registrar shall cause the name of the person appointed to be entered in the Roll, pursuant to section thirty, and the said person appointed shall thereupon sign the said Roll in the presence of the said Registrar.

(2) Every person so enrolled shall be entitled to a certificate of enrolment under the seal of the Court.

6. Notarial seal

Every notary public appointed under this Act shall have an embossed official seal of a design approved by the Chief Justice.

Part III – Functions and duties of notaries public

7. Functions of notaries public

A notary public may—

- (a) verify, authenticate and attest, by his official seal, the execution of deeds and other documents, contracts and powers of attorney;
- (b) verify, by his official seal, translations of documents in any Zambian or foreign language into the English language or vice versa;
- (c) present inland or foreign bills of exchange for payment, note the same if the bill is not accepted or paid, and amplify or extend such noting by preparing and signing the protest, whenever, under the Bills of Exchange Acts, 1882 to 1917, of the United Kingdom, or any Act replacing or amending the same, it is required that such transaction be performed by a notary public;
- (d) under his official seal, note, amplify or extend, prepare, sign and seal protests concerning demurrage, and other ships' protests;
- (e) superintend the drawing by lot of bonds of foreign States or corporations redeemable by drawings on fixed dates, and certify under his official seal the numbers of the bonds so drawn;
- (f) as a notary public, administer oaths and affirmations; prepare and take affidavits and declarations; take declarations in lieu of oaths; take declarations, oaths and affidavits relating to stamp and other duties; take declarations in actions pending in any Commonwealth country relating to debt, where one of the parties is resident in Zambia, or relating to real property situate in such Commonwealth country;

- (g) as a notary public, take a declaration by the attesting witness of a will or deed or by any other competent person to prove the due execution thereof;
- (h) perform any function he is empowered, required or permitted to perform as a notary public under any written law;
- (i) perform any function customarily performed by a notary public.

8. Notary to refuse to act in certain cases; subject to appeal to Court

- (1) In any case where the circumstances shall appear to a notary public to be suspicious or not warranting the protest or other notarial act demanded, the said notary shall refuse to act.
- (2) Any person who considers himself aggrieved by such refusal may apply to the Chief Justice, or in his absence any puisne Judge, for an order directing the said notary to act in execution of his office.
- (3) Before applying for an order pursuant to subsection (2), the applicant shall cause reasonable notice of the application to be given to the said notary public and to such other persons in Zambia, if any, as may be interested in the subject of the protest or other notarial act demanded.
- (4) Upon receipt of any application pursuant to subsection (2), the Chief Justice or Judge to whom the application is being made may require the said notary public either to furnish a statement in writing of his reasons for refusing to act or to attend in person at the hearing of the application and give his reasons for such refusal, and any person who is interested shall be entitled to be heard by the Chief Justice or Judge, as the case may be.

9. Duty of notary in case of refusal

Whenever a notary public shall refuse to act as aforesaid he shall mark upon the document in respect of which the protest or other notarial act is demanded his refusal, his signature and the date of his refusal.

10. Jurat to state when oath is taken

Every notary public before whom any oath, affirmation, affidavit or declaration is made under this Act or any other written law shall truly state in the jurat of attestation at which place and on what date the oath, affirmation, affidavit or declaration is taken or made.

11. Notary not to act when interested

No notary public or authorised person shall exercise any notarial functions in any proceedings or matter in which he, or his partner, or his employer is interested either personally or as a legal practitioner on behalf of any of the parties:

Provided that this section shall not apply to a notary public or authorized person who is not personally interested in the proceedings or matter, but who is employed in a department of Government or by a municipal, township or rural council which is officially interested therein.

Part IV – Persons other than notaries public authorised to perform notarial functions

12. Magistrates to have limited powers of notaries public

Every senior resident magistrate and every resident magistrate may exercise and perform the functions and duties of a notary public appointed pursuant to section three in respect of the certification of acts of honour, the authentication of deeds and other documents, the certification of deeds and other documents, and the attestation of deeds and other documents:

Provided that he shall not ordinarily exercise any such function or duty unless he is satisfied that the services of a notary public cannot be obtained at the time when and place where the said function or duty is required to be performed.

13. Notarial powers of certain customs officers

Any proper officer of the Department of Customs and Excise for the time being in charge of any port under and for the purposes of the Customs and Excise Act may exercise and perform the functions of a notary public in respect of minuting, noting or extending ships' protests, and in such respect only:

Provided that any such officer shall not ordinarily exercise any of such functions unless he is satisfied that the services of a notary public appointed pursuant to section three cannot be obtained at the time when and the port where the said function is required to be performed.

[Cap. 322]

14. Seal of person acting *ex officio*

Any person exercising any notarial functions under the provisions of section twelve or thirteen shall use a seal bearing thereon the title of his office and in addition the words "Notary Public *ex officio*".

15. Ambassadors, consuls, etc., abroad to have powers of notaries public

- (1) Every ambassador and High Commissioner of the Republic of Zambia and every envoy, minister and *charge d'affaires* thereof, and every secretary of an embassy or legation of the Republic of Zambia, exercising his functions in any Commonwealth or foreign country, and every consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent exercising his functions in any Commonwealth or foreign place may, in that country or place, administer any oath or affirmation or take any affidavit or declaration, and also do any notarial act which any notary public can do within Zambia; and every oath, affirmation, affidavit, declaration and notarial act administered, sworn or done by or before any such person shall be as effectual as if duly administered, sworn or done by or before any lawful authority in Zambia.
- (2) Any document purporting to have affixed, impressed or subscribed thereon or thereto the seal and signature of any person authorized by this section to administer an oath or affirmation in testimony of any oath, affirmation, affidavit or act being administered, taken or done by or before him, shall be admitted in evidence without proof of the seal or signature being the seal or signature of that person, or of the official character of that person.

16. Persons performing notarial functions *ex officio* officers of Court

Any person exercising any notarial functions under the provisions of section twelve, thirteen or fifteen shall, in the exercise of such functions, be deemed to be an officer of the Court.

17. Act not to affect powers elsewhere conferred

Nothing in this Act contained shall be construed as affecting the functions conferred upon any person under the Commissioners for Oaths Act or any other written law with reference to the administering of lawful oaths and the taking of lawful affirmations, declarations and affidavits.

[Cap. 33]

Part V – Fees for notarial services

18. Prescribed fees

- (1) The fees for discharging the functions and duties of a notary public shall be as specified in the Second Schedule.
- (2) The Chief Justice may, by rule made by statutory instrument, alter or revoke the fees prescribed in the Second Schedule.

19. Notarial fees of public and local officers, customs officers and magistrates

- (1) Any fees received for the discharge of notarial functions or duties by any notary public, who is a public officer or local government officer in full-time employment as such, shall form part of the general revenues of the Republic or the general fund of the council, as the case may be.
- (2) Any fees received by any proper officer of the Department of Customs and Excise for the discharge of any notarial function pursuant to section thirteen shall form part of the general revenues of the Republic.
- (3) Where any senior resident magistrate or resident magistrate discharges any notarial function or duty pursuant to section twelve, the payment of the fee in respect of such function or duty shall be denoted by affixing to the document authenticated, certified or attested.

Part VI – Revocation of appointment and suspension of notaries public, and revision of Roll

20. Revocation of appointment of notaries public

- (1) The Chief Justice may revoke the appointment of any notary public who—
 - (a) has been convicted of an offence under this Act; or
 - (b) has been convicted of an offence under any other written law and sentenced therefor to imprisonment for a term of not less than six months without the option of a fine; or
 - (c) has been adjudged guilty of misconduct in his capacity as a legal practitioner, pursuant to the provisions of Part IV of the Legal Practitioners Act.

[Cap. 30]
- (2) Where any notary public is convicted of an offence under this Act, or is convicted of an offence under any other written law and is sentenced therefor to imprisonment for a term not exceeding six months without the option of a fine, the Judge or magistrate before whom he is convicted shall make a report thereof to the Chief Justice setting out the date of conviction, the nature of the offence, a summary of the facts constituting the said offence, and the sentence imposed.
- (3) Upon the revocation of the appointment of any notary public by the Chief Justice, the Registrar shall remove the name of the said notary public from the Roll.

21. Revocation of appointment of notaries public

Any Judge may suspend a notary public temporarily from practising as a notary public pending the result of any prosecution for an offence against this or any other written law, or pending the determination of any proceedings brought against him under and by virtue of Part IV of the Legal Practitioners Act.

[Cap. 30]

22. Revision of Roll

- (1) Where the Registrar has reason to believe that a notary public whose name is on the Roll is dead, or has left Zambia and does not intend to return, he shall publish in the *Gazette* a notice to the effect that unless the said notary public shall show cause to the contrary his name will be removed from the Roll on a date to be specified in the notice, not being less than three months from the date of publication of the notice, and, on the date specified, if cause has not been shown to the contrary, the Registrar shall remove the name of the said notary public from the Roll.
- (2) After the name of a notary public has been removed from the Roll pursuant to subsection (1), the Registrar shall, if possible, inform the notary, by notice sent by post addressed to him at the address appearing in the Roll, that his name has been removed from the Roll and the date of such removal.
- (3) Any notary public whose name has been removed from the Roll pursuant to subsection (1) may, within six months from the date of such removal, apply to the Chief Justice for the restoration of his name to the said Roll, and, if the Chief Justice so orders, the name of the said notary public shall be restored to the Roll by the Registrar.
- (4) Where the name of a notary public has been restored to the Roll pursuant to subsection (3), such restoration shall be retrospective in its effect to the date of the removal of such name from the Roll.

23. General power of Chief Justice to restore name to Roll

- (1) Notwithstanding any other provision of this Act, but subject to the provisions of subsection (2), the Chief Justice may in his absolute discretion order the name of any notary public which has been struck off or removed from the Roll to be restored thereto, and from the date of such order the said notary public shall be entitled to perform all the functions of his office as such.
- (2) The Chief Justice shall not make any order pursuant to subsection (1) in respect of any person whose name has been removed from the Roll of Legal Practitioners pursuant to disciplinary proceedings under Part IV of the Legal Practitioners Act, and has not been restored thereto.

[Cap. 30]

Part VII – Offences

24. Unqualified persons acting as notaries

Any person, not appointed and enrolled, or deemed to be appointed and enrolled, as a notary public under this Act, who acts or purports to act in the capacity of notary public shall be liable to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding six months, or to both:

Provided that this section shall not apply to any person not so appointed or enrolled who performs notarial functions conferred upon him by virtue of section twelve, thirteen or fifteen, respectively, as the case may be.

[As amended by Act No. 13 of 1994]

25. Notary acting during suspension, an offence

Any notary public who is suspended from practice pursuant to section twenty-one and who, during the period of such suspension, does or purports to do any act in the capacity of notary public shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one thousand five hundred penalty units or to a term of imprisonment not exceeding three months, or to both.

[As amended by Act No. 13 of 1994]

26. Notary public acting after being removed or struck off, an offence

Any person whose name has been removed from or struck off the Roll pursuant to section twenty or twenty-two, respectively, as the case may be, and who, while his name remains so removed from or struck off the said Roll, does or purports to do any act in the capacity of notary public shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding four thousand five hundred penalty units or to a term of imprisonment not exceeding nine months, or to both.

[As amended by Act [No. 13 of 1994](#)]

27. Misfeasance

Any notary public or other person who wilfully certifies or propounds any false statement or document, or who fraudulently and with intent to deceive conceals, withholds or perverts any fact or document, pertinent to the subject of a protest or other notarial act, shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

[As amended by Act [No. 13 of 1994](#)]

28. Contempt of court

When any act constituting an offence under this Act also constitutes a contempt of court, the provisions of this Part shall be deemed to be in addition to and not in derogation of the power of a court to punish for such contempt.

Part VIII – Miscellaneous

29. Existing notaries

Any notary public admitted to practice and enrolled as such under section seven A of the Legal Practitioners Act, Chapter 144 of the 1965 Edition of the Laws, or under any other earlier relevant law, and who, on the commencement of this Act, is a legal practitioner resident in Zambia shall be deemed to have been appointed and enrolled as a notary public under and for the purposes of this Act.

30. Roll of Notaries Public

- (1) The Registrar shall keep and maintain a Roll of Notaries Public in which shall be entered—
 - (a) the name, address and signature of every person who is appointed a notary public under this Act;
 - (b) the name and address of every person deemed to have been appointed as a notary public under this Act, pursuant to section twenty-nine;
 - (c) in respect of every entry made under paragraph (b), a reference, by volume number and page, to the signed entry in the Roll of Legal Practitioners in respect of the admission of such person as a notary public under any earlier law;
 - (d) such other particulars as are prescribed pursuant to subsection (2).
- (2) The Chief Justice may by rule made by statutory instrument, from time to time, prescribe the form of the said Roll and any particulars in respect of each notary public, in addition to his name and address, which shall be entered therein, and may, from time to time, in like manner, alter, amend or revoke any rule made pursuant to this subsection.

- (3) It shall be the duty of every notary public promptly to notify the Registrar in writing of any change of address, and the Registrar shall enter any such change of address as soon as practicable in the appropriate place in the Roll.
- (4) The Roll shall be kept in the office of the Registrar and shall be available for inspection by any person at all reasonable times during office hours.
- (5) For the purposes of this section, "Roll of Legal Practitioners" means the Roll of Barristers, Solicitors and Notaries Public maintained in pursuance of the Legal Practitioners Act, or any other earlier relevant law.

[Cap. 30]

31. State Counsel for Zambia not to act as notaries public

Upon the grant to any notary public of Letters Patent of the rank and dignity of State Council for Zambia, the Chief Justice shall revoke his appointment as a notary public, whether made under this or any other prior law, and shall order his name to be removed from the Roll.

32. Rules

The Chief Justice may, from time to time, by rule made by statutory instrument, prescribe anything which is to be prescribed under this Act and in respect of which no other prescribing authority is specified, and in like manner, may, from time to time, make rules for the better carrying out of this Act and, without prejudice to the generality of the foregoing, such rules may make provision for—

- (a) forms of applications for appointment, instruments of appointment, certificates of enrolment, complaints, reports, orders and directions and such other forms as the Chief Justice deems appropriate for the purposes of this Act;
- (b) the form of the Roll of Notaries Public to be kept and maintained under this Act;
- (c) limiting to specified municipal, township or rural areas the exercise of notarial functions by individual notaries public appointed under this Act;
- (d) forms of records of notarial acts to be kept by notaries public;
- (e) the professional practice and etiquette of notaries public and the discipline and control of notaries public in their professional activities as such;
- (f) such other matters as the Chief Justice deems to be necessary and appropriate.

First Schedule (Section 5)

Oath of office

I, A.B., do swear that I will faithfully exercise the office of a notary public; I will faithfully make contracts or instruments for or between any party or 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 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 notary public, according to the best of my skill and ability.

So help me God.

Affirmation of office

I, A.B., do solemnly and sincerely declare and affirm that I will faithfully exercise the office of a notary public; I will faithfully make contracts or instruments for or between any party or 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 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 notary public, according to the best of my skill and ability.

Second Schedule (Section 18)**Fees for notarial services**

A. Notarial attestation		Fees
1.	For administering an oath or receiving a declaration of affirmation, without attestation or signature	18
2.	For administering an oath, receiving a declaration of affirmation, with attestation or signature	45
3.	For marking every exhibit or document annexed to an affidavit, declaration or affirmation	15
4.	For signature attested by a Notary Public in any document not otherwise provided for in this Schedule	45
5.	Declaration thereto for each additional notarial seal to the fastening	15
6.	For marking document and attaching notarial seal to the fastening	18
7.	For affixing notary signature, and seal if required, to any document not otherwise provided for in this Schedule	30
8.	Preparing certificate or authentication or legislation of notary's signature and having the same sealed and signed by the Registrar of the High Court or by foreign consul	68

9.	Attestation accompanied by explanation to female to secure that she is separately advised	68
B. Antenuptial contract		
1.	For preparing and attesting and, when required, completing by registration plain antenuptial contract with no settlement of property, including signed duplicate for wife, signed duplicate for husband and copy for deposit on registration- (minimum)	375
C. Noting and protesting promissory notes and bills of exchange		
Noting against One Party		
1.	Presentation Fee	38
2.	Noting protest on Bill or Note	38
3.	Noting in Book	38
4.	Notice	23
5.	Copy	8
6.	Serving Notice and Postage	30
7.	Extending Protest on Bill or Note	38
Noting against Two Parties		
8.	Presentation Fee	60
9.	Noting Protest on Bill or Note	60
10.	Noting in Book	38
11.	Notices (two)	38

12.	Copies (two)	15
13.	Serving Notices and Postages	60
14.	Extending Protest on Bill or Note	60
Noting against more than Two Parties Fee on similar lines to the above Protesing		
	No extra fee is to be charged unless protest is drawn up in writing under special instructions to that effect	
15.	Formal protest in writing made on special instructions by client	98
16.	Should the acceptor or drawer of a bill or note reside out of town and the notary have to present the bill or note a further charge—	
	(a) For the first kilometre of journey	5
	(b) For every additional kilometre	2
17.	Minuting or Noting ships protest	68
18.	Extending ship's protest	10

[Please note: annotation and items omitted in the original.]