



LAWS OF MALAYSIA

REPRINT

Act 115

NOTARIES PUBLIC ACT 1959

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NOTARIES PUBLIC ACT 1959

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Revised	1973 (Act 115 w.e.f. 1 August 1973)

PREVIOUS REPRINTS

<i>First Reprint</i>	1995
<i>Second Reprint</i>	2000

LAWS OF MALAYSIA**Act 115****NOTARIES PUBLIC ACT 1959**

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LAWS OF MALAYSIA

Act 115

NOTARIES PUBLIC ACT 1959

An Act relating to notaries public.

[*Peninsular Malaysia—1 October 1959,*
Ord. 41 of 1959;
Sabah and Sarawak—18 March 1965,
L.N. 98/1965]

Short title

1. This Act may be cited as the Notaries Public Act 1959.

***Interpretation**

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

“Bar Council” means the central council of the Malaysian Bar established under section 47 of the Legal Profession Act 1976 [*Act 166*];

“notary public” means a person who has been appointed as a notary public under section 3 but does not include any person whose appointment has been revoked under section 5;

“place of practice” means the territory or part thereof within which a person is appointed to practise as a notary public under section 3;

“prescribed” means prescribed by or under this Act;

“State Attorney General” means the State Attorney General, Sabah, or the State Attorney General, Sarawak, as the case may require.

*NOTE—In its application to Sabah and Sarawak—see L.N. 98/1965.

Appointment of notaries public

***3.** (1) Subject to subsection (3), the Attorney General may, from time to time, appoint fit and proper persons to be notaries public to practise within Peninsular Malaysia or Sabah or Sarawak or such part of those territories for such period as may be specified in the appointment.

(1A) Notwithstanding any other law to the contrary, where any person has been appointed to be a notary public before the coming into force of this subsection and no period is specified in that appointment, the appointment shall cease to have effect upon the expiry of the period of two years from the date of coming into force of this subsection.

(1B) Nothing in subsection (1A) shall be construed as preventing the reappointment under subsection (1) of any person whose appointment has ceased to have effect by virtue of subsection (1A), and every such reappointment shall be deemed to be a new appointment.

(2) No person shall be appointed to be a notary public unless he is a practising advocate or a pleader licensed under the Pleaders and Petition Writers Enactment of the State of Terengganu [*Tr. 59 of 1356*] and who was so licensed before 1 January 1956:

Provided that in any place in which a suitable advocate is not available for appointment, the Attorney General may, in his discretion, appoint a public officer to be a notary public, and any fees received by a public officer so appointed in respect of his functions as a notary public shall be paid into the Consolidated Fund.

(3) The Attorney General shall not make any appointment under this section without consulting the Bar Council or, in relation to Sabah or Sarawak, without consulting the State Attorney General.

(4) In making any appointment under this section the Attorney General shall have regard to the number of notaries public already practising in the place where the applicant proposes to practise and to the convenience of the inhabitants of such place, but, subject as aforesaid, the Attorney General shall have absolute discretion in making or refusing to make any such appointment and there shall be no appeal from his decision.

* NOTE—In its application to Sabah and Sarawak—see L.N. 98/1965.

(5) If it shall appear to the Attorney General or, where the place of practice is in Sabah or Sarawak, to the State Attorney General, that any notary public is about to be absent from his place of practice for a period exceeding one month, the Attorney General or the State Attorney General, may appoint any person, being a practising advocate, to be a notary public temporarily during the absence of that notary public.

(6) No temporary appointment of a notary public shall have effect for a longer period than twelve months and any such appointment shall lapse on the death or on the return to his place of practice of the notary public on account of whose departure the appointment was made.

(7) Every appointment under subsection (1) or (5) and the lapse of every temporary appointment under subsection (6) shall be published in the *Gazette*.

Privileges of notaries public

4. (1) Every notary public shall have and may exercise within his place of practice all the powers and functions which are ordinarily exercised by notaries public in England*:

Provided that, except for the purposes of and to the extent necessary to give effect to subsection (2), such powers shall not include power to administer any oath or affirmation in connection with any affidavit or statutory declaration which is executed for the purpose of being used in any court or place within Malaysia, or to take or attest any such affidavit or statutory declaration.

(2) Without prejudice to the generality of the powers and functions conferred by subsection (1), a notary public may—

- (a) administer any oath or affirmation in connection with any affidavit or statutory declaration which is executed—
 - (i) for the purpose of confirming or proving the due execution of any document;
 - (ii) by any master or member of the crew of any vessel in respect of any matter concerning that vessel; or

*NOTE—A note on the powers and functions ordinarily exercised by notaries public in England is to be found at page 1119 of Vol. 23 of the 3rd Edition of Halsbury's Statutes of England.

(iii) for the purpose of being used in any court or place outside Malaysia,

and may take or attest any such affidavit or statutory declaration; and

(b) have and exercise such other powers and functions as may be prescribed.

Misconduct of notaries public

5. If it shall appear to the Attorney General or in the case of a temporary appointment in Sabah or Sarawak, to the State Attorney General, that any person being a notary public—

*(a) has been struck off the roll of advocates or ceased to be licensed as a pleader in the State of Terengganu, as the case may be; or

(b) has exercised any of the functions of a notary public outside his place of practice,

the Attorney General or the State Attorney General, as the case may be, shall, by order under his hand, revoke the appointment of that person and shall cause the order to be published in the *Gazette*.

Penalty for exercise of functions of notary public by unauthorized persons

**6. Any person who exercises, within Malaysia, any of the functions of a notary public otherwise than in accordance with this Act shall be guilty of an offence and shall on conviction before a Sessions Court in Semenanjung Malaysia or the Court of a Magistrate of the First Class[†] in Sabah and Sarawak be liable to a fine not exceeding five hundred ringgit.

Rules

7. (1) The Rules Committee in respect of Peninsular Malaysia and the Chief Judge of the High Court in Sabah and Sarawak after consultation with the State Attorney General concerned in respect of Sabah and Sarawak may make rules—

(a) for the guidance and control of persons entitled to exercise the functions of a notary public under this Act;

*NOTE—In its application to Sabah and Sarawak—see L.N. 98/1965.

**NOTE—In its application to Sabah and Sarawak—see L.N. 98/1965.

†NOTE—See section 111 of the Subordinate Courts Act 1948 [Act 92].

- (b) to fix the fees payable to notaries public;
- (c) to fix the fees payable by any person on appointment as a notary public:

Provided that no such rule shall require any fee to be paid in respect of any appointment as a notary public deemed to have been made by virtue of subsection 8(1); and

- (d) prescribing the powers and functions of notaries public.

(2) All rules made under this section shall be published in the Federal *Gazette* or the Sabah or the Sarawak State *Gazette*, as the case may be.

***Saving**

8. (1) Any person who immediately before the commencement of this Act was lawfully entitled to practise as a notary public within Peninsular Malaysia or any part thereof (other than a person entitled to practise as a notary public in the State of Johore by virtue of section 4 of the Notaries Public Ordinance 1947 [*Ord. 47 of 1947*]) shall be deemed to have been appointed a notary public in accordance with this Act to practise as a notary public within Peninsular Malaysia or (if he was entitled to practise only within a part of Peninsular Malaysia) within such part as the case may be.

(2) (*Omitted*).

(3) The name of every person who has been deemed to have been appointed a notary public by virtue of subsection (1) shall, within three months of the coming into force of this Act, or such longer period as the Attorney General may in any particular case permit, be published in the *Gazette*; and such publication shall be conclusive evidence of the right of every such person to practise as a notary public under this section.

***Repeal and transitional provisions**

9. (1) The Notaries Public Ordinance 1947 is repealed.

*NOTE—In its application to Sabah and Sarawak—see L.N. 98/1965.

(2) Notwithstanding the repeal of the said Ordinance any rules made thereunder and in force immediately before the commencement of this Act shall, so far as they are not inconsistent with this Act, be deemed to have been made under this Act, and shall continue in force until revoked or repealed by rules made under this Act, and shall, unless the context otherwise requires, apply and have effect throughout Peninsular Malaysia.

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LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 14/1960	Notaries Public (Amendment) Act 1960	30-05-1960
Act 7/1961	Notaries Public (Amendment) Act 1961	01-06-1961
L.N. 98/1965	Modification of Laws (Notaries Public) (Extension and Modification) Order 1965	18-03-1965
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
P.U. (A) 357/1980	Subordinate Courts Act (Extension) Order 1980	01-06-1981
Act A501	Notaries Public (Amendment) Act 1980	01-08-1991
Act A885	Constitution (Amendment) Act 1994	24-06-1994
Act A992	Notaries Public (Amendment) Act 1997	27-06-1997

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
3	Act 14/1960 Act A501 Act A992	30-05-1960 01-08-1991 27-06-1997
4	Act 7/1961	01-06-1961
5	Act 14/1960	30-05-1960
6	Act 160	29-08-1975
7	Act 7/1961 Act A885	11-06-1961 24-09-1994

