

# Commissioners for Oaths and Public Notaries Act

## Principal Act

<b>Act. No. 1953-17</b>	<i>Commencement</i>	4.12.1953
	<i>Assent</i>	. 20.11.1953

Amending enactments	Relevant current provisions	Commencement date
Acts. 1965-15	s. 2(1)	
1973-31	s. 2(1A)	
1993-26	s. 8	1.12.1993 <sup>1</sup>
“	ss. 1-2, 2(2), 2A, 3, 4(2), 7, 9	13.10.1994 <sup>2</sup>

## English source

Commissioners for Oaths Act 1889 (52 & 53 Vict. c.10).

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<sup>1</sup> Notice of Commencement (LN.1993/183)

<sup>2</sup> Notice of Commencement (LN.1994/109)

# **1953-17** Commissioners for Oaths and Public Notaries

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## **ARRANGEMENT OF SECTIONS**

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# Commissioners for Oaths and Public Notaries **1953-17**

AN ACT TO PROVIDE FOR THE APPOINTMENT OF COMMISSIONERS FOR OATHS AND MATTERS RELATED THERETO.

## **Short Title.**

1. This Act may be cited as the Commissioners for Oaths and Public Notaries Act.

## **Ex officio Commissioners for Oaths.**

2.(1) The Stipendiary Magistrate and every Justice of the Peace, the Registrar and Deputy Registrar of the Supreme Court, the Clerk of the Court of First Instance\*, the Clerk of the Magistrates' Court and the Commissioner of Stamp Duties shall be ex officio Commissioners for Oaths.

(1A) The Superintendent of the Prison shall be an ex officio Commissioner for Oaths in respect only of oaths sworn by prisoners in prison.

(2) *Omitted*

## **Appointment of Commissioners for Oaths.**

2A.(1) Application for appointment as a Commissioner for Oaths may be made to the Registrar in the prescribed form and shall be accompanied by the prescribed fee.

(2) The Registrar may appoint a person to be Commissioner for Oaths which appointment shall terminate on the 31st day of December next occurring after the appointment.

(3) Application for re-appointment as a Commissioner for Oaths may be made to the Registrar in the prescribed form and shall be accompanied by the prescribed fee and such application shall be submitted by the 31st day of October.

(4) The Registrar may revoke the appointment of a person as Commissioner for Oaths.

(5) The Registrar shall cause the appointment of any person as a Commissioner for Oaths and the revocation of any such appointment to be published in the Gazette.

(6) The Registrar may make rules for the purpose of prescribing forms and fees for the purposes of this section.

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\* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

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### **Annual publication of lists of Commissioners.**

3. The Registrar shall, as near as may be after the 1st day of December in every year, prepare a list of all Commissioners for Oaths appointed under section 2A(3) and cause the same to be published in the Gazette.

### **Powers of a Commissioner and fees chargeable.**

4.(1) A Commissioner for Oaths may administer any oath or take any affidavit or declaration for the purposes of any matter required to be sworn, declared and attested under any law relating to the registration of instruments or documents or under any law relating to passports, or under any law relating to any matter whatsoever; saving and excepting any oath under the Oaths Act and all such matters as may be provided for by the rules of court made under section 38 of the Supreme Court Act<sup>1</sup>:

Provided that a Commissioner for Oaths shall not exercise any of the powers given by this section in any proceeding in which he is barrister or solicitor to any of the parties to the proceeding, or clerk to such barrister or solicitor, or in which he is interested.

(2) The Registrar may make rules for the purpose of prescribing what fees shall be payable to Commissioners for Oaths, and how and in what circumstances ex officio Commissioners shall account for such fees.

### **Powers of certain officers to administer oaths.**

5. Every person who, being an officer of or performing duties in relation to any court, is for the time being so authorized by the Chief Justice or by or in pursuance of any rules or orders regulating the procedure of the court, and every person directed to take an examination in any cause or matter in the Supreme Court, shall have authority to administer any oath or take any affidavit required for any purpose connected with his duties.

### **Particulars to be stated in jurat or attestation.**

6. Every Commissioner for Oaths before whom any oath or affidavit is taken or made under this Act shall state truly in the jurat or attestation at what address and on what date the oath or affidavit is taken or made.

### **Registration of Public Notaries.**

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<sup>1</sup> 1960-02

7.(1) Application for registration as a Public Notary in Gibraltar may be made to the Registrar in the prescribed form and shall be accompanied by the prescribed fee.

(2) The Registrar shall register a person having the prescribed qualifications and having provided the prescribed information as a Public Notary in Gibraltar and such registration shall terminate on the 31st day of December next occurring after the registration.

(3) Application for re-registration as a Public Notary in Gibraltar may be made to the Registrar in the prescribed form and shall be accompanied by the prescribed fee and such application shall be submitted by the 31st day of October.

(4) The Registrar shall cause the registration of any person as a Public Notary in Gibraltar to be published in the Gazette.

(5) The Registrar may make rules for the purpose of prescribing forms and fees for the purposes of this section.

(6) The Registrar shall, as near as may be after the 1st day of December in every year, prepare a list of all Public Notaries registered under this section and cause the same to be published in the Gazette.

**Public Register.**

8.(1) The Registrar shall keep a register of—

(a) persons appointed under section 2A.

(b) persons registered under section 7.

(2) The register provided for in sub-section (1) shall contain particulars—

(a) of the persons appointed or registered, as the case may be;

(b) of the date of original appointment or registration and of any re-appointment or re-registration, as the case may be;

(c) of the address in Gibraltar at which the person carries on the activity of Commissioner for Oaths or Public Notary, as the case may be, and any change in that address;

(d) of the date on which an appointment or registration, as the case may be, was revoked or ceased.

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(3) Any person may, during normal office hours and at the office of the Registrar and on payment of the prescribed fee (if any), inspect the register provided for in sub-section (1).

### **Offences.**

9. (1) A person who, not being a Commissioner for Oaths appointed by or under this Act, holds himself out as a Commissioner for Oaths for the purposes of this Act, is guilty of an offence and is liable on conviction to imprisonment for six months and to a fine at level 3 of the standard scale.

(2) A person who, not being a Public Notary registered under this Act, practises as a Notary or performs or certifies any notarial act in Gibraltar is guilty of an offence and is liable on conviction to imprisonment for six months and to a fine at level 3 on the standard scale.