

NOTARIES PUBLIC ACT, 2023

EXPLANATORY MEMORANDUM

This Act repeals the Notaries Public Act, Cap. N141, Laws of the Federation of Nigeria, 2004 and enacts the Notaries Public Act, 2023 to provide for the appointment of Notaries Public, their registration and to regulate the duty of the office of the Notary Public and to make provisions for the performance of digital and remote notarisations of documents by Notaries Public in Nigeria and the recognition of digitally notarised documents.

NOTARIES PUBLIC ACT, 2023

Arrangement of Sections

Section:

1. Appointment of Notaries
 2. Duties and functions of Notary Public
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NOTARIES PUBLIC ACT, 2023

A Bill

For

An Act to repeal the Notaries Public Act, Cap. N141, Laws of Federation of Nigeria, 2004 and enact the Notaries Public Act, 2023 to provide for the appointment and registration of Notaries Public, regulate the duty of the office of the Notary Public and to make provisions for the performance of digital and remote notarisations of documents by Notaries Public in Nigeria and the recognition of digitally notarised documents; and for related matters

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria —

1. The Chief Justice of Nigeria may appoint any fit and proper person being a legal practitioner to be a Notary Public for Nigeria (in this Act referred to as "a Notary Public"). Appointment of Notaries

2. A Notary Public shall — Duties and functions of Notary Public

(a) witness the execution of local and international documents such as

—

- (i) sale and purchase agreements,
- (ii) transfers of land agreements,
- (iii) assignments of intellectual property,
- (iv) power of attorney,
- (v) deeds,
- (vi) security documentation,
- (vii) mortgages,
- (viii) company resolutions,
- (ix) minutes of meetings, and
- (x) reports;

(b) prepare notarial certificate of law and good standing;

(c) administer oaths for giving evidence;

- (d) take affidavits, declarations and depositions;
- (e) notarise bills of exchange;
- (f) obtain authentication from Ministry responsible for foreign affairs;
- (g) note or certify transactions relating to bills of exchange and other negotiable instruments;
- (h) verify company documents;
- (i) verify identity and signature; and
- (j) perform digital notarisation through electronic means.

3. A Notary Public, before being admitted and commencing the duties of his office shall take and subscribe to the oath as set out in the First Schedule to this Act before the Chief Justice of Nigeria or before such persons as may be appointed by the Chief Justice of Nigeria.

Oath of office
First Schedule

4. (1) The Chief Registrar of the Supreme Court shall keep a register, both in physical and electronic form in which he shall enter the name, address, phone number and email address of every person who shall be appointed to the office of the Notary Public and the date of his appointment and admission.

Register of Notaries
Public

(2) Every person appointed by the Chief Justice of Nigeria as a Notary Public and whose name is entered in the register shall be entitled to a certificate to the effect that he has been registered as a Notary Public for Nigeria.

(3) The register shall be updated to reflect new appointments and admissions into the office of Notary Public, as well as the suspension or death of a Notary Public and the register shall be made available to the public.

(4) All Notaries Public shall inform the Chief Registrar of any changes in their addresses and other particulars.

5. (1) Notaries Public shall discharge their duties, where the situation arises, via electronic means.

Digital notariSation

(2) Notaries Public shall register with the Chief Registrar their intention and capability to notarise documents digitally before performing any electronic notarial act.

(3) Notaries Public shall be required to register their official digital signature with the Chief Registrar.

- (4) Notaries Public who register their capability to perform electronic notarial acts shall be required to provide the form of electronic technology to be used in attaching or associating an electronic notarial signature.
- (5) The Chief Registrar shall issue digital seals to Notaries Public who comply with the provisions of subsections (2), (3) and (4).
- (6) The Notary Public's digital signature and seal shall be used for the sole purpose of performing electronic notarial acts.

6. (1) A Notary Public may perform an electronic notarial act for an electronic document by audio-visual communication for a person who is situated —

Performance of
electronic notarial acts

- (a) in the same State as the Notary Public;
- (b) outside the State where a Notary Public is domiciled or commissioned but within Nigeria; or
- (c) outside Nigeria.

(2) Where a Notary Public performs an electronic notarial act for an individual who falls under subsection (1) (b) and (c) by means of audio-visual communication, the Notary Public shall include a statement in the electronic notarial certificate to indicate that the electronic notarial act was performed by means of audio-visual communication.

(3) A remote electronic notarisatation system used to perform electronic notarisatation acts by audio-visual means of communication shall —

- (a) provide sufficient audio clarity and video resolution to enable the notary and the individual to see, hear, and speak to each other through live, real-time transmission;
- (b) include a means of authentication that reasonably ensures only the proper parties have access to the audio-visual communication;
- (c) where notarisatation is performed with respect to a tangible or electronic record, the notary must take reasonable steps to confirm that the record is the same record in which the individual made a statement or on which the individual executed a signature;
- (d) enable the Notary Public to confirm the identity of the individual through two-factor identification methods, which may include completion of a dynamic knowledge-based authentication assessment, presentation of a government issued identification

that contains the photograph and signature of the individual or any other proofing method as may be adopted by the Chief Justice of Nigeria; and

- (e) be capable of recording, storing, and accessing electronic recordings and documents on the audio-visual communication.
- (4) When performing an electronic notarisation, a Notary Public shall prepare and execute an electronic notarial certificate, which shall be attached to the process that has been notarised.
- (5) Copies of digitally notarised documents as well as recordings of audio-visual notary sessions are to be submitted to the Chief Registrar of the Supreme Court for record keeping or to such persons as may be appointed by the Chief Registrar of the Supreme Court.
- (6) The sanction for the improper performance of electronic notarial acts is a fine of ₦50,000.

7. A Notary Public may notarise —

Documents to be notarised

- (a) birth certificate;
- (b) school certificate;
- (c) police clearance certificate;
- (d) biodata page of international passport;
- (e) marriage certificate;
- (f) driver's license;
- (g) foreign documents required to be notarised in Nigeria; and
- (h) affidavits.

8. All electronically notarised documents shall be recognised as valid in all Courts within Nigeria as though they were signed in person.

Recognition of digitally notarised documents

9. (1) In determining the validity of a digitally notarised document, the digital signature and seal of the Notary Public performing the notarisation shall serve as *prima facie* evidence in any court in Nigeria that the signature and seal is genuine.

Validity of digitally notarised documents

(2) The failure of a Notary Public to comply with the requirements of this Act in the performance of his functions and the discharge of his duties, shall not invalidate or impair the recognition of the notarisaton.

(3) The validity and recognition of notarisaton under this Act does not prohibit an aggrieved party from seeking to invalidate a record or transaction that is subject of a notarisaton where —

(a) the person did not intent to authenticate or adopt a record, execute a signature on record;

(b) an individual was incompetent, lacked authority or capacity to authenticate or adopt a record, or did not knowingly and voluntarily authenticate or adopt a record; and

(c) there is a case of fraud, forgery, mistake, misrepresentation, impersonation, duress, undue influence, or other reasonable invalidating causes.

(4) Where a document has been notarised digitally, the Notary Public's digital signature is deemed to be reliable, provided that —

(a) it is unique to the Notary Public;

(b) it has been previously registered with the Chief Registrar of the Supreme Court;

(c) it is capable of independent verification;

(d) it is retained under the Notary Public's sole control; and

(e) the digitally notarised document is accompanied by an electronic notarial certificate.

- 10.** (1) A Notary Public shall not charge for the discharge of the duties of his office any sum less than the fees set out in the Second Schedule to this Act. Fees
Second Schedule
- (2) Any such fees received by a government officer for the discharge of notarial act shall form part of the Consolidated Revenue Fund of the Federation and be paid by that officer into the treasury.
- (3) The Chief Justice of Nigeria may by order published in the Federal Government Gazette which may be in printed or electronic format, alter or revoke the fees prescribed in the Second Schedule to this Act and may specify the fee which may be charged in respect of any notarial act not specifically mentioned in the Schedule. Second Schedule

(4) Where a Notary Public fails to comply with subsection (1), he shall be liable to refund the sums, pay a fine of at least N50,000 or be suspended of his appointment for a period not exceeding two months.

11. Every Notary shall be deemed to be an officer of the Supreme Court.

Notaries to the officers of the Supreme Court

12. (1) Where a Notary Public is convicted of an offence or adjudged guilty of any misconduct whether in his capacity as a Notary Public or otherwise, the court before which he is so convicted or by which he is adjudged shall make a report to the Chief Justice of Nigeria and the Chief Justice of Nigeria may revoke his appointment.

Revocation of appointment of a Notary Public

(2) The Chief Registrar shall cause the revocation of appointment to be effected in the physical and electronic register of Notaries Public.

13. (1) The Supreme Court, where reasonable cause is provided, shall be vested with the power to cause a Notary Public to be suspended from practicing for a specified period or order his name to be struck off the register.

Suspension of Notaries Public

(2) A Justice of the Supreme Court may suspend a Notary Public temporarily from practicing in his official capacity pending a reference to and the decision by the Supreme Court of any complaint against the Notary Public.

14. (1) When inquiring into a complaint against a Notary Public, the Supreme Court, by the powers vested in it in accordance with the provisions of this Act, shall be duly constituted when exercised by any three Justices of that Court present and sitting together.

Constitution of the panel of the Supreme Court

(2) The decision of the majority of the three Justices shall be taken to be the decision of the Supreme Court.

(3) The Chief Justice of Nigeria may delegate the power to adjudicate over misconduct under section 12 of this Act to any other court or body.

15. The names and particulars of all persons who are enrolled by the Supreme Court kept in accordance with the provisions of the repealed Act, and who are living when this Act comes into effect shall be entered in the physical and electronic register to be kept by the Chief Registrar of the Supreme Court.

Existing Notaries Public to be entered in the register

16. (1) Where the Chief Registrar of the Supreme Court has reason to believe that a Notary Public, whose name is on the register kept under this Act, has left Nigeria and is not returning to Nigeria or is dead, he shall have published in the Federal Government Gazette, a notice to the effect that unless the Notary Public shows cause to the contrary, his name shall be removed from the register on a date to be specified in the notice, not being less than three months

Register to be revised

from the date of the publication of the notice, and if on the specified date, cause is yet to be shown to the contrary, the Chief Registrar shall strike off the name of the Notary Public from the register.

- (2) After a name has been struck off from the register, the Chief Registrar shall if possible, inform the Notary Public by notice sent to the physical or email address of the Notary Public, that his name has been removed from the register and the date of the removal.

17. (1) In any case where the circumstance appears to the Notary Public to be less than credible or suspicious, the Notary Public may refuse to act.

Where a Notary Public refuses to act

- (2) A person aggrieved by the refusal may apply to a Judge of the High Court of a State or of the Federal Capital Territory, Abuja for an order calling upon the Notary Public to act in the execution of his office:

Provided that before applying for the order, the person shall cause reasonable notice of the application to be given to the Notary Public and to such person in Nigeria, if any, as may be interested in the subject of the protest or other notarial act demanded.

- (3) On receipt of an application, the Judge to whom the application is being made may require the Notary Public refusing to act either to record in writing his reasons for so refusing to act or to attend in person and give his reasons and any other person who is interested shall be entitled to be heard by the Judge.
- (4) The High Court to which an application may be made under this section shall be the High Court having jurisdiction in that part of the Federation where the refusal in respect of which the application is made took place.
- (5) The Chief Judge of a State or of the Federal Capital Territory, Abuja may make rules for regulating the practice in respect of appeals under this section.

18. Whenever a Notary Public refuses to perform a notarial act in accordance with the duties of his office and as provided under section 17(1) of this Act, 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.

Refusal to act to be noted on document

19. A Notary Public or other person who wilfully certifies or propounds any false statement or document, or who fraudulently or with intent to deceive conceals, withholds or perverts any fact or document pertinent to the subject of a protest or other notarial act, commits an offence and is liable on conviction to imprisonment for a term of two years.

Penalty for misfeasance

20. A person suspended from practicing as a Notary Public or whose name is not on the register as a Notary Public who makes, does, exercises or performs any act,

Offences

matter or thing appertaining or belonging to the office, function or practice of a Notary Public or who being suspended from practicing as a Notary Public purports to act in any capacity as a Notary Public commits an offence and is liable on summary conviction to a fine of ₦1,000 per day from the date of the commission of the offence up until his conviction or to imprisonment for a term of at least four months.

21. (1) All magistrates and the collectors of customs and excise at the ports in Nigeria shall *ex officio* be Notaries Public: Notaries Public *ex Officio*
- Provided that a collector of customs and excise shall only exercise the duties of a notary in respect of minuting or noting or extending ships' protests and such collectors shall not exercise any of these duties at any part at which a Notary Public appointed by the Chief Justice of Nigeria is available.
- (2) All *ex-officio* Notaries Public shall use a seal bearing the name of their offices and in addition the words "Notary Public *ex officio*".
22. (1) Every Notary Public before whom any oath or affidavit is taken or made under this Act shall truly state in the jurat of attestation at which place and on what date the oath or affidavit is taken or made. Jurat to state where oath is taken
- (2) Where notarisation is carried out through electronic means as duly provided for in this Act, the Notary Public shall state the technology used to notarise the document.
23. A Notary Public shall not exercise any of the powers of his office in any proceeding or matter in which he is interested. Notary Public not to act when interested.
24. Nothing in sections 5 and 6 shall be construed to preclude physical notarisation under any applicable state law. Rules of construction
25. The Chief Justice of Nigeria shall have the power to make regulations. Power to make regulations
26. The Notaries Public Act, Cap. N141, Laws of the Federation of Nigeria, 2004 (in this Act referred to as "the repealed Act") is repealed. Repeal
27. As from the 1 January, 1956, all Notaries Public who immediately before that date were entered in the register of Notaries Public kept by the Chief Registrar of the Supreme Court established under the Supreme Court Act shall be deemed to have been entered in the register to be kept by the Chief Registrar of the Supreme Court under section 4 of this Act. Transitional provisions
Cap. S15, LFN 2004
28. In this Act — Interpretation

"audio-visual communication" means being able to see, hear and communicate with another individual in real time, using electronic means;

"Court" means the High Court of the State;

"digital signature" means an electronic sound, symbol or process attached to or logically associated with an electronic document and executed and adopted by a person with the intent to sign the electronic document or record;

"dynamic knowledge-based authentication assessment" means an identity assessment that is based on a set of questions formulated from public or proprietary data sources for which the principal has not provided a prior answer;

"electronic" means anything relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

"electronic document" means information that is created, generated, sent, communicated, received or stored by electronic means;

"electronic notarial act" means an official act by a Notary Public on or involving an electronic document and using electronic means authorised by the laws of the jurisdiction of appointment;

"electronic notarial certificate" means the portion of a notarised electronic document that is completed by the Notary Public, bears the Notary Public's electronic signature and official seal, official title, any information concerning the date and place of the electronic notarisation, and states the facts attested to or certified by the Notary Public;

"electronically enabled Notary Public" means a Notary Public who has registered with the Chief Registrar of the Supreme Court, his capabilities of performing electronic notarial acts in conformance with the standards outlined in this Act;

"Notary Public" means an individual commissioned or appointed to perform notarial act by the Chief Justice of Nigeria;

"notary electronic signature" means those forms of electronic signatures which have been approved by the Chief Registrar as an acceptable means for a Notary Public to affix the Notary Public's official signature to an electronic record being notarised;

"real time" means the actual span of interrupted, simultaneous communication during which all parts of an electronic notarial act occur; and

"register" means physical and electronic register.

SCHEDULES

First Schedule

Section 3

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 know there is violence or fraud; and in all things.

I will act uprightly and justly in the business of Notary Public according to the best of my skill and ability.

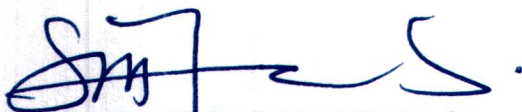
So help me God.

Second Schedule

Section 10 (1) and (3)

	(₹)
Notaries fees of office	
Noting protest on bill or note	10,000.00
Extending protest on bills of exchange or promissory notes	15,000.00
Minuting or noting ship's protest	50,000.00
Extending ship's protest	50,000.00
Furnishing copy of extended protest	20,000.00
Attestation to certificates	10,000.00
Attestation to deeds	20,000.00
Attestation to any other document	5,000.00
Attestation to each additional document	5,000.00
Attendance, each Translations for every folio of 72 words	5,000.00
Attestation to translation	10,000.00
Translation of common attestation to power for stocks	10,000.00

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT, CAP. A2, LAWS OF THE FEDERATION OF NIGERIA, 2004, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



SANI MAGAJI TAMBAWAL, fca
CLERK TO THE NATIONAL ASSEMBLY

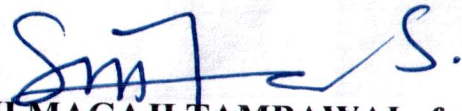
9th
.... DAY OF June, 2023

SCHEDULE TO THE NOTARIES PUBLIC BILL, 2023

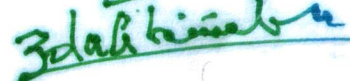
SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Notaries Public Bill, 2023	An Act to repeal the Notaries Public Act, Cap. N141, Laws of Federation of Nigeria, 2004 and enact the Notaries Public Act, 2023 to provide for the appointment and registration of Notaries Public, regulate the duty of the office of the Notary Public and to make provisions for the performance of digital and remote notarisations of documents by Notaries Public in Nigeria and the recognition of digitally notarised documents; and for related matters.	This Bill Repeals the Notaries Public Act, Cap. N141, Laws of Federation of Nigeria, 2004 and enact the Notaries Public Act, 2023 to provide for the appointment and registration of Notaries Public, regulate the duty of the office of the Notary Public and to make provisions for the performance of digital and remote notarisations of documents by Notaries Public in Nigeria and the recognition of digitally notarised documents.	6th June, 2023	22nd December, 2022

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.




SANI MAGAJI TAMBAWAL, fcna
 Clerk to the National Assembly

9th
 Day of June, 2023


BOLA AHMED TINUBU, GCFR
 President of the Federal Republic of Nigeria

12th
 Day of June, 2023

I ASSENT.