

**Law No. (2) of 1993  
on notaries**

**The General People's Congress**

- In execution of the resolutions adopted by Basic People's Congresses in their second ordinary session of 1401 FDP corresponding to 1991 AD, and formulated by the General Forum of People's Congresses, People's Committees, syndicates, unions and professional associations (General People's Congress) during its ordinary session for the period of 12-21 Dhu al-Hijja 1401 FDP, corresponding to 13-22 June 1992 AD;
- Upon review of the Great Green Charter of Human Rights of the Jamahiriya Era;
- The Justice System Law issued by Law No. (51) of 1976;
- Law No. (12) of 1988 on the Socialist Real Estate and Notarisation Department;
- Law No. (5) of 1991 on the implementation of the principles of the Great Green Charter of Human Rights of the Jamahiriya Era;
- Law No. (20) of 1991 on the promotion of freedom;

**formulated the following law:**

**Chapter (1)  
General Provisions**

**Article (1)**

Individuals may practice the profession of notary in accordance with the terms and conditions stipulated by this law.

**Article (2)**

Notaries shall notarise all documents at the request of the concerned persons, with the exception of personal status and endowment affairs. They shall also assume the following duties:

1. Authenticate signatures on acts under private signature and validate their date.
2. Receive, preserve, and open wills.
3. Keep the documents deposited by the concerned persons at their request, and issue certificates thereof.
4. Provide extracts and copies of notarised documents upon request.
5. Provide certificates of signature authentication or validation of the date of acts under private signature.

**Article (3)**

The profession of notary may only be practiced upon registration in one of the registers stipulated by Article (5) of this law.

**Article (4)**

Notaries may not may perform any of the following functions while serving as notaries:

1. Membership in people's committees or secretariats, or other public functions.
2. Law practice

3. Commercial business
4. Any other act that contravenes the dignity of the profession.

However, the notary may assume guardianship, custody, proxy, or judicial assistance, with or without compensation, with regard to his relatives up to the fourth degree. He may also assume custody of properties if he is a partner or has an interest therein or if such property is owned by any of his relatives up to the fourth degree. He may also provide services or perform a job without compensation for charitable, social, or cultural entities.

In all the foregoing cases, the notary shall notify the competent court president thereof.

## **Chapter (2)** **Entry in the Register**

### **Article (5)**

A register for notaries and one for assistant notaries shall be established at the Socialist Real Estate Registration and Notarisation Department in accordance with the conditions determined by a decision issued by the General People's Committee for Justice and Public Security. All those who are authorised to practice this profession in compliance with this law shall be listed in such registers based on the case.

### **Article (6)**

1. The following requirements shall be met to be listed on the assistant notary register:
  - a. Must be a citizen of the Great Socialist People's Libyan Arab Jamahiriya.
  - b. Must be legally competent.
  - c. Must be of commendable conduct and must not have been convicted of a felony or misdemeanour of moral turpitude, unless he has been rehabilitated.
  - d. Must not have been subject to disciplinary action of dismissal from a public function or removal from the notaries' or attorneys' registers unless the effects thereof have been removed.
  - e. Must be physically fit to practice his profession.
  - f. Must hold a university degree in Sharia or law.
2. To be included on the notaries' register, the applicant is required, in addition to the foregoing requirements, to have two years of work experience with a notary or a two-year membership in a judicial body or a people's oversight and follow-up body, or to have practiced law or taught Sharia or law in a faculty or institute of higher learning, or practiced notarisation in courts or the Socialist Real Estate and Notarisation Department, or worked in legal consultancy for a public entity or company for a similar period.
3. Members of judicial bodies and former notaries and attorneys shall be exempted from the law or Sharia university degree requirement.

### **Article (7)**

Applications for entry into the register shall be examined by a committee chaired by the head of the Legal Department, with the membership of the president of the court of first instance under which the applicant wants to work, and the head of the Socialist Real Estate and Notarisation Department. One year after the entry into force of this law, two notaries

chosen by the secretary of the General People’s Committee for Justice and Public Security shall become members thereof.

#### **Article (8)**

The application for registration shall state the court of first instance under which the applicant wants to work or the notary office in which he wants to work as assistant, depending on the case. The application shall be accompanied by the documents corroborating the fulfilment of legal requirements by the applicant. The committee shall issue its decision after verifying the fulfilment of requirements by the applicant, taking into account the practical needs of the region where the applicant is applying. The applicant shall pay the fees set by the register within one week from the issuance of the decision.

After his registration, the notary may request the committee to transfer him to another court of first instance.

The committee’s registration or transfer decision shall only become final after its approval.

The number of notaries in all or some entities may be determined by a decision by the General People’s Committee for Justice and Public Security. The application period for registration may also be closed by a decision thereof for a period specified in such decision.

#### **Article (9)**

The registration fee shall be of one hundred LYD for the notaries’ register and fifty LYD for the assistant notaries’ register.

### **Chapter (3) Practice of the Profession**

#### **Article (10)**

The notary may only practice his profession after the decision of his registration is issued in the Official Gazette and after he takes the following oath before the president of the court of first instance under which he shall operate:

“I swear by God Almighty to perform my job in honesty and integrity, to safeguard the profession and its traditions, and to respect law and order”.

#### **Article (11)**

The notary shall choose a location to practice within the jurisdiction of the court of first instance where he is registered. He shall announce the same on the court’s judicial announcement board. He may only change the said location after notifying the court president and announcing the same on the judicial announcement board for fifteen days at least.

#### **Article (12)**

The jurisdiction of the notary shall be limited to the court of first instance where his workplace is located. He may only exercise his duties outside the jurisdiction of such court for the purpose of completing a document that is being notarised in his office.

The notary may not notarise documents pertaining to real estate located outside his jurisdiction. Documents notarised in the notary's office shall only be effective with regard to real estate located within their jurisdiction. If the act pertains to one or more properties located within the jurisdiction of more than one court of first instance, it may be notarised by the notary if one or part of the property is located under his jurisdiction. Contracts that are notarised outside the Great Socialist People's Libyan Arab Jamahiriya shall not have effect if they pertain to the ownership of a property located therein or to any other rights *in rem* related thereto.

#### **Article (13)**

The notary shall verify the identity and eligibility of the contracting parties as well as the presence of the elements of a contract required by law, and of a statement issued by the monetary control entities with regard to the actions of foreigners. If the contract is concluded by proxy or court authorisation, the power of attorney or authorisation shall be verified to ensure that they authorise the proxy, custodian, or guardian to execute the act. The text of the power of attorney or authorisation shall be included as a complementary part of the contract. In all cases, every document shall include a copy of the power of attorney, authorisation, or statement issued by the monetary control entity.

#### **Article (14)**

A second executive copy of a notarised document may only be delivered by a decision issued by the judge of provisional matters.

#### **Article (15)**

The notary may not notarise, authenticate, or accept the deposition of the following documents:

1. Documents that are void on their face or non-consensual.
2. Documents containing matters that are prohibited by law or that contravene public order or ethics.
3. Documents that the notary or any of his relatives up to the fourth degree is a party to or has interest therein.

The concerned person may file a complaint before the president of the competent court of first instance if the notary refuses his request. If the court president does not agree with the notary, he shall refer the documents thereto to be notarized or take the requested procedure.

#### **Article (16)**

The notary shall be bound to respect the confidentiality of the profession. He may only reveal or provide copies, extracts, or certificates to third parties by authorisation of the competent court or the judge of provisional matters.

#### **Article (17)**

Acts performed by any notary whose registration decision has not been issued or who has not taken the oath shall not be deemed valid, neither shall any acts that do not fall under the jurisdiction of the notary or which are performed during his suspension or after his removal

from the register. Any procedure performed in contravention of the provisions of this law or the decisions issued in execution thereof shall not be deemed valid.

## **Chapter (4)** **Keeping of Documents**

### **Article (18)**

The notary shall keep the originals of all the documents he notarises, as well as the documents deposited therewith by law or at the request of the concerned parties, and he shall take the necessary actions to guard them. The keeping of documents shall be conducted in the manner prescribed by the executive regulation.

### **Article (19)**

Notarised original documents, registers, and their related papers may not be moved from the notary's office. Nonetheless, courts or their delegated experts may examine the same in compliance with the executive regulation. If a judicial body issues a decision to attach the original of a notarised document to a lawsuit brought before it, the judge shall proceed to the notary's office, where a certified copy of the original document shall be made in his presence. A report signed by the judge, the notary, and the court registrar shall be appended thereto. Afterwards, the original shall be attached to the case file, and the copy shall have the power of the original until the latter is returned.

### **Article (20)**

The notary shall submit a copy of all the documents notarised during the past month to the Socialist Real Estate and Notarisation Department for their keeping within the first ten days of every month.

## **Chapter (5)** **Notary Fees**

### **Article (21)**

Notary fees shall be determined by a decision by the General People's Committee at the proposal of the General People's Committee for Justice and Public Security, without prejudice to the concerned persons' obligations to pay taxes and charges imposed on their documents. The notary may not charge any other amount in addition to those stipulated by the said decision.

### **Article (22)**

The concerned parties shall be jointly responsible before the notary for paying his fees that are due by their predecessors. The notary may abstain from delivering document copies, extracts, or certificates to such parties until the outstanding fees are paid.

### **Article (23)**

The notary shall refrain from performing his duties if the concerned parties fail to deposit the taxes and fees levied on the document.

#### **Article (24)**

The notary shall transfer the taxes and charges fees on the document to the competent entities after their collection from the concerned parties.

#### **Article (25)**

The notary shall append and sign a statement of any due taxes or charges and any fees that he collects on the margins of documents, copies, extracts, and certificates.

#### **Article (26)**

The notary shall not earn any fees for documents in the notarisation whereof he commits an error that entails their nullity. He shall not earn any fees for copies, extracts, and certificates that do not match the original document in his possession. In such cases, he shall reimburse the concerned parties for any fees they may have paid, without prejudice to their right to claim compensation.

### **Chapter (6)** **Disciplining of Notaries**

#### **Article (27)**

Any notary who violates the duties of his profession, or acts in public or private life in a way that debases himself or his profession shall be subject to one of the following penalties:

1. Warning.
2. Reprimand.
3. Suspension for a maximum of one year.
4. Removal from the register.

No more than one penalty may be imposed on a single act. The violator may not be liable for the same act more than once.

This shall not preclude the violator's civil or criminal liability when necessary.

#### **Article (28)**

Penalties imposed on the notary, with the exception of reprimand, shall be announced on the judicial announcements board at the court of first instance within fifteen days.

#### **Article (29)**

The committee stipulated by Article (7) of this law and convened as a disciplinary board shall be competent to discipline notaries.

#### **Article (30)**

The notary shall be referred to the disciplinary board at the request of the secretary of the General People's Committee for Justice and Public Security. The notary shall be notified to appear before the board by registered letter with acknowledgment of receipt at least ten days before the session. His absence from the session despite his notification or his abstention from receiving the notification shall not impede the conduct of his trial.

### **Article (31)**

The disciplinary board may conduct an investigation whenever it deems it legally necessary, and it may entrust the investigation to one of its members. The board may summon the witnesses it deems necessary to hear their statements at its own discretion. The notary shall have the right to request that his witnesses be heard. The board shall be entitled to subject any witnesses who fail to appear or who appear but abstain from testifying to the penalty stipulated by Article (260) of the Penal Code. Perjury before the board shall be subject to the penalties stipulated for perjury.

### **Article (32)**

The session of the disciplinary board shall only be deemed valid in the presence of all its members. Its sessions shall be confidential. Decisions shall be issued by the majority after hearing the defence of the notary or any colleague or attorney appointed to defend him. In all cases, the decision shall be substantiated and notified to the notary by registered letter within fifteen days from its issuance.

### **Article (33)**

The secretary of the General People's Committee for Justice and Public Security may subject the notary to provisional suspension when necessary. Suspension may only exceed three months by a decision by the disciplinary board. If the penalty imposed on the notary is suspension, the duration of his provisional suspension shall be considered part of the overall penalty period.

### **Article (34)**

The notary shall be considered suspended by law during his provisional detention or during his imprisonment due to criminal conviction.

### **Article (35)**

Disciplinary penalties imposed on the notary shall be eliminated after:

1. One year in the case of warning.
2. Two years in the case of reprimand.
3. Three years in the case of suspension, starting at the end of suspension.
4. Five years in the case of removal from the register.

In all cases, the elimination of the penalty shall be contingent upon proof of good conduct of the notary since the execution of the penalty. Such elimination shall be effected by a decision by the committee stipulated by Article (7) of this law. The elimination of the penalty shall entail its complete disregard in the future. In the event of elimination of the penalty of removal, the notary may not resume his practice until he is registered again.

## **Chapter (7)**

### **Cancellation of Registration**

### **Article (36)**

The registration of a notary shall be cancelled in the following cases:



1. Loss of nationality or eligibility.
2. Conviction of a felony or misdemeanour of moral turpitude.
3. Disciplinary decision of removal from the register.
4. Retirement at the notary's request.
5. Work interruption for over three months without permission or excuse that is acceptable to the competent president of the court of first instance.
6. Lack of physical fitness, which shall be attested by a specialised medical committee.

#### **Article (37)**

In the event of death of a notary, his heirs shall notify the president of the court of first instance to which the deceased reported within one month at most from his death.

#### **Article (38)**

With the exception of the case of removal from the register by disciplinary decision, the cancellation of a notary's registration shall be issued by a decision by the committee stipulated by Article (7) of this law at the request of the secretary of the General People's Committee for Justice and Public Security and the president of the competent court or the notary.

#### **Article (39)**

All decisions pertaining to the cancellation of the registration of notaries or to their suspension shall be published in the Official Gazette and posted on the judicial announcements board at the court. An announcement shall also be posted at the notary's workplace.

#### **Article (40)**

In the event of cancellation of the notary's registration, the Socialist Real Estate Registration and Notarisation Department shall take over the originals of the documents notarised by the notary as well as the documents deposited therewith and the records kept by the notary. Takeover shall occur in accordance with the procedures set forth by the executive regulation. The Department may assume control by administrative means of such documents and papers two weeks after the date of cancellation if the notary fails to deliver them.

### **Chapter (8)**

#### **Assistant Notaries**

#### **Article (41)**

Assistant notaries shall be subject to the provisions of Articles (4), (8), and (10) of this law, the provisions pertaining to the writing or notarisation of documents, and the provisions of Chapters (6) and (7) of this law.



## **Chapter (9)**

### **Final Provisions**

#### **Article (42)**

The executive regulation of this law shall be issued by a decision by the General People's Committee based on the proposal of the General People's Committee for Justice and Public Security.

#### **Article (43)**

The executive regulation shall determine the terms, conditions, and information required for documents that are notarized by the notary, as well as the manner of writing and identifying the document to be notarized, the records that should be kept by the notary, and the entity that shall assess the notary's fees in the event of failure to assess them or a dispute regarding their assessment.

The regulation shall identify the procedures pertaining to other matters falling under the jurisdiction of notaries, the procedures for authenticating their signatures, the form of their seals, their methods of maintenance and use, and the procedures to be followed in the event of their loss or destruction.

#### **Article (44)**

Any provision that contravenes the provisions of this law shall be repealed.

#### **Article (45)**

This law shall enter into force from its date of issuance. It shall be published in the Official Gazette and in the various media outlets.

**General People's Congress – Libya**

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