

From the Faculty of Notaries Public in Ireland

8th December 2009

As the Faculty is a notice party to all applications for appointment as a Notary Public it has been our practice for some time to offer guidance to persons intending to make an application to be appointed a Notary Public. Such guidance is offered as a matter of courtesy and without obligation or liability on the part of the Faculty and its officers.

Practice Directions and Regulations Concerning the Examination of Applicants

Order 127 of the Rules of the Superior Courts ('RSC') requires any person seeking to be appointed a Notary Public to satisfy the Faculty that he or she has a sufficient knowledge of notarial matters and procedures and of the particular legal provisions applicable to notarial matters to be a competent and efficient person to carry out the duties of a notary public if appointed.

The examination for the purposes of the Directions and Regulations is a written examination, currently of two hour duration, and is conducted in accordance with the Notaries Public Examination Regulations 2007, as amended, published on the Faculty website, see below. The examination is set at postgraduate level.

An applicant who, having pursued a course of study in keeping with the Syllabus, satisfies the Faculty on the basis of such examination that he or she has met the criteria set out in the Practice Direction is entitled to receive a certificate to that effect i.e. a Certificate of Examination, which becomes one of the documents to be lodged by the applicant with the affidavit grounding the applicant's Petition seeking to be appointed. For avoidance of confusion, I should explain that the Certificate of Examination was previously described as a Certificate of Competency. The Faculty Examination to obtain a Certificate of Examination is held in May each year. The syllabus for the examination is set out below. An applicant may be required to attend for interview by the Examination Body either before or after taking the Faculty Examination.

Application Procedures

Having obtained a Certificate of Examination from the Faculty, the applicant may then proceed with the preparation of his or her application to be appointed a Notary Public. The application is made by way of Petition to the Chief Justice and is heard in open court. The Petition must be grounded on affidavit in which all necessary papers in support of the application are exhibited. These include certificates of suitability and fitness signed by six Solicitors and a corresponding number of persons representative of the business community in the district to which the application relates.

An applicant is no longer required to establish that there is a need for a new or additional Notary Public in the area or district for which the applicant seeks to be appointed. By virtue of their respective interests and duties, the Law Society of Ireland and The Faculty of Notaries Public in Ireland are notice parties to all applications. An application to be appointed a Notary Public may be opposed by any of the notice parties on grounds described below.

Pursuant to a Practice Direction of the Chief Justice made on 20 September 2006, a person applying to be appointed a Notary Public must give an appropriate Undertaking in his/her application that "if appointed I will observe the Code of Conduct for Notaries Public (adopted by the Faculty on 21 November 1986) and such other rules, regulations and by-laws governing the professional practice and procedure of Notaries Public in Ireland and the standards to be observed by them as shall from time to time be made and published by the Faculty of Notaries Public in Ireland".

Grounds for Objection

The Faculty of Notaries Public in Ireland and/or The Law Society of Ireland, as notice parties, are entitled to oppose an application if either of them consider appropriate grounds exist. Objections by the Law Society may be based on the character of the applicant or the fact that the applicant is not a solicitor. The production by the applicant of certificates of suitability and fitness will usually satisfy the requirement as to good character. Objections by the Faculty may be based on similar grounds to those of the Law Society or on inadequacies in the form or contents of the papers filed in support of the application, failure on the part of the applicant to obtain a Certificate of Examination, lack of appropriate legal qualifications or insufficient postgraduate experience in an appropriate work environment e.g. law office or notary practice.

Applicants should note that pursuant to the Notaries Public Examination Regulations 2007, as amended, eligibility to sit the examination of the Faculty is confined to a solicitor or barrister having at the time of application not less than five completed years post-qualification experience in the practice of general law, at least two of which years are immediately prior to such application.

A possible further ground of objection is dealt with below.

‘Public Office’ Requirement

All Notaries Public must maintain a ‘public office’ for the purpose of conducting notarial business. A public office means an office, under the control of the notary, to which members of the public requiring notarial services can readily have access. Such office must be properly supervised and serviced with modern means of telephonic and electronic communication and have photocopying facilities. Consequently, an applicant must be able to state in his or her application that, if appointed, he or she has available a public office in which to carry out his or her notarial functions. The applicant must have an entitlement as of right to use such office, both during and after normal business hours. This requirement is further explained below.

An applicant who is not the proprietor or a partner of the firm in whose premises he or she intends to maintain his public office, must at the time of application and as part of his or her proofs be able to produce and exhibit a letter on headed notepaper addressed to the Registrar of the Faculty, signed by the proprietor or managing partner, confirming that the applicant is authorised to maintain an office on the premises as a ‘public office’ in connection with the carrying on the business and profession of notary public without restriction or limitation as to days or time in order that he or she may be able to meet exigencies arising in the course of the work of a Notary Public.

In the foregoing context it is mentioned that certain notarial commissions e.g. authentication of documents for inter-country adoptions may take a notary five or more hours to complete. Other notarial commissions may require the notary to undertake work outside the office e.g. ships protests or protests of bills of exchange. Applicants who are in employment should make their employers aware of such demands on time and office facilities when requesting the issuance of a letter of authorisation for the satisfaction of the Faculty.

Other Matters

The issuance of a Certificate of Examination does not debar the Faculty from raising any of the issues mentioned above on the hearing of applicant’s Petition. The Faculty does not usually address the foregoing matters until after the applicant has filed his or her Petition and has lodged the grounding

affidavit and exhibits in the Supreme Court Office. It therefore behoves the applicant to pay careful attention to the guidelines in this letter.

Applicants and their advisers should please note that e-mails and facsimile communications are not regarded as appropriate means of communication in relation to applications and in particular in furnishing proofs.

Preparing for the Examination

Assuming an intention to proceed with an application to be appointed a Notary Public, it is recommended that in preparation for the Faculty Examination (to obtain a Certificate of Examination), the applicant should undertake a course of study with a view to acquiring a sufficiency of knowledge of notarial practice and procedure as will enable the applicant to meet the standard required by the Practice Directions and Regulations made under O.127 RSC.

In this regard I would refer applicants to O'Connor's **The Irish Notary** (1987) and Hall & O'Connor's **Supplement** (2007) both of which are available from the Faculty Distribution Office and public libraries.

You are of course free to use any other relevant works in your preparation for the Faculty Examination. Copies of the books that have been mentioned can be obtained from the Faculty Distribution Office on the following terms (subject to constant review):

- **The Irish Notary** @ €68.00
 - **Supplement** @ €88.00
 - **The Irish Notary and Supplement** @ €139.00
- All prices include P & P.*

Orders should be addressed to The Faculty Distribution Office at 13 Fownes Street, Dublin 2 or via DX 212 005 Suffolk Street accompanied by your cheque for the appropriate amount made payable to 'The Faculty of Notaries Public'. Check the current prices first at distribution@notarypublic.ie.

Examination Syllabus

The current Syllabus*** for the Examination is as follows:

1. History of the Notary Public in Ireland
2. Ethics for the Notary Public
3. Roman Law (*new from May, 2010. A paper covering this aspect of the syllabus will be posted on the website well before the examination date*)
4. Private International Law
5. Company Law
6. Bills of Exchange including Noting and Protesting
7. Ships Protests
8. The Hague Convention of 5 October 1961 and EU Conventions (as specified)
9. Powers of Attorney including Enduring Powers
10. Inter-country Adoption
11. Money-laundering legislation
12. Oaths: substance, form and procedure
13. Attestation, Authentication and Certification of Documents, Deeds and Transactions.

*** The Syllabus is fully covered in O'Connor's *The Irish Notary* (Professional Books, 1987) and Hall & O'Connor's *Supplement to the Irish Notary* (The Faculty of Notaries Public in Ireland, 2007). Both books are now available for purchase from the Faculty Distribution Office, 13 Fownes Street, Temple Bar, Dublin 2. They may also be available on request at your local library. Applicants may use any other relevant book on notarial practice and procedure in their preparation for the Examination. Applicants should also read copies of Seminar papers published by the Faculty entitled

- *Ethics for the Notary Public,*
- *Authentication of Foreign Public Documents for use outside the Republic of Ireland*
- *Authentication of Documents by the Notary Public including Draft Specimen Notarial Certificates and*
- *Bills of Exchange - Foreign Collections- presentation for acceptance/payment - protest on dishonour*

These Papers should be considered as part of your preparation as questions may be asked based on them.

The syllabus may be altered by the Faculty from time to time to ensure that it is appropriate to reflect developments in law and practice affecting notarial work.

When reading **The Irish Notary** and the **Supplement** you may confine your studies to:

- Chapter 1: Pages 15-30;
- Chapter 2: Pages 31 & 32;
- Chapter 4: Pages 43-45;
- Chapter 5: Pages 51-56;
- Chapter 6: Pages 57-63;
- Chapter 7: Pages 64 & 65, 72-74 and 76-79;
- Chapter 8: Pages 87-97, 104-111;
- Chapter 9: Pages 112-115;
- Chapter 10 All pages, except those referring to Northern Ireland ;
- Chapter 11: Pages 145-148, 150-152;
- Appendices (Forms & Precedents) Pages 185-213, 218-244.

All pages of the **Supplement** are relevant to the Notarial Examination with the exception of pages 80-87.

Examination Procedure

The procedure in regard to the Faculty Examination is as follows:-

1. Having completed the recommended course of preparatory study outlined above, the applicant may now **write on headed notepaper** to the Registrar of the Faculty at 109 Ranelagh, Dublin 6, DX 10 002 Ranelagh, confirming his or her intention to sit the next Faculty Examination and requesting permission to sit the Examination.
2. Enclose the **Application Form** duly completed together with a cheque for **€250.00** examination administration fee - in a **hard copy communication only**.

Examination Protocol

1. No question will be asked in the Examination Question Paper that is not covered by the specified or recommended reading material.
2. It is not the policy of the Faculty to supply applicants with copies of previous Examination Question Papers and requests for such papers should not therefore be made.
3. Mobile phones must be switched off and remain out of sight at all stages during the Examination.
4. Examinees must request permission of the Examination Supervisor to leave the examination room and, having left, may not be permitted to re-enter.
5. Examinees are not permitted to bring any notes, books or reading matter into the examination room.
6. Communication between Examinees in the course of the Examination may lead to disqualification at the absolute discretion of the Examiner.

Following the Examination, answer books are referred to the Examination Body of the Faculty for assessment. On completing its assessment, the Examination Body will issue a report on the performance of each examinee to the Education Committee of the Faculty with its recommendations.

An applicant who satisfies the Examination Body as to his or her knowledge of notarial matters and procedures as required by the Practice Directions and Regulations of 28 March 1994 will be entitled to receive a Certificate of Examination from the Faculty. On receipt of such Certificate the applicant may prepare his or her application to the Chief Justice to be appointed a Notary Public.

No appeal lies from the findings of the Education Committee. However, unsuccessful candidates may, on payment of a prescribed fee, seek to inspect their answer paper in the presence of the Director of Education who, for half an hour, will lead them through the strengths and weaknesses of their various answers. Unsuccessful candidates will not be furnished with copies of their answer papers.

David Walsh
Registrar of the Faculty