

THE FACULTY OF NOTARIES PUBLIC IN IRELAND

(Register No. 81632)

THE NOTARIES PUBLIC PROFESSIONAL PRACTICE REGULATIONS, 2008

(made pursuant to Article 70 (1) of the Articles of Association
of the Faculty and adopted on 16th December 2010)

Interpretation

For the purposes of these Regulations the words and expressions appearing below in bold print, with or without the definite article, shall have the meanings respectively given to them and, where so intimated, such words and expressions may be replaced in usage with the alternative words in italics contained in the meaning given to them -

Board of Directors means the Directors of The Faculty of Notaries Public in Ireland acting as a Board and may be described and hereafter referred to as the *Governing Council* or the *Council*;

Company means The Faculty of Notaries Public in Ireland and may be described and hereafter referred to as the *Faculty*;

Company Secretary (and the **Secretary**) has the meaning given to that title in the Articles of Association;

Dean means the person holding the office of Dean at the date of adoption of these Regulations or, upon his resignation, retirement or ceasing to act, the member of the Governing Council for the time being appointed by the Council to and holding that office in accordance with the terms of Regulation 6;

Directors (or individually a **Director**) has the meaning given to such word in the Articles of Association and may be described and hereafter referred to as *Members of Council* or individually a *Council Member*;

Member means a Notary Public duly admitted to membership of the Faculty pursuant to the Articles of Association and in respect of matters of professional conduct as a Notary Public shall include, where the context so admits or requires, a Notary Public who by whatever means is bound by these Regulations and the Code of Conduct annexed hereto and Regulation 1.1 shall be construed accordingly. The definition does not include a Non Practising Member or an Honorary Member.

Education Committee means the committee appointed by the Professional Practice Committee pursuant to Regulation 7 for the purposes therein described;

Non-Practising Member has the meaning given to the expression in Regulation 5;

Professional Practice Committee (“PPC”) means the committee appointed by the members in accordance with Regulation 7 for the purposes therein described;

Registrar means the Registrar of the Faculty at the time of adoption of these Regulations or, upon his resignation, retirement or ceasing to act, the Member for the time being appointed by the Governing Council to act as Registrar of the Faculty;

Regulations means the regulations for the better governance of the Faculty and its Members herein set forth and entitled The Notaries Public Professional Practice Regulations, 2008 adopted by the Faculty pursuant to Article 70(1) of the Articles of Association and ,or, such further or other regulations as may from time to time be added to or substituted for such Regulations in manner herein provided.

Vice Dean means the Member of the Governing Council who is appointed by the Governing Council to deputise for and undertake the duties and functions of the Dean in the absence or unavailability of the Dean for whatever cause.

1. Application

- 1.1 These Regulations shall apply to and be binding on every Notary Public who is admitted a Member of the Faculty and on every person appointed a Notary Public after 2nd October, 2006 by virtue of the undertaking given by him or her on appointment to be a Notary Public in accordance with the Practice Direction made by the Chief Justice on 20th September, 2006 pursuant to Order 127 of the Rules of the Superior Courts (No.2) of 1993.

2. Conduct

- 2.1 Every Member and other person to whom these Regulations apply shall obey the Code of Conduct for Notaries Public adopted by the Faculty on 21st November, 1986 the provisions of which are contained in Annex 1 hereto.
- 2.2 A Member shall act impartially in all transactions in which his or her services as a Notary Public are retained and shall decline to act in any transaction where it is reasonably foreseeable that a conflict of interest may arise. In particular –
 - (i) A Member shall not act as a Notary Public in a matter in which he or she has a financial or personal interest.
 - (ii) A Member who is a partner, associate or employee of a firm shall not execute a notarial act or provide a notarial service in relation to a transaction being conducted by the firm. For the purposes of this Regulation, “firm” shall mean a partnership or other form of association between two or more solicitors or notaries public and shall include a multidisciplinary firm whether or not incorporated or registered.

- (iii) A Member who is a director, officer or employee of, or a consultant to, a person or a body corporate shall not execute a notarial act or provide a notarial service for or in respect of such person or body.

3. Complaints

3.1 Complaints to the Faculty must be made in writing addressed to the Registrar at the Office of the Registrar.

3.2 Upon a complaint touching either the conduct of a member acting as a Notary Public or the conduct of a Member of the Faculty acting in Faculty matters, being received from:

- (i) a person materially affected by such conduct; or
- (ii) a person for whom a Notary Public has provided a notarial service, i.e. client or appearer; or
- (iii) another Notary;

the Registrar shall acknowledge receipt of the complaint but inform the complainant that no further action will be taken on foot of the complaint unless and until sufficient particulars of the complaint are furnished to the Registrar in the form of a letter or memorandum signed by the complainant, and also that the letter or memorandum outlining the complaint will be copied to the Member after a period of 7 days from the date of its receipt unless in the meantime the complaint shall have been resolved or withdrawn.

3.3 If the complaint shall not have been resolved or withdrawn within the period aforesaid, the Registrar shall copy the detailed complaint to the Member and request a response within a period, being not more than 21 days, as is specified by the Registrar. Upon receiving a response from the Member, the Registrar shall copy such response to the complainant and request the complainant to state in writing whether or not the response is acceptable. In the event that the Member does not respond to the complaint within the time specified by the Registrar or if the response is not acceptable to the complainant, the Registrar shall refer the complaint to the PPC, to be dealt with in accordance with the procedures established by that body. The PPC shall be the final tribunal of appeal within the Faculty regarding all complaints or matters referred to it.

3.4 Notwithstanding the provisions of subregulations 3.2 and 3.3 of this Regulation, the Registrar may decline to deal further with any such complaint at any stage

in the above procedure if in the reasonable opinion of the Registrar the complaint or the conduct of the complainant is considered by the Registrar to be unreasonable, vexatious or frivolous.

3.5 The Professional Practice Committee shall have the power to adjudicate upon any complaint referred to the Committee under subregulation 3.3, and determine the sanction (if any) to be applied. Said adjudication and determination shall be conducted on the basis of the correspondence and/or documentation as furnished to the Registrar by the complainant and the Member (or their representatives), subject to the Committee's power to conduct an oral hearing, to be confined to such witnesses and issues as the Committee shall, in its sole discretion, decide.

3.6 A refusal by the complainant to co-operate with a decision of the Committee pursuant to subregulation 3.5 to confine any oral hearing to certain witnesses or issues may result in the dismissal of the complaint.

3.7 A sanction may take the form or forms of all or any of the following:

- (i) a fine not exceeding €3,000.00,
- (ii) a direction of a payment to a specified Charity in Ireland not exceeding €3,000,
- (iii) payment of or towards the legal or other costs of a Complainant or of the Faculty,
- (iv) suspension from membership of the Faculty for a stated period or for a period ascertainable by reference to an event or a continuing condition,
- (v) subject to Regulation 5.3, termination of membership of the Faculty, or
- (vi) subject to Regulation 5.3, an application to the Chief Justice seeking such direction or directions as to the Chief Justice may seem appropriate, up to and including for the removal of that member's name from the Roll of Notaries Public.

4. Disputes

4.1 A dispute between individual Members or a group of Members concerning any aspect of professional practice or the exercise of jurisdiction may be referred for resolution to the Professional Practice Committee whose decision on the matter in dispute shall be binding on the Members in dispute.

5. Termination of Membership

- 5.1 The membership of any Member may be terminated following a request in writing signed by the Member and delivered to the Secretary or Registrar at the Registered Office of the Faculty.
- 5.2 A Member who, being a practising Solicitor, has his or her name removed from the Roll of Solicitors by Order of the President of the High Court (or a Judge of the High Court carrying out the duties of the President) shall have his or her membership of the Faculty terminated without further proof other than production of an attested copy or a certified copy of such Order.
- 5.3 The PPC may recommend the termination of the membership of a Member who, following due process, has been found guilty of professional misconduct, to have acted in disobedience of these Regulations or contrary to the code of Conduct, or to have acted in a manner likely to bring Notaries Public or the Faculty into disrepute. Where such a recommendation is made, the Faculty shall not immediately proceed to terminate the membership of that Member but shall first apply to the Chief Justice, by way of motion on notice to the Member concerned, seeking such direction or directions as to the Chief Justice may seem appropriate concerning the suitability of the Notary Public to continue to act as a Notary Public and, if allowed to continue so to act, the terms and conditions upon which such Notary Public may so act.
- 5.4 The membership of a Member may also cease or be terminated on any of the grounds set forth in Article 3(7) of the Articles of Association of the Faculty or if the Member dies or becomes mentally incapacitated.
- 5.5 Without prejudice to the provisions of Regulations 5.1 to 5.4 above, a Member who ceases to practise as a Notary Public or to notarise documents may apply to the Faculty to alter his or her status to that of a 'Non-Practising Member'. A Non-Practising Member shall be entitled to enjoy the privileges of a Member including the right to attend and speak at General Meetings of the Faculty but shall not have voting rights or be counted as a Member for the purposes of forming a quorum. The Council shall from time to time determine the annual contribution (if any) to be paid by a Non Practising Member and any other conditions governing such membership. (See also under 'Honorary Members')

6. Offices & Tenure of Office

The Dean

- 6.1 The Dean shall be appointed by the Governing Council and shall hold office for an initial term of *three years* but may be re-appointed for a second term not exceeding *three years*. Where the Dean is reappointed for a second term he or she shall vacate office on the expiry of the second term. Where the Dean vacates office at the end of the first or second three year term under this Regulation he or she may continue to serve as a Member of Council until he or she is due to retire by rotation and may then seek re-election to the Council.
- 6.2 The Dean shall act as Chairman of General Meetings of the Faculty and of Meetings of the Governing Council and in association with the Registrar and the Secretary shall deal with the day-to-day business of the Faculty and in particular with matters that require to be dealt with urgently. The Dean shall have responsibility for the formulation of education policy and general policy for approval of the Governing Council and for directing and implementing such policies as shall be approved. The Dean shall represent the Faculty at conferences on matters relevant to the work of the notary public and on delegations to governmental or regulatory authorities on matters of concern to the Faculty and its Members.
- 6.3 In the absence or unavailability of the Dean for whatever cause, the Vice Dean shall assume the duties and functions of the Dean.

The Registrar

- 6.4. The Registrar shall act as the chief administrative officer of the Faculty and in consultation with the Dean and the Secretary shall manage the day-to-day affairs of the Faculty. Pending the appointment of an Education Committee by the Governing Council the Registrar shall have responsibility for the organisation of examinations under the Notaries Public Examination Regulations, 2007 and shall liaise with Members on matters of professional interest or concern to them and shall interface with solicitors and others seeking to be appointed to the office of Notary Public and shall represent the Faculty on the hearing of Petitions before the Chief Justice.

7. Professional Practice Committee

- 7.1 A committee to be known and described as the Professional Practice Committee shall be constituted for the purposes of these Regulations. The Professional Practice Committee shall

have responsibility for prescribing and maintaining proper standards of professional conduct for Notaries Public in the State and the practices and procedures to be adopted and observed by them in the performance of their notarial duties. The Committee shall comprise of seven members elected at the Annual General Meeting of the Faculty *provided however* that pending the constitution of the first such Committee an Interim Professional Practice Committee shall be nominated and appointed by the Council. The Committee shall appoint a Chairman from among its members. The quorum for the inaugural meeting of the Committee shall be determined by the Dean; and as regards all subsequent meetings shall be fixed by the Committee at such number being not less than three as the Committee shall by resolution determine. The Committee shall be empowered to appoint a subcommittee consisting of not less than three of its members to carry out its functions in specified matters to be determined by the Committee at or as soon as may be after its inaugural meeting. Any complaint or other matter coming before the Committee or the subcommittee aforesaid and being within its remit may be determined on the basis of oral evidence given before them whether sworn to or not or on the basis of written evidence submitted by the complainant whether or not supported by affidavit.

- 7.1.1 The PPC shall decide its own procedures and rules, as it sees fit from time to time, to efficiently and fairly deal with any matters referred to or to be considered by the PPC. These procedures shall not be required to be published to members, save for the requirement that any party to any complaint or matter referred to or considered by the PPC shall be made aware in advance of the procedures being adopted by the PPC in the consideration by it of such matter.
- 7.1.2 Where a member of the PPC recuses himself or herself from adjudicating upon any matter for whatever reason, or where objection is taken to any member of the PPC adjudicating upon any matter for whatever reason and the other members of the PPC consider such objection to be reasonable, a replacement shall be nominated by those other members of the PPC to perform the functions which would have been performed by the member of the PPC who has recused himself or herself or to whom reasonable objection has been taken, such replacement to be effective only for a particular matter. Any objection to a member of the PPC adjudicating upon a matter, which is not made at the first

available opportunity, shall not be entertained by the other members of the PPC.

7.1.3 The PPC shall have the power to extend the periods of time provided for under the provisions of any matter, provided that it shall satisfy itself that there are reasonable grounds for so doing.

7.2 The Professional Practice Committee shall have responsibility also for setting the educational standards for entry into the profession of Notary Public and for the conduct of examinations under The Faculty of Notaries Public Examination Regulations, 2007 (and such other regulations as may from time to time be made in addition to or in substitution for such Regulations) and for the assessment of the performance of examinees and the issuance of Certificates of Competency under the Regulations.

7.3 The Professional Practice Committee shall appoint an Education Committee (the 'Education Committee') comprising of not less than five of its members to whom shall be delegated the responsibilities of the Professional Practice Committee in the matter of setting educational entry standards and the conduct of examinations under the Notaries Public Examination Regulations. The Dean and Registrar shall be ex officio members of the Committee in addition to those who have been nominated. The quorum for meetings of the Education Committee shall be determined by the Committee at its inaugural meeting but shall be not less than three members excluding the Dean and Registrar.

8. Records

8.1 Every Member shall keep a proper record of all notarial business with reference to which he or she provides a notarial act or service. A protest register shall be kept for recording the noting and protesting of bills of exchange and ships protests.

8.2 Where in the course of his or her duties as a Notary Public a passport, national identity card or other officially approved document purporting to establish the identity of the holder is produced to a Member as evidence of identity, the Member shall satisfy himself or herself by observation that the information therein provided is reasonably consistent with the age and appearance of the appearer and that the signature on such document is reasonably consistent with the signature subscribed by the appearer to the document being notarised, and

upon conclusion of the business the Member, where practicable, shall retain a photocopy of the information page (including photograph and signature) of such passport, identity card or other document for record purposes.

8.3 For the purposes of good order and statutory compliance Members shall keep copies of all books and documents with respect to which a notarial act has been provided for a period of six years or such greater or lesser period as shall be prescribed by applicable law.

8.4 Every Member shall make suitable provision for the custody of the Member's records in the event that the Member should die or cease to practise as a Notary Public.

9. Fees

9.1 No agreement or arrangement fixing the amount or scale of fees to be charged for notarial services shall be entered into or be promoted by the Members

10. Advertising

10.1 A Member may advertise his or her services as a Notary Public but any such advertisement shall be restrained and dignified in its presentation and ideally shall be confined to providing information helpful to consumers such as the nature of the services offered, the name and address of the Member, telephone number, fax number and, at the discretion of the Member, his or her e-mail address.

11. Continuing Professional Development (CPD)

11.1 The Professional Practice Committee (acting through the Education Committee) shall have responsibility for the continuing education and development of the Members and to this end may organise conferences, lectures, seminars and workshops at such times and at such venues as the Committee in consultation with the Dean and the Registrar may determine. CPD points may be awarded for attendance at any such conference, lecture or seminar which, based on subject matter and duration, may be recognised by the Law Society of Ireland in the case of a Solicitor-Notary.

12. General

12.1 At the Annual General Meeting or any General Meeting of the Faculty no substantive motion shall be proposed or moved under the item on the Agenda usually entitled 'Any

other Business'. Consequently, this item on the Agenda shall be used only to apprise the meeting of events or developments which may be of interest or concern to the Faculty and its Members or to seek the guidance or views of the Members in attendance on a particular matter of concern to a Member.

12.2 For the sake of brevity in internal exchanges the Faculty of Notaries Public in Ireland may be referred to as the 'Faculty' or 'the Faculty of Notaries Public'.

12.3 A Member shall be entitled to refer to himself or herself on his or her professional notepaper and in any other document as a Member of the Faculty of Notaries Public in Ireland either in full or abbreviated form. A Member may also, with the consent and at the discretion of the Faculty, use the Armorial Ensigns (Coat of Arms) of the Faculty on his or her professional notepaper (notary only) but shall not incorporate such Armorial Ensigns in his or her seal of office or official stamp.

12.4 No Regulation shall be in conflict with the Constitution of the Faculty, namely the Memorandum and Articles of Association, and where any such conflict appears to arise, the provisions of the Constitution shall prevail.

13. Amendments

13.1 No amendment shall be made to the Regulations unless approved by a simple majority of the Members present and voting at a General Meeting of the Faculty notice of which given in accordance with the Articles shall contain detailed particulars of the proposed amendment.

14. Notices

14.1 Notices to Members under or for the purposes of the Regulations may be given in writing sent through the post in a pre-paid envelope addressed to the Member or by personal delivery. A notice sent through the post shall be deemed to have been duly delivered 48 hours after the time the envelope duly addressed and stamped containing such notice is handed to a post office clerk or is put in the post office letterbox.

14.2 In the case of meetings of the Governing Council notice of such meetings may at the discretion of the Secretary or Registrar of the Faculty be given by post, e-mail, facsimile transmission or, in the case of extreme urgency, by telephone call to the notice party; and in the case of Meetings of the Professional Practices Committee and the Education Committee

notice of such meetings may at the discretion the Chairperson of the relevant Committee be given by post, e-mail or facsimile transmission or, in the case of extreme urgency by telephone call to the notice party,

15. Honorary Membership

- 15.1 The Faculty may create a class of membership to be known and described as ‘Honorary Membership’. A person admitted to Honorary Membership shall be described as an ‘Honorary Member’. An Honorary Member shall not be a Member of the Faculty within the meaning or for the purposes of the Articles of Association or these Regulations.
- 15.2 Honorary Membership may be conferred by the Faculty on any person whom the Faculty, on the recommendation of the Governing Council, shall consider to have made a significant contribution to the promotion and advancement of the work of the Faculty in the areas of education, research, cultural and international exchange.
- 15.3 An Honorary Member may attend and speak at any General Meeting of the Faculty but shall not have any voting rights or be counted as a Member for the purposes of forming a quorum.
- 15.4 An Honorary Member shall not be empowered to execute a notarial act or provide a notarial service in the State or elsewhere by virtue of such honorary title.

16. Annual Subscription

- 16.1 Every Member shall pay the annual subscription to the Faculty for which provision is made in Article 3 of the Articles of Association.
- 16.2 A Member whose annual subscription to the Faculty remains unpaid six months or more after the date on which payment is first requested and who fails to pay the amount due after receiving one months notice in writing from the Secretary requiring payment thereof may have his or her membership terminated pursuant to Article 3 of the Articles of Association.

Faculty of Notaries Public in Ireland

Code of Conduct for Notaries Public¹

ACKNOWLEDGING, that on entering the profession of notary public, he or she is joining an ancient and honourable profession, the acts and instruments of whose members are given faith and credit throughout the world, and anxious that nothing should ever be done by any notary in Ireland which would cause the acts or instruments of any of its members to be called into question for lack of accuracy, form, genuineness, truth or completeness, all members of the Faculty of Notaries Public in Ireland **SUBSCRIBE** to the following code of conduct:-

1. Every Notary shall:-

- 1.1 maintain highest standards of honesty and integrity in and about the performance of the duties of his or her office.
- 1.2 observe such formality and solemnity in and about the performance of his or her notarial functions as may be considered necessary in the circumstances of the case to impress on persons engaging his or her services the importance of the transaction and of the credit which is added to it by the notarial act or instrument, and where the notarial function involves the making or taking of a sworn deposition or affidavit, the solemnity of that act and the sanctity of the oath being administered or taken.
- 1.3 ensure that all document, excluding bills of exchange and promissory notes, with reference to which a notarial act or instrument is to be made, are complete and entire and do not contain blank areas or spaces which may be accommodate the insertion of additional words or figures by some other person.
- 1.4 keep such records about the performance of his or her notarial functions as the notary shall consider necessary in the circumstances; and in particular keep a Protest Book or Register with respect to protests of bills of exchange, promissory notes and similarity with respect to Ship Protests.
- 1.5 insist on proper introduction or identification of persons purporting to make any oath, affirmation or declaration before him or her.
- 1.6 observe great care in taking the oath, affirmation or declaration of a blind or illiterate person with reference to any document; in that regard ensure that the contents and purpose of the document intended to be executed by the blind or illiterate person are first explained to the the blind or illiterate person and then truly, audibly and distinctly read over to such person in a clear and intelligible way; and that all questions raised by such person, following such reading, are fully and truthfully answered before such person is allowed to take the oath, affirmation or declaration and subscribe the document.
- 1.7 observe confidentiality regarding the affairs, business and transactions of clients and not disclose details thereof otherwise than pursuant to an Order of a court of competent jurisdiction or to a person or persons appearing to be entitled thereto or where the interests of the notary or of the profession shall be considered paramount to those of the client.

¹ The Code was adopted at the Annual General Meeting of the Faculty on 21st November 1986.

2. A Notary shall not in the course of his or her duties:-

- 2.1 do, or permit to be done anything which would be likely to discredit the profession or bring it into disrepute.
- 2.2 act as notary or administer any oath, affirmation or declaration in any transaction which is usually effected by a Commissioner for Oaths, unless specifically requested by the client or deponent. A notary who is also a Commissioner for Oaths shall not act in his or her notarial capacity for the reason only of attracting the higher fee payable to a notary.
- 2.3 enter into any fee sharing arrangement with any other person.
- 2.4 refuse his or her services to any person without justifiable cause.
- 2.5 take as notary any affidavit, deposition or sworn testimony intended to be filed in the Courts of Justice in Ireland except when appointed under the Rules of Court to act as a commissioner to take evidence for the use of the Court of foreign tribunal.
- 2.6 execute any notarial act or instrument for a person whom he or she considers to be suffering from any incapacity or under the influence of alcohol or drugs to an extent which would affect or diminish such person's understanding or the transaction.
- 2.7 make any notarial act or instrument with reference to any document placed before him or her which has the appearance of having been tampered with, unless and until he or she receives the confirmation of the party or parties who executed such document that the alterations were validly and properly made.
- 2.8 allow a conflict of interest to exist between his personal or private interests and his duties as notary; and for that reason a notary shall not make a notarial act or instrument with reference to a transaction in which, apart from the making of the proposed notarial act or instrument, he has a personal interest in the outcome. A notary who is in doubt as to the propriety of his or her acting as a notary in a particular transaction, should seek the advice of the Faculty.
- 2.9 allow his or her official seal to be or remain out of his or her custody (other than for the purpose of repair) or fail to exercise such care or control over his or her seal, thereby facilitating its unauthorised use by some other person.