Legalisation of Irish public documents

Policy Guidelines Handbook

Submission of the Faculty of Notaries Public in Ireland

30th April 2026

1. Preliminary

1.1 The Faculty of Notaries Public in Ireland, the representative, regulatory and educational body for notaries in Ireland ("**the Faculty**") welcomes the proposed introduction of written Policy Guidelines.

1.2 Following preliminary comments in this section, we set out:

(a) the Faculty's position on E-notarisation;

(b) a brief note on the Irish notary's qualifications and functions;

(c) a brief note on typical notarial acts of an Irish notary;

(d) the status of an Irish notary's notarial act; and

(e) specific points on the draft Guidelines.

1.3 The Faculty welcomes Guidelines as they have the potential:

(a) to provide legal certainty to notaries, their appearers, and those who rely on notarial acts;

(b) to facilitate the smooth operation of the legalisation process and the free movement of public documents as between different jurisdictions.

1.4 The *Explanatory Report on the Hague Convention of the 5th October 1961 Abolishing the Requirement of Legalisation for Foreign public documents*[1] provides lucid explanations for the need of a smooth legalisation process and this need is ever more the case in what is now an even more globalised economy.

1.5 Notaries in Ireland are the principal and, in a majority of instances the sole, professionals concerned with the legalisation of documents. It is their notarial acts which are at the core of the legalisation process, whether through authentication and consular legalisation, or by Apostille.

1.6 The Hague Convention, as quoted in the draft Guidelines states: "a notarial act is an instrument or certificate drawn up by a notary that may perfect, record, or verify

[1] https://www.hcch.net/en/publications-and-studies/details4/?pid=52

an obligation, fact, or agreement". Such an act typically involves one or more of the following:

(a) the identification of an individual and their status (e.g. as to citizenship or residence) their role or capacity (e.g. as a company director or trustee etc.);

(b) the authentication and /or certification and/or witnessing of the execution of documents;

(c) the certification of facts;

(d) the certification of law;

(e) the certification as to the legal effect of a document.

1.7 Notarial acts, as public documents, are distinctive and unique in that they are received in evidence without further proof as duly authenticated unless the contrary is proven. Whilst an Irish notary will in the first instance act on the instructions of an appearer, once a notarial act is made, the notarial act can be relied upon by any person.[2]

2. E-notarisation

2.1 The draft Guidelines confirm that, at this point in time, only physical hard copy documents may be presented for legalisation. In circumstances where public and other documents are now being issued in Ireland in purely electronic format there is an urgent need for appropriate measures and formulas to enable legalisation of these documents. By way of example

(a) the Registrar of Companies no longer issues certificates of incorporation in hard copy;

(b) the Health Products Regulatory Authority has ceased issuing public documents in hard copy format.

2.2 The Electronic Commerce Act 2000 provides:

> "9.—Information (including information incorporated by reference) shall not be denied legal effect, validity or enforceability solely on the grounds that it is wholly or partly in electronic form, whether as an electronic communication or otherwise."

[2] This is subject, in exceptional cases, to any express limitations as may be stated in the notarial act . Notarial acts are fundamentally different and distinct from legal advices of solicitors or barristers, where such advices are given to clients only, within the regulatory structure of the Solicitors Acts and the Legal Services Regulation Act.

The inability to e-legalise public documents such as these appears to be at odds with current government policy and is problematic when one considers legislative provisions such as the foregoing.

2.3 A robust system needs to be introduced whereby:

(a) entities issuing such public documents can have their digital signatures thereon e-legalised by the Department;

(b) notaries can e-notarise digital-only documents, whether public documents or e.g., communications from utility companies and financial institutions that are used as a matter of course as evidence of an individual's address.

2.4 The Faculty is aware and acknowledges that the Department has made great progress in the introduction of the E-Register and strongly supports the introduction of a system that will enable the Department to issue e-Apostilles and to recognise digital public documents such as the electronic notarial act.

2.5 Irish notaries are ready, willing and able to provide such acts and the Faculty is ready to engage with the Department together with all other stakeholders that issue such public documents to establish a suitable technical framework for the recognition of same.

3. The Irish notary – qualifications and functions

3.1 The Irish notary is the oldest of the three legal professions and predates that of both the solicitor's and barrister's professions. In Ireland, a candidate notary must:

(a) be a solicitor or a barrister with at least five years post-qualification experience in the general practice of law;

(b) attend the one-year postgraduate Notarial Professional Course;

(c) pass the postgraduate examination of the Institute of Notarial Studies of the Faculty; and

(d) make a formal petition pursuant to a notice of motion to the Chief Justice of Ireland in open court, undertaking to be bound by the Faculty's Code of Conduct.

3.2 As a consequence, Irish notaries, a regulated profession, have the experience, training and specialised expertise in public and private international and comparative law to assist those availing of their services in navigating complex transnational legal issues.

3.3 A key function of the Irish notary is to assist in the free movement of documentation as between Ireland and foreign jurisdictions. The Irish notary provides legal certainty as to the verification of the identities of the persons and legal entities involved and the application of Irish law to the transactions and documentation that may be involved in same. The Irish notary plays a key role in liaising with their foreign counterparts to ensure that legal instruments—such as deeds, contracts, and powers of attorney— are valid not only in this jurisdiction but that they can also be accepted as such in the receiving foreign jurisdictions.

4. Documents created by Irish notaries

4.1 An Irish notary can verify the authenticity of a document, e.g.,

(a) that it is genuine;

(b) that it has been validly executed in accordance with Irish law;

(c) that it is a true extract / printout from a public register;

(d) that any photograph appearing thereon is a true likeness of a particular individual.

4.2 An Irish notary can provide certificates independent of any underlying documents, e.g.,

(a) confirming the existence of a company and its particulars;

(b) stating the capacity of a company;

(c) explaining the authority of particular individuals to bind a company;

(d) certifying the validity and enforceability of a document executed by a company.

4.3 An Irish notary can provide certificates as to the status of individuals, for example,

(a) certificates of life confirming, for the benefit of a foreign pension firm or social welfare authority, that a particular individual remains alive. so that they can continue to enjoy the pension that they receive from that foreign jurisdiction;

(b) certificates as to the family relationship of individuals, e.g. of a mother and child with different surnames, so as to facilitate international travel of the child with the mother.

4.4 An Irish notary can provide certificates of law, for example,

(a) as to the entitlement of beneficiaries under a will or intestacy in the event of Irish law applying to the administration of an overseas estate;

(b) in relation to the matrimonial status of individuals and the succession regime that may apply to them.

4.5 An Irish notary can:

(a) witness signatures on documents generally and attest to correct execution of them;

(b) administer oaths and affirmations in affidavits for use overseas;

(c) take statutory declarations under the Statutory Declarations Act 1938, as amended.

4.6 Irish Notaries have specific mandatory roles in relation to:

(a) the noting and protesting of transactions relating to negotiable instruments, as laid down by statute law;

(b) the drawing up of protests or other formal papers relating to occurrences on the voyages of ships and their navigation as well as the carriage of cargo in ships.

5. Status of an Irish notary's notarial act

5.1 The Faculty notes section 3.4 of the draft Guidelines, which quotes from the *Practical Handbook on the Operation of the Apostille Convention*[3]

> "A notarial act is an instrument or certificate drawn up by a notary that may perfect, record, or verify an obligation, fact, or agreement. When authenticated by the signature and official stamp / seal of the notary, the notarial act is a public document under Article 1(2)(c) of the Convention.
>
> In some jurisdictions, the term "notarial act" refers to a function that the notary is authorised to perform, such as certifying the genuine nature of a signature. These are not notarial acts for the purposes of Article 1(2)(c) and will instead fall under Article 1(2)(d)."

Lest there be any misconception, the notarial acts of Irish notaries are those under Article 1(2)(c), not 1(2)(d).

5.2 The documents falling under Article 1(2)(d) are those typically created by non-legal professionals, such as US Notaries. Of the approximately 4.4 million

[3] https://www.hcch.net/en/publications-and-studies/details4/?pid=5888

notaries in the US, it is estimated that more than 90% are neither legal professionals nor legally qualified. The role and authority of such notaries is limited and bears more of a resemblance to Irish peace commissioners than to Irish notaries. US notaries may witness the execution of documents but do not provide certification as to (A) the validity of execution of a document or (B) the application of particular law to a document or (C) the validity of a document, or (D) anything further.

5.3 In contrast to that, the notarial act created by an Irish notary is automatically a public document as defined in Article 1. Once this is established, the Irish State must accept them as public documents. As a consequence, any discretion as to refusal to legalise such public documents must be within a scope which is limited, clear, defined and proportionate.

6. **Specific Observations**

6.1 The Faculty makes the following observations. In ease of review the numbering and order of the policy has been followed.

2. How to apply for the legalisation of an Irish document for use abroad

2.3.1 For urgent matters the general feedback from our membership is that the Department has always been most accommodating once the urgency has been relayed and understood. That said, the Faculty is supportive of the introduction of an Express or Premium Service. There is a willingness to pay an appropriate increased fee in respect of an express service this is especially where there is a family or commercial urgency.

The Faculty acknowledges the work that has been undertaken by the Consular services team to provide consistent and prompt turnaround times to both in person and postal applications and that the allocation of their resources may be limited. If any such funds could be ring fenced in respect of express fees this could facilitate a more agile allocation of their resources to allow for such a service.

2.4 Fees and Payment Methods

The current payment procedures may warrant review in that the introduction of an online payment portal might free up staff resources from having to process such payments. In this regard, we would refer to the practice of the Companies Registration Office, who allow for "accounts" to be maintained and fees deducted from them, provided there is a credit balance.

3.1 What is a public document

We refer to section 5 of this submission. The notarial acts of Irish notaries are public documents.

3.2 EU Regulation on public documents – Documents not requiring legalisation when used inside the EU

Reference should be made also to the European Communities Convention of 25 May 1987 . Article 2 of this Convention confirms that public documents – which include notarial acts – do not require legalisation as between Ireland. Belgium, Denmark, Estonia, France, Italy and Latvia.

3.3 List of public documents accepted for legalisation – No prior certification required

The list is stated to be non-exhaustive and will be of great assistance to service users in determining the circumstances where the Department will be in a position to legalise the public document.

Digital documents:

The inability to deal with public documents in a digital form is discussed above in section **Error! Reference source not found.** of this submission.

Medical reports:

It is somewhat unclear under what capacity and what provision of Article 1 of the Hague Convention that the doctor's signature is being certified. If the signatures of doctors are to benefit from Apostille legalisation, this should be clarified so as to be applicable to documents created in exercise of their function as such. The Faculty would have concerns if it were the case that the Department would allow the legalisation of doctors' signatures where they have signed documents not associated with their professional function such as the attestation of a power of attorney or other non-medical documents.

Documents issued by Irish Government Departments and publicly funded bodies:

- The use of language here has the potential to be unclear and ambiguous. It is clearly not intended that this would extend to all publicly funded bodies and perhaps this can be clarified and more concise language used. A generous interpretation of the language could, for example, extend this remit to sporting organisations and certain charities that are publicly funded. The concept of an "emanation of the State" is one which might be a better legal concept to which to link. There is also a definition for "public bodies" in the Official Languages Act 2003 and the First Schedule to the act which provides a list of such entities and further definitions to pull in/catch all those not listed or not yet in being. This might be of assistance.

3.4 Certification/Attestation of private documents

We refer to our analysis in sections 4 and 5 of this submission. The notarial acts of Irish notaries are public documents.

3.4.1 Notary Public

We refer to our analysis and commentary in sections 3, 4 and 5 of this submission.

3.4.2 Solicitor

We infer that the basis for the recognition of the signatures of solicitors is section 72 of the Solicitors (Amendment) Act 1994 and the extension to practising solicitors of the function of administering oaths and affirmations as well as statutory declarations thus enabling them to undertake tasks previously exercised by a Commissioner for Oaths. We observe however that solicitors do not create public acts and or Notarial Acts and functions such as these may possibly fall under the heading of 1(2)(d) of the Hague Convention.

3.4.3 Commissioner for Oaths

Commissioners for Oaths are not necessarily or always legally trained professionals (solicitors, barristers or notaries) and the role of the Commissioner for Oaths is limited to the performance of their functions as such. Commissioners are not in a position to authenticate documentation or to provide legal certificates in that capacity they cannot create a notarial act .

The draft Guidelines state that solicitors are so empowered to provide such certificates in relation to certified copies. The Guidelines might clarify the basis upon which it recognises that function, as we interpret such certification as being given in a private law rather than public document context. It would appear to be separate and distinct from the function set out in 3.4.2 above. It is important that these functions are referable to the Article 1 definitions in the 1961 Convention. Again, we observe that solicitors do not create public acts, and these functions more likely fall under the heading of 1(2)(d) of the Hague Convention

3.5 List of documents which require certification before being legalised

Certified photocopies of the documents listed in section 5.1 [of the draft Guidelines] above:

Irish Notaries prepare their notarial acts and the certificates therein set out the nature of the task that they have performed. In the case of the authentication of an underlying document, this can be done in several ways:

- by the physical production of the document itself e.g. a birth certificate, marriage certificate, death certificate, university degree, Garda clearance certificate and a physical examination of same;

- by the production of the document by other means electronic or otherwise Where a document has been produced other than in person the notary should set this out in their certificate as well as setting out the role that they have performed.

A common task of an Irish notary is the certification of copy passports, sometimes with specific language that the image of the holder in it is a true likeness. Where a certified copy extract of the passport of an Irish citizen is required to be legalised the only way to do so is via the Department. Where the individual and his or her passport is at a distance or outside the jurisdiction, the only way, other than physically sending their passport back to the Irish notary for certification, is to send it by electronic means. The Department already uses secure electronic means to verify official documentation for the purpose of passport renewals and applications. Similar appropriate and secure options should be open for these purposes.

In all these cases it is the notarial act that facilitates the legalisation of the document as the public document as defined in Article 1 of the Hague Convention. It is the signature and seal of the Irish notary and their capacity as a notary that is being verified by the Department. Provided the Irish notary's certificate is clear as to the task he or she has performed, we submit that there should be no requirement other than within the narrow constraints allowed for in the Hague Convention to look beyond the notarial act.

Psychologist Reports/ Psychotherapist / Counsellor Reports:

There appears to be a distinction being drawn as between medical doctors and reports from these professionals and those of other Corú-registered professionals such as social workers and nurses. It would be helpful for the Guidelines to explain the distinction and the basis upon which medical doctors' reports are acceptable for legalisation directly while these reports are not.

Embalming Certificates:

Issues can arise in the certification of such certificates where the credentials of the embalmer have been issued outside of Ireland which currently falls foul of the Department's so called "foreign document" rule.

Non-Irish Passports:

The Faculty has raised this issue with the Department on several occasions. In practice several embassies will not provide the verification that has been

requested as set out in the draft Guidelines. We submit that it should be open to the Department to issue Apostilles for notarial certificates of copies of certain non-Irish passports.

The verification of such identification documents is a key element in the fight against money laundering and terrorist financing. Irish notaries as designated persons / obliged entities play a crucial role in the authentication and verification of such documents so that they can be relied upon in foreign jurisdictions. The Irish notary applies the same due diligence to foreign documentation as they do to domestic documents.

On every Apostille it is stated:

> "This Apostille certifies only the authenticity of the signature, the capacity of the person who has signed the public document and the identity of the seal or stamp which the public documents bears … This Apostille does not certify the content of the underlying document."

The Apostille or legalisation certificate does not extend to validate in any way the underlying document and simply verifies the fact that the Irish notary has signed and sealed their certificate and that they have done so in their capacity as a notary. It will be up to the receiving entity to examine the certification provided and decide whether it is acceptable to them and whether they wish to rely on the notarial act provided.

The Faculty appreciates that it does not want the Irish State to appear to validate a document which may transpire to be a forgery or fraudulently obtained or to be the passport of a deceased person. We also note that Irish notaries will, as a matter of practice, be most familiar with the passports of certain jurisdictions, in particular those of our closest trading neighbours. We therefore propose this formula with a view to facilitating the Department to issue Apostilles for notarial certificates of copies of certain non-Irish passports. The conditions would be these:

- The passport must be an in-date passport from a list of countries that are acceptable to the DFA.
- The notarial certificate must state that:
    - the notary has met the holder, either in person or by videoconference;
    - the image of the holder is a true likeness of the holder.
- The notarial certificate must include a paragraph:

> "I draw attention to the wording of any Apostille attached to this certificate, which certifies only the authenticity of my signature and my seal as an Irish notary and does not certify the content of any underlying document."

Documents containing Translations:

Recognised translators. Article 5 of Directive 2010/64/EU of 20 October 2010 on the right to interpretation and translation in criminal proceedings imposes upon member states the requirement in certain criminal matters to create a register of suitably qualifies translators.

> "In order to promote the adequacy of interpretation and translation and efficient access thereto, Member States shall endeavour to establish a register or registers of independent translators and interpreters who are appropriately qualified. Once established, such register or registers shall, where appropriate, be made available to legal counsel and relevant authorities."

No such Registry has as of yet been introduced by the Irish state and as such the consular section of the Department now finds itself in the invidious position of determining the acceptable standard of the translators involved. There is no provision to deal with those notaries who have additional language skills. A mechanism to have those skills recognised by the Department would be very welcome. Such a mechanism would involve the Irish notary concerned providing evidence to the Department of their competence such as:

- university or language school degrees or diplomas;
- published material in the relevant foreign language;
- being a native speaker of the relevant foreign language.

CRO and ATII registration. A further concern arises in relation to the apparent requirement that the translator must be either registered with the ATII or alternatively have a valid registration number with the CRO. Mere registration of a company with the CRO does not have any bearing on the qualifications of the translator involved.

The requirement also potentially falls foul of EU free movement provisions. Where a translation has been provided by a registered or recognised translator in another EU state a rejection of their translation solely on the basis that they are not registered with the ATII or the CRO would appear to be problematic.

Translation of foreign passports and other documents. We submit that this should be possible in the case of EU passports, as described above.

Documents in dual language format:

The distinction drawn in relation to the use of the word translation / version is somewhat artificial and the reasoning behind the distinction remains unclear.

We note that the Department do not require a formal translation of the foreign text in circumstances where it is stated in the dual-language document that the texts are each a valid version of the other and that accordingly the Department can rely on the English or Irish text as the case may be to understand what is involved.

Affidavits

Affidavits and Statutory Declarations in Ireland are administered in accordance with various statutes and the Rules of the Superior Courts. Whilst it is an option, it is not a requirement under Irish law that the deponent or declarant be stated in the affidavit or declaration as having been identified by the Irish notary by way of photographic documentation.

Irish notaries will (as required by their legal obligations under the Criminal Justice (Money Laundering and Terrorist Financing Act 2010) always identify the individuals appearing before them and keep appropriate records in relation to such identification. If there is any cause for concern the Irish notary can be contacted and provide any clarity. The certification in this instance is that the oath or declaration has been validly administered or taken, and it is the signature, seal and capacity of the Irish notary that is being legalised and not the signature of the deponent or declarant that the Department are certifying.

Exhibits to affidavits

A number of issues arise with exhibits:

- Whilst all items stated to be exhibited in an affidavit/statement or declaration should be present and signed with the affidavit or declaration, affidavits or declarations may in certain instances make reference to a prior exhibit or document that may have been lodged with the court and accordingly, such exhibits will not be signed by the deponent / declarant or Irish notary.

- Litigation outside Ireland will frequently of necessity refer to foreign documents, in which event it will expose the affidavit / declaration to the risk of not obtaining an Apostille.

  If one takes the example of a multi-national company established with a branch / European headquarters in Ireland taking a legal claim in another jurisdiction requiring the administration of an affidavit / declaration, the appropriate officer who may ultimately be called upon to give their

evidence in relation to a matter in a foreign tribunal will not be able to include any exhibits which did not originate in Ireland. This can have serious implications for the smooth running of the particular case and amounts to an unnecessary, unreasonable and disproportionate interference.

We would repeat the point that the Apostille is related to the notarial act certifying the due administration of the oath or taking of the declaration and the certification of the signature and underlying seal of the Irish notary and their capacity it does not extend to the underlying affidavit itself, the deponent or to any of the exhibits involved.

We submit that an Apostille should be capable of being issued in respect of (A) an affidavit or declaration making reference to foreign documents or (B) notarially certified exhibits consisting of or containing foreign documents, where the affidavit or notarial certificate, as the case may be contains this text:

> "I draw attention to the wording of the any Apostille attached to this [affidavit] [declaration] [certificate], which certifies only the authenticity of my signature and my seal as an Irish notary and does not certify the content of any underlying document."

Powers of Attorney

We observe that the text under this heading appears to be more relevant to affidavits than to powers of attorney. Powers of attorney in Ireland are governed by the Powers of Attorney Act 1996 as amended. There is no requirement for an affidavit. The power of attorney can include an attestation clause / certificate that may provide further details, but this is not necessary.

In most instances where an Irish notary is involved, they will be providing a notarial act containing a certificate to the effect that the power of attorney has been executed by the persons or entities identified, validly and in accordance with Irish law.

4 Documents not accepted for Legalisation

Foreign documents:

We have addressed the blanket rejection of "foreign documents" above as being an unnecessary and disproportionate restriction. We submit that any public policy underpinning this policy can be fulfilled otherwise than by blanket rejection.

Dual language documents where the notary/Solicitor has only applied a certification to the foreign language document

It is not clear what the concern is here. If it is a concern that the notarial act only appears in the foreign language, then this can be addressed by a requirement that the Irish notary provide an English language version / translation so that the Department can understand the notarial act and accept it as a public document and legalise the notarial act as such.

Multilingual Standard Forms

A restriction on the use of such forms defeats the purpose for their use. Many EU and EEA state authorities issue such forms in ease of the administrative burden for users availing of their services. These can range from documents as simple as certificates of life for social welfare and pension authorities to administrative application forms. The Department is prepared to accept dual language documents so long as the word “translation” does not appear thereon and this appears to be inconsistent with that. We submit that this be removed from the list.

Individual documents which have an expiry date that has passed, and bundles that contain these documents

The inclusion of these documents can be necessary by way of exhibits in affidavits, statements and declarations or indeed as may be necessitated for foreign visa applications. Copies of previous passports or other documentation showing residency or entry and exit stamps are often required. We would repeat that the Apostille is not certifying the underlying document, it is recognising the signature and seal of the Irish notary.

Documents containing only an electronic signature

State documents. There is a growing cohort of State bodies that issue or make available documents in electronic form only and/or with electronic signatures, such as the Registrar of Companies and Health Products Regulatory Authority referenced above in paragraph 2.1 of this submission. We observe that there are different policies applied by the Department in particular scenarios.

- Where a digitally-signed certificate of incorporation is downloaded from the Companies Registration Office website, the Department requires this statement in the notarial certificate, suitable adapted:

  "I certify that the attached document in x pages is a true copy print out of the original digital document which I have verified with the issuing authority this xx day of xx, 20xx"

- Where an image of a duplicate non-digitally signed certificate of incorporation is downloaded from the Companies Registration Office website, the Department does not require such a statement, and is satisfied to rely on the Irish notary's having satisfied him or herself that it is a true copy.

When an Irish notary downloads a document from the CRO he or she is in a position to certify it as a printout as downloaded by them from the public register. It is immaterial if the document itself may have contained digital signatures. The certification does not extend to the due execution of the document involved in this instance, but rather to the copy as filed. It is similarly the case with Revenue documents, where one can verify the authenticity of a Revenue certificates by downloading directly from the Revenue ROS platform.

We submit that the Department should accept a certification by an Irish notary as to the authenticity of a document downloaded from any State body, where an image of a hard copy document, an entry in a register, or a document with a digital signature, without any requirement for special wording in the notarial certificate. In the case of all of these circumstances, the Irish notary will undertake the same due diligence as they do in dealing with hard copy original or wet ink signed documents.

Educational Certificates not registered with/recognised by QQI

This is an example of where the foreign document public policy is implemented in a measured way. There are good reasons for imposing restrictions such as referenced in the Guidelines relating to so called "Diploma Mills" issuing diplomas and doctorates of very questionable quality and their certification and authentication. The introduction of the QQI requirement is a reasonable limitation in that instance and is an example of how such public policy aims can be achieved.

Notarial Statements that certify that a document complies with legal requirements of a foreign country if the notary is not qualified to make such a statement:

We accept that it is not the function of the Irish notary to certify compliance of an Irish document with foreign law, unless the Irish notary is for example dual qualified. However, an underlying document, the due execution of which has been witnessed and certified by an Irish notary will frequently contain statements as to its validity and legal effect in the destination jurisdiction; it is the underlying document that asserts this, not the Irish notary.

In addition, section 41 of the Companies Act 2014 provides:

> "(1) Notwithstanding anything in its constitution, a company may empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds or do any other matter on its behalf in any place whether inside or outside the State.
>
> (2) A deed signed by such attorney on behalf of the company shall bind the company and have the same effect as if it were under its common seal."

It is not unusual for the Irish notary to certify that the power of attorney has, as a matter of Irish law, validity outside the State, and we submit that this should not be an obstacle to the issue of an Apostille on such a certificate.

In addition to ensuring that documents are validly produced / executed in this jurisdiction there may be additional requirements that must be met for the documents to be valid in the receiving jurisdiction. In those instances, the Irish notary works closely with their foreign counterparts to ensure that the documentation works not only in this jurisdiction but also works in the receiving jurisdiction. Occasionally a notarial certificate may contain a statement confirming compliance with a local requirement, such as in certain countries where a document must be witnessed by a man rather than a woman or by two witnesses etc.

Documents that have previously been notarised by a foreign notary, unless this is specified in the notarial certification/statement

Documents that have been certified by a foreign notary Public

It is not unusual for the execution of documents to require the assistance of several notaries all dealing with a specific element relating to their jurisdiction.

A deed may have to be signed by a number of different parties all residing in different locations. In each case, a notary may be called upon to provide a notarial act containing a certificate that confirms that the document has been validly executed as a deed by the particular individual attending before them. This would potentially involve several signatories all having their signatures notarised and legalised in their respective countries. The legalisation in this instance by the Department is only of the Irish notary it does not extend to any other signatory.

Certified documents stating that the underlying document is a true translation of an original without an accepted translation

We refer to our commentary above regarding translations. In the case of an Irish notary with the necessary language skills to provide such certificates, there needs to be a procedure to have this competency accepted by the Department.

It has not been notarised correctly.

It is unclear what level of scrutiny in involved here. Seals can be omitted, signatures forgotten or typographical issues arise. This is rare but it does happen and the reports that we have received from our members is that the Department is very helpful in resolving these kinds of issues with the notaries involved directly.

It is possible to read the above in a broader sense giving the Department an arbitrary power to determine the language form and specific text that would constitute in their view a "correct" notarisation. If this was to be the case it would constitute a considerable overreach into the regulation of the notarial profession which is regulated under the auspices of the Chief Justice and the Professional Practice Regulations of the Faculty.

We request that what is being addressed here be specified. The Faculty is supportive of rules that require notaries:

- to sign and affix their seal to every document they notarise;
- to specify the place (city or county) where the Irish notary is signing the certificate;
- to be clear in their certificate in what the Irish notary is certifying – i.e. stating to be the case;
- to restrict "rubber stamp" notarisations solely to certification of copies of documents.

We believe that drawing attention to these four fundamental rules would be a better way to address this issue.

We look forward to a replyto the clarifications sought above and to engage with the Department on any aspect as may be requested.

We reserve the right to furnish further submissions and/or comments.

END