The Faculty of Notaries Public in Ireland

Office of the Registrar,
Ross Mc Mahon, N.P.,
Registrar

5/6 Upper O'Connell Street, Dublin 1
Eircode: **D01 P5P5**
DX: 112020 Talbot Street
Tel: 00 353 (0)1 497 3548
Email: info@notarypublic.ie

www.notarypublic.ie

Legalisation of Irish public documents

Policy Guidelines Handbook

V2 October 2026

Further Submission of the Faculty of Notaries Public in Ireland

13th November 2026

The Faculty of Notaries Public in Ireland (the Faculty) acknowledge with thanks the latest iteration of the draft "Legalisation of Irish Public Documents" Policy Guidelines Handbook of the Department of Foreign Affairs and Trade (the Department) for the application of Authentication and Apostille stamps. The Faculty welcomes the opportunity to make further comments and observations in relation to same.

Submissions of the Faculty of Notaries Public in Ireland 30th April 2026

It is acknowledged that Faculty's previous submissions have been incorporated to a certain extent into Department's latest draft, but it is noted that many of the issues

highlighted and the points raised and suggestions remain to be addressed. We strongly encourage the Department to review our submission again. The current review is a unique opportunity for the Department to reset and review and implement new policy rules based on best practice and legal certainty that will deliver for the Public, Irish Business and enhance the reputation of the Department and the State.

Article 1(2)(c) of the Apostille Convention

The Faculty notes the acceptance by the department that the Notarial Acts created by Irish Notaries are public documents within the meaning of Article 1(2)(c) of the Apostille Convention. The additional reference to The Handbook on the Practical Operation of the Apostille Convention (second edition, 2023, page 54) and the definition of a notarial act is helpful but the text set out below does not apply to the Irish Notary and their acts and should be deleted.

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)."

The inclusion of this paragraph is likely to create confusion and may potentially damage the standing of Irish Notaries if the nature of their Notarial Acts is to be questioned by recipients.

The above distinction in relation to the nature of the documents created by an Irish Notary can perhaps be better distinguished in the explanatory paragraph on page 12 of the text relating to Legal Professionals. An adjustment to the drafting along the lines set out below will avoid any potential confusion and the potential difficulties outlined above

Documents that have been correctly notarised by an Irish Notary Public are generally eligible for legalisation.

Documents certified by an Irish Solicitor, depending on their type, and depositions, such as affidavits and statutory declarations, sworn or made before an Irish Solicitor or Commissioner for Oaths may be eligible for legalisation, depending on the nature of the certification or attestation.

It is important to emphasise to the public that they should clarify with the intended recipient of their legalised document as to what exactly the requirements of the end user are. If a Notarial Act is required, this can **only** be provided by an Irish Notary.

Powers of Attorney

Where an Irish Notary is involved in providing a certificate in respect of a Power of Attorney it is the Notarial Act appearing thereon or bound thereto that constitutes and satisfies the Public Document requirement for legalisation. It is the signature and seal of the Notary that is being legalised not the execution by the parties of the underlying document or the contents thereof.

The formalities to be observed and the applicable law of the document will vary depending on the circumstances and the requirements of the receiving jurisdiction. The role of the Department in legalising the Notary's signature and seal does not extend to the validity, execution or formalities observed in relation to the underlying document.

The role being performed by the Irish Notary should be clear from their certificate. The underlying reason for the involvement of an Irish Notary is to provide legal certainty as to the matters that they are providing certification and assuming liability for. The involvement of an Irish Notary is in many cases required by the end recipient to dispel fraud concerns.

Certificates of Law

In relation to an Irish Notary and their provision of a notarial certificate of law, as discussed on page 19 of the draft policy, the current wording of the proposed policy guidance is likely to cause confusion. It is accepted that where such a certificate is being provided by the notary, they must do so in their capacity as an Irish Notary and not in their capacity as a solicitor.

The qualification, training and continuous professional development of the Irish Notary has already been set out in some detail in the Faculty's submissions. There is a requirement that candidates wishing to attend the Notarial Professional Practice

Course have at least 5 years post qualification experience as either a solicitor or a barrister. Many continue to practice as such following their appointment.

There can be a significant overlap in the legal subject matter and substance that is dealt with by an Irish Notary and the other two legal professions.

In providing their notarial acts, incorporating certificates of law, the Irish Notary is assuming liability for those statements to the world at large. These certificates do not constitute legal advice to a client. These acts are distinguishable from other kinds of certificates and opinions that may be provided by other legal professionals. The origin of the Irish Notary's knowledge and expertise is immaterial.

To suggest that an Irish Notary who has also practiced in a particular area of the law in another capacity should somehow close themselves to that accumulated knowledge and expertise is entirely illogical and unworkable.

There are strict rules set out in the Faculty's Code of Conduct and Professional Practice Regulations in relation to conflict of interest in the provision of notarial services. These prohibit the Irish Notary providing notarial services in respect of a matter in which they or their firm is involved in in their capacity as a Solicitor or indeed a Barrister as the case may be.

The proposed language of the draft policy is incapable of any meaningful application. The Department, if they were to apply this would have to carry out a detailed exercise in examining the Notary providing the certificate in each instance to determine what knowledge and expertise may have been accumulated and in which capacity they may have gained that knowledge.

A Notary Public who prepares a certificate of law in that capacity, should not give opinions on the law in the same certificate on the basis of their qualifications and expertise as a Solicitor.

A statement confirming the position that "*An Irish Notary cannot provide a certificate of law in a matter where they or their firm are acting in their capacity as a Solicitor*" may perhaps avoid the pitfalls outlined above.

1987 Convention Abolishing the Legalisation of Documents in the Member States of the European Communities – P21 of the Draft Policy

The text should be updated to include Cyprus who acceded to the convention in April 2005.

Authority of Company Directors – P27 of the Draft Policy

The role of the Irish notary in relation to the signatures affixed to certain corporate documents does not in every case extend to the capacity and authority of the person signing. An Irish resident individual may need to sign corporate documents in respect of a foreign corporate entity such as a subsidiary of an Irish company operating abroad or indeed of a foreign parent company. The governing law and rules in relation to the capacity of the individual signing will not be a matter for the Irish Notary to certify and their role and accompanying certificate may be limited to the identification of the individual concerned and their execution of the document. The matter of capacity may be one that is dealt with by the ultimate recipient.

The prescription of a requirement to specify the capacity of the individual executing a document is not necessary and goes beyond the scope of the role of the Competent Authority. The Notarial Act should in all cases be sufficiently clear so that the end user can readily understand the level of liability that the Irish Notary is assuming for the statements set out therein. The Competent authority should not look beyond the Notarial act save where there are concerns in relation to fraud or other legitimate and proportionate public policy concerns.

Translations

The Faculty has highlighted in its submissions concerns in relation to the draft proposals relating to translations. The issue is one which will ultimately require legislation as to the effective regulation, training and qualifications of those providing translation services.

In limiting as a general rule, the admissibility of translations to Irish providers only, the Department puts itself at risk of falling foul of and breaching EU freedom of movement provisions. Careful consideration needs to be given to implement a suitable mechanism for the acceptance of translations that have been prepared by translators operating to comparable Irish standards. This consideration needs to

extend to the inclusion of appropriate safeguards in establishing the satisfactory credentials of these entities.

Verified Professional Channel

The Faculty in their Submission has highlighted the willingness amongst members of the profession to pay or subscribe to a premium / express service. The Faculty has been copied with the submissions of Stephen O'Herlihy Notary Public of the 6th November 2026 wherein the merits of such a service are set out.

The Faculty would support the establishment of a suitable additional service level and is open to further discussions as to how this may operate. Suitable criteria can be established and agreed in respect of the kinds of documents and notarial acts that might be suitable and appropriate for such a service. Users of the service would necessarily need to undertake that only such agreed documents would be submitted. The Faculty would be happy to engage in relation to the establishment of such a service and the establishment of a pilot scheme.

Communications to Service Users

Once the final Policy is adopted it will be necessary for the Department to promote and to publicise same. The Faculty is happy to assist in facilitating same in respect of our members.

We look forward to a reply to 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