

Federal Law no. 4 of 2013

Issued on 6/06/2013 AD

Corresponding to 27 Rajab 1434 H

REGULATING THE PROFESSION OF NOTARY PUBLIC

Abrogating

Federal Law no. 22/1991 dated 16/12/1991 AD

We, Khalifa bin Zayed Al Nahyan President of the United Arab Emirates

After perusal of the Constitution,

The Federal Law No. 1 of 1972 on the Law on the Competencies of the Ministries and Powers of the Ministers, and its amending laws,

The Federal Law No. 6 of 1978 on the Establishment of Federal Courts and Transfer of the Jurisdiction of the Local Judicial Authorities in some Emirates to them, and its amending laws,

The Federal Law No. 3 of 1983 on the Federal Judiciary, and its amending laws,

The Penal Code promulgated by Federal Law No. 3 of 1987, and its amending laws,

The Federal Law No. 22 of 1991 on the Notary Public, and its amending laws,

The Law of Evidence in Civil and Commercial Transactions promulgated by Federal Law No. 10 of 1992, and its amending laws,

The Civil Procedure Law promulgated by Federal Law No. 11 of 1992, and its amending laws,

The Criminal Procedure Law promulgated by Federal Law No. 35 of 1992, and its amending laws,

The Federal Decree-Law No. 11 of 2008 on Human Resources in the Federal Government, and its amending laws,

The Federal Law No. 6 of 2012 regulating the profession of translator,

And according to the suggestion of the Minister of Justice, the approval of the Council of Ministers and the Federal National Council and the ratification of the Federal Supreme Council,

Issued the following Law:

Chapter 1

Definitions

Article 1

The following words and expressions shall have the meanings stated beside them, unless the context requires otherwise:

State: The United Arab Emirates

Ministry: Ministry of Justice

Minister: Minister of Labour

President of the Court: President of the competent Court of First Instance

Unit: Competent Administrative Unit of Notary Public at the Ministry

Board: Private Notaries Admission Board

Notary Public: Legal specialist assuming the tasks contained in this Law, including two types: public notary public and private notary public

Public Notary Public: Public employee appointed at the Ministry and specialized in the works stated in this Law

Private Notary Public: Whoever licensed to exercise the Notary Public works according to the provisions of this Law

Record: Manual or electronic record prepared for writing and recording transactions conducted by the Notary Public

Instrument: Every document or contract made, authenticated or notified to the concerned persons according to the provisions of this Law or any other Law

Redaction: Creating or writing the document directly by the Notary Public upon request of the concerned persons and authenticating the same at the record

Authentication: Manual or electronic ratification of the Notary Public on the signature or thumbprint of the concerned persons

Concerned Persons: Whoever requires the redaction of a document or the authentication of his signature thereon or requires to prove the date of the instrument or any transaction made by the Notary Public under the provisions of this Law

Chapter 2

Competencies of the Notary Public

Article 2

The Notary Public shall:

- 1- Write contracts and instruments.
- 2- Authenticate the signatures of the concerned persons.
- 3- Prove the date of common law documents as stipulated in this Law.
- 4- Tender the oath.
- 5- Write and authenticate sworn statements.
- 6- Notify the warnings and protests that he writes or authenticates the signatures thereof to the concerned persons upon their request according to the provisions of this Law.
- 7- Place the writ of execution on the instruments edited or authenticated by him according to the provisions of this Law.
- 8- Any other competencies assigned to him under another Law.

Section 1

Writing Contracts and Instruments

Article 3

The Notary Public shall write the contracts and instruments required under the Law by the concerned persons to be written and proven in the record prepared for the same, keep the original copies thereof, give the copies required by the concerned persons and prove the same in the record.

Article 4

1- The Notary Public shall, before writing the contracts and instruments, verify the identity of the concerned persons by perusing their identity cards, passports or the like or any other official document issued by the State.

2- The Notary Public shall verify the capacity, characteristics and satisfaction of the concerned persons before reading the contracts and instruments for them. He shall warn them as per the consequences of general powers of attorney and contracts' documents, particularly the joint-liability companies and limited partnerships. He shall prove in the record that the reading has actually taken place in their presence and they were aware of the content thereof.

Article 5

1- If one of the concerned persons was illiterate, the Notary Public shall take his thumbprint and prove the same in the record.

2- If one of the concerned persons suffers from a handicap that prevents him from signing or making a thumbprint, he shall nominate a person whose identity shall be verified by the Notary Public through his identity card, passport or the like, and shall assign him to sign on his behalf at the end of the instrument and prove the same in the record.

Article 6

1- If the Notary Public does not know the language of the concerned persons, he shall hire a certified translator to translate all that he requires in the presence of the concerned persons. If he was unable to do so, he shall ask the concerned persons to bring a translator who shall take an oath before him and sign at the end of the instrument. This shall be proven in the record.

2- If one of the concerned persons suffers from a disability that prevents him from expressing his will in a natural manner, the Notary Public shall refer to a competent expert or assign any person he deems convenient upon the request of the concerned persons, to provide assistance. He shall put the assistant to oath and let him sign at the end of the document, while he proves the same in the record.

3- If one of the concerned persons suffers from a mental disability, the custodian appointed by the Court shall sign on his behalf.

4- The concerned persons shall bear the fees of the translator or the assistant.

Article 7

The record in which the contracts and instruments shall be proved, shall be numbered with serial numbers according to the dates, without any deletion, erasure or addition. In case of omission, error, need for correction, deletion or addition, this shall be done manually or electronically in the presence and with the signature of the concerned persons and the Notary Public shall sign the correction.

Section 2

Authentication of Signatures

Article 8

The Notary Public shall authenticate the signatures of the concerned persons in the common law documents upon their request, prove the authentication in the record and give certificates according to this record.

Article 9

1- The Notary Public shall, before the signing of the concerned persons, verify their identities, capacities, eligibility, satisfaction and awareness of the subject of the instrument to be authenticated. After the signature of the concerned person on the instrument and the record, the Notary Public shall write a report of the same at the end of the instrument signed and sealed by his seal. He shall then hand over the instrument to the concerned persons after signing an acknowledgment of receipt in the authentications' record.

2- Certificates shall be given from the authentications' record to the concerned persons requiring the same. No certificates shall be given to others without a written order from the President of the Court.

Section 3

Putting to Oath, Writing and Authenticating Sworn Statements

Article 10

1- The public Notary Public shall put persons to oath, write and authenticate sworn statements and verify the identity, eligibility, capacities and satisfaction of the concerned persons before writing and authenticating sworn statements.

2- The private Notary Public may apply for putting to oath and authenticating sworn statements, according to the conditions and procedures prescribed by the implementing regulations of this Law.

3- The Notary Public shall prove the above-mentioned two paragraphs in the record prepared for the same, keep the original versions of the statements and give a copy thereof to the concerned persons.

Section 4

Proving the Date of Instruments

Article 11

1- The Notary Public shall prove the date of the common law documents with serial numbers in the record prepared for the same, write a report at the end of the instrument proving the date of submittal and the number of listing, signed and sealed by the Notary Public and handed over to the concerned persons.

2- The dates' proof certificates may be given from the authentications' record to the concerned persons requiring the same. No certificates shall be given to others without a written order from the President of the Court.

Section 5

Placing the Writ of Execution

Article 12

1- The Notary Public shall seal the instruments written or authenticated by him according to the provisions of this Law and including consolidated and due obligations of specified amounts, with the writ of execution at the request of the concerned persons. Only one copy shall be handed over to the concerned person who has interest in the implementation of the content thereof.

2- It shall not be allowed to hand over a second executive copy to the concerned person unless according to a written order from the President of the Court in case of loss of the first copy or incapacity of use thereof.

Chapter 3

Duties and Prohibitions of the Notary Public

Article 13

The Notary Public shall:

- 1- Hold a manual or electronic record for writing and recording transactions.
- 2- Keep numbered files according to the dates of the original versions of the instruments written or authenticated by him or of which the dates or any other transaction are proved by him.
- 3- Keep a copy of any documents or instruments he relied upon at the time of the transaction according to the provisions of this Law.

Article 14

The Notary Public shall not:

- 1- Authenticate the signatures of the employees working in the federal government, local government, public authorities or public institutions of any of either governments, on the certificates, documents or other papers signed by them due to their professions at their employers.
- 2- Write, authenticate signatures or prove the date of the instrument if the eligibility, capacity or satisfaction of the concerned person was not proved or if the subject of the instrument is apparently invalid, violating the legislations in force, the public order or morals or intended to commit an act of fraud, while stating the reasons of prohibition. The concerned persons may appeal within seven days from the date of being aware of the same before the President of the Court. The decision of the latter shall be final.
- 3- Write or authenticate any contracts or instruments related to the personal status of Muslims or the Waqf.
- 4- Write or authenticate any contracts or instruments related to the establishment of the right of ownership or any right in rem on a real estate, transfer, change or remove the same.
- 5- Write or authenticate a contract of sale, donation or mortgage of a commercial shop before publication of the same in a daily newspaper widely spread in the State, fourteen days at least before conducting the transaction.
- 6- Write or authenticate any contracts or instruments stipulated by the Law that the writing or authentication thereof shall be the competence of another authority.
- 7- Commence any action where he, one of his ascendants, descendants, spouse or their parents, has an apparent or hidden personal interest or accept any of them as translator or assistant.
- 8- Disclose any information related to the concerned persons, obtained or perused by him due to his work.
- 9- Give any copy of the official documents to other than the concerned persons without the written permission of the President of the Court.
- 10- Move any record, documents, instruments or other official papers held by him to outside the office. The Public Prosecution may peruse the same at the place thereof or request their annexation by a written permission from the President of the Court. None of them shall be annexed to the file of a reviewed lawsuit unless by a decision from the Court. In such event, a copy thereof certified by him and by the President of the Court shall be kept.

- 11- Take commerce as his profession.
- 12- Combine his job with any other public or private profession.

Article 15

The concerned persons or their agents shall appear before the Notary Public by themselves.

Chapter 4

Public Notary Public

Article 16

Whoever appointed as public notary public shall:

- 1- Be a citizen of the State.
- 2- Be holder of a degree in Law or Sharia'a from a recognized university in the State.
- 3- Not be convicted of a crime involving moral turpitude even if he has recovered his civil rights.
- 4- Pass the prescribed procedures and tests.

Article 17

The public Notary Public shall not move outside his office to conduct any transaction stipulated by the Law, unless according to the controls specified by the implementing regulations of this Law.

Article 18

The public Notary Public shall be appointed by a decision from the Minister. His workplace shall be specified in the Courts or at any other place as deemed by the Unit.

Article 19

The accredited State's consuls or their representatives in diplomatic missions shall carry out the works of the public Notary Public outside the State, according to the controls promulgated by a Council of Ministers' decision upon the Minister's suggestion.

Article 20

1- The Council of Ministers shall issue – upon the Minister's suggestion – a special Law for the human and financial resources of the public Notary Public, provided that the provisions regulating the profession of the public Notary Public remain in force until the issuance of this Law.

2- The public Notary Public shall be granted a nature-of-work allowance at 50% of the basic salary of the occupied position.

3- The Minister shall issue a decision for the accommodation of the public Notaries upon issuance of the Council of Ministers' decision set forth in paragraph 1 of this Article.

Article 21

The provisions of the Human Resources Law in the federal government and all laws and regulations related to the public profession's affairs, shall be applied on the public Notaries for all that is not stated in the said Law indicated in Article 20 hereof.

Chapter 5

Private Notary Public

Article 22

1- A Board shall be formed by the Minister's decision under the name (Private Notary Public Admission Board) with not less than six members including the President and Vice-President, in addition to a Notary Public.

2- The Board shall hold its meetings upon convocation of its President to review the submitted applications. The meeting shall be considered valid in the presence of the majority of the members and its decisions shall be issued by

the majority of the votes of the members present. In case of equality, the side for which the President voted shall prevail. The implementing regulations of this Law shall determine the Board's work system and competencies.

Article 23

The Board shall authorize the citizens who already worked for a period of not less than five years in judicial work or its equivalent in Public Prosecution professions, at Fatwa and Legislation Departments, State affairs, teaching Islamic Sharia or Law in a recognized university or higher education institutes or any other legal work considered equivalent to the work in the judiciary and Public Prosecution according to the implementing regulations of this Law, or the works of the public Notary Public, to carry out the works of private Notary Public as per the conditions set forth in paragraphs 2, 3 and 4 of Article 16 hereof, in addition to any other conditions and procedures specified by the implementing regulations of this Law.

Article 24

In exception to paragraph 12 of Article 14 hereof, the working lawyer may exercise the works of the private Notary Public if he has the experience set forth in Article 23 hereof and after the consent of the Board.

Article 25

1- A table for the registration of the private Notary Public in the State shall be created at the Unit and the implementing regulations of this Law shall specify its statements and registration procedures.

2- The private Notary Public shall not be registered in the table unless he pays the prescribed fees and he concludes professional liability insurance at an insurance company licensed in the State, according to the controls specified in the implementing regulations of this Law.

Article 26

The private Notary Public shall exercise his works through an office licensed for that purpose or through a law firm. The implementing regulations shall specify the conditions necessary for the establishment of these offices and the supervision thereof.

Article 27

The Board shall review the irregularities of the private Notary Public committed in violation to the provisions of this Law and its implementing regulations.

Article 28

1- The Board shall notify the private Notary Public and the Manager of the office through which he works of any complaint submitted against the private Notary Public, to respond to it within fifteen days from the date of notification thereof. The complaint shall be submitted to the Board accompanied with the response of the private Notary Public to decide concerning its archiving or transfer to investigation.

2- The private Notary Public may appeal against the Board's decision within fifteen days from the date of notification thereof before a Grievance Committee formed by a decision from the Minister. The Committee shall decide concerning the appeal within fifteen days from the date of submittal thereof.

3- The concerned persons may appeal the decision issued for the rejection of the appeal or expiry of the period specified for the settlement thereof without issuance of a decision by the competent Court of Appeal, within fifteen days from the date of notification of the rejection of the appeal or expiry of the settlement period without issuing a decision, and its judgment shall be final.

Article 29

1- No disciplinary sanction shall be imposed on the private Notary Public unless after conducting a written investigation with him and hearing his statements.

2- The investigation with the private Notary Public shall be conducted with a Public Prosecution member with the position of at least Attorney General at the request of the President of the Board.

3- The Attorney General may archive the investigation or refer the private Notary Public to the Disciplinary Board.

Article 30

The private Notary Public shall be disciplined through a Disciplinary Board formed by a decision from the Minister as follows:

- 1- One of the Presidents of the Courts of Appeal as President and with the membership of two of the judges selected by the Minister.
- 2- The Disciplinary Board may assign one of the Court of Appeal employees to conduct Secretariat works.

Article 31

1- The disciplinary action shall be filed before the Disciplinary Board by one of the Public Prosecutors assigned by the Attorney General. It shall be submitted by a petition including the accusation and the evidence supporting the same.

2- The Public Prosecution shall assign the private Notary Public to appear before the Council ten days at least before the date specified for the session. It shall pursue the disciplinary action until settlement thereof.

3- The Disciplinary Board shall proceed with the disciplinary action in the absence of the Notary Public transferred to discipline, if he refuses to attend the Disciplinary Board sessions without giving an acceptable excuse.

Article 32

The Disciplinary Board shall conduct itself the investigations it deems necessary, may appoint one of its members for the same and may suspend the private Notary Public from the commencement of the work until the end of the trial.

Article 33

The Disciplinary Board's sessions and deliberations shall be confidential and its decisions shall be issued by majority including the reasons thereof. The private Notary Public shall be notified of the decision within fifteen days from the date of issuance thereof.

Article 34

1- The private Notary Public who violates the duties and prohibitions set forth in this Law shall be subject to one of the following disciplinary sanctions:

- a- Warning.
- b- Suspension of the license for a period not exceeding six months.
- c- Cancellation of the license.
- d- Deletion of the registration.

2- The imposition of the penalties shall not prejudice civil or criminal accountability when necessary.

Article 35

The private Notary Public may appeal the decision of the Disciplinary Board before the competent Court of Appeal within thirty days from the date of issuance thereof in case of his presence, and from the date of notification in case of his absence, and its judgment shall be final.

Chapter 6

Arrest, Inspection, Crimes and Penalties Procedures

Article 36

The employees of the Unit specified by a decision from the Minister shall act as judicial officers as per the crimes occurred in violation to the provisions of this Law and the decisions issued in implementation thereof, within the jurisdiction of each.

Article 37

The Notary Public shall not be arrested or investigated or his office inspected for matters related to the performance of his works, without the permission of the Public Prosecution.

Article 38

Shall be penalized by imprisonment for a period not less than six months and a fine between AED thirty thousand and one hundred thousand or either of these penalties, whoever exercises the works of the Notary Public without having the competence to do so, or discloses one of the secrets he perused due to his work.

Article 39

The Notary Public shall be penalized by imprisonment for a period not exceeding six months and a fine between AED thirty thousand and one hundred thousand, or by either penalties, if he violates any of the provisions set forth in this Law.

Article 40

The imposition of the penalties set forth in this Law shall not prejudice any other more severe penalty stipulated in another Law.

Chapter 7

General and Transitional Provisions

Article 41

The Notary Public shall take oath before the President of the Court as follows: (I swear by Almighty God to perform my duties with honesty and confidence and to preserve the secrets of my job), minutes of the oath shall be prepared and deposited in his file.

Article 42

The Unit shall supervise the Notary Public's works that shall be subject to administrative and technical inspection by such Unit.

Article 43

All instruments made by the Notary Public shall be written in Arabic, as per those written in a foreign language, they shall be translated into Arabic through a legal certified translator. The instrument and its translation shall then be ratified.

Article 44

The concerned persons may obtain a copy of any paper of their instruments kept at the Notary Public files or registered in the record.

Article 45

1- The Ministry shall approve the official seals of the Notary Public and the writ of execution seals of the transactions conducted by the Notary Public, according to the conditions and circumstances stated in this Law and its implementing regulations.

2- The writ of execution seal shall be as follows: "The competent authorities and entities shall take the initiative to implement this document and apply its content even if obligatorily, whenever it is required to do so."

Article 46

1- The contract or instrument shall not be written, the signatures authenticated, the date of instruments proved or any other transaction set forth in this Law unless after paying the prescribed fees.

2- The documents and instruments written or authenticated and containing subjects linked to each other shall be taken in consideration in the transaction requiring the highest fee and this fee shall be paid alone.

3- The private Notary Public shall collect the legally prescribed fees in the transactions conducted by him.

4- A decision shall be issued by the Council of Ministers, upon the Minister's suggestion, specifying the fees of the transactions conducted by the Notary Public and the fees of the private Notary Public.

Article 47

The federal and local authorities shall be exempted from the fees on all the transactions conducted by the Notary Public at the request of such authorities.

Chapter 8

Final Provisions

Article 48

The Heads of the local justice departments may issue decisions related to the Notary Public exercising the work within the jurisdiction of any of these departments, specifying the rules, procedures, competencies, methods of appointment and registration and all other affairs as stated in the provisions of this Law and its implementing regulations.

Article 49

The Minister shall issue a Charter of the principles and ethics related to the profession of the Notary Public. Any violation to any of its provisions shall entail the imposition of the prescribed disciplinary sanctions.

Article 50

1- The Federal Law No. 22 of 1991 on the Notary Public and its amending laws shall be cancelled, in addition to any provision violating or contradicting any provision of this Law.

2- The implementing regulations and the decisions in force upon issuance of this Law shall remain effective in a way not contradicting the provisions thereof, until the issuance of the implementing regulations and decisions.

Article 51

The Council of Ministers shall – upon the Minister's suggestion – issue the implementing regulations of this Law within six months from the date of publication thereof in the Official Gazette.

Article 52

This Law shall be published in the Official Gazette and shall enter into effect three months from the date of publication thereof.

Promulgated by Us at the Presidential Palace in Abu Dhabi:

On: 27 Rajab 1434 H

Corresponding to: June 6, 2013 AD

Khalifa bin Zayed Al Nahyan
President of the United Arab Emirates

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