South Australia

Notaries Public Act 2016

An Act to provide for the admission and enrolment of notaries public and to regulate the practice of notaries public; to make related amendments to the *Legal Practitioners Act 1981*; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Notaries Public Act 2016*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

interstate legal practitioner has the same meaning as in the *Legal Practitioners Act 1981*;

legal practitioner has the same meaning as in the *Legal Practitioners Act 1981*;

local legal practitioner has the same meaning as in the *Legal Practitioners Act 1981*;

LPEAC means the Legal Practitioners Education and Admission Council established under the *Legal Practitioners Act 1981*;

Registrar means the Registrar of the Supreme Court.

(2) For the purposes of this Act, a person is ***entitled to practise the profession of the law in this State*** if the person is a local legal practitioner or an interstate legal practitioner (but a person is not so entitled during any period in which the person's right to practise is under suspension).

4—Functions of LPEAC

(1) LPEAC has the following functions under this Act:

(a) to make rules prescribing—

(i) the qualifications for admission and enrolment of a person as a notary public; and

(ii) the requirements for post-admission education, training or experience for a person admitted as a notary public;

(b) to keep the effectiveness of education and training courses and post-admission experience under review so far as is relevant to practice as a notary public;

(c) to monitor compliance with rules prescribed under paragraph (a).

(2) Rules prescribed by LPEAC under subsection (1) may—

(a) be of general, limited or varied application according to the classes of person to which they are expressed to apply; and

(b) leave a matter to be determined according to the discretion of LPEAC or the Supreme Court.

(3) A rule made under subsection (1)(a) may only be made after consultation with any body that represents the interests of notaries public prescribed by the regulations for the purposes of this subsection.

(4) A rule made under subsection (1)(a)(ii) requiring notaries public to undertake further education or training or obtain further experience may only be made with the concurrence of the Attorney-General.

(5) Rules made under subsection (1)(a)(ii) may prescribe requirements in relation to the issue or renewal of practising certificates under the *Legal Practitioners Act 1981* subject to conditions.

5—Appointment of notaries public

(1) A person who—

(a) is entitled to practise the profession of the law in this State; and

(b) has been admitted and enrolled as a legal practitioner (in this State or any other State) for at least 5 years,

may apply to the Supreme Court to be admitted and enrolled as a notary public of the Supreme Court.

(2) A person who, on application under subsection (1), satisfies the Supreme Court—

(a) that the person's entitlement to practise the profession of the law is not, in this State or any other State, subject to any limitation, restriction or other condition inconsistent with the carrying out of the functions of a notary public; and

(b) that—

(i) the person has complied with the rules relating to the qualifications for admission and enrolment of a person as a notary public made by LPEAC under section 4(1); or

(ii) insofar as there has been non-compliance with those rules, the person should be exempted from such compliance; and

(c) that the person is a fit and proper person to practise as a notary public,

is entitled to be admitted and enrolled as a notary public of the Supreme Court.

(3) A person admitted as a notary public under this Act must make an oath in the prescribed form before the Registrar of the Supreme Court or a Commissioner authorised to take affidavits in the Supreme Court.

6—Powers and authorities of notary public

A person admitted and enrolled as a notary public under this Act has all the powers and authorities (including the power to take affidavits) exercisable by law or custom by notaries public.

7—Roll of notaries public

(1) The Registrar of the Supreme Court must cause a roll to be kept of all notaries public admitted under this Act.

(2) On the application of a person whose name appears on the roll, the Registrar must grant a certificate in the prescribed form certifying that the person is a notary public duly authorised and admitted and enrolled to practise as such in this State.

(3) An apparently genuine document purporting to be a certificate under this section will, in the absence of proof to the contrary, be accepted in legal proceedings as evidence that the person named in the certificate is admitted and enrolled as a notary public.

8—Investigations, inquiries and disciplinary proceedings

(1) For the purposes of the definition of ***unsatisfactory professional conduct*** in section 68 of the *Legal Practitioners Act 1981*, conduct of a person admitted and enrolled as a notary public in performing the functions of a notary public is taken to be conduct occurring in connection with the practice of law.

(2) For the purposes of the definition of ***professional misconduct*** in section 69 of the *Legal Practitioners Act 1981*, conduct of a person admitted and enrolled as a notary public in performing the functions of a notary public is taken to be professional conduct of a legal practitioner.

(3) The Legal Profession Conduct Commissioner may, without limitation, in taking action under section 77J of the *Legal Practitioners Act 1981* in relation to a legal practitioner who is admitted and enrolled as a notary public, make an order imposing specified conditions on the practitioner's practising certificate (whether a practising certificate under the *Legal Practitioners Act 1981* or an interstate practising certificate) relating to the practitioner's practice as a notary public.

(4) The Legal Practitioners Disciplinary Tribunal may, without limitation, in taking action under Part 6 of the *Legal Practitioners Act 1981* in relation to a legal practitioner who is admitted and enrolled as a notary public, make an order imposing specified conditions on the practitioner's practising certificate (whether a practising certificate under the *Legal Practitioners Act 1981* or an interstate practising certificate) relating to the person's practice as a notary public.

9—Power of Court to suspend or remove name from roll

(1) The Supreme Court may, on its own initiative, or on the application of the Attorney-General, the Legal Profession Conduct Commissioner or the Law Society of South Australia—

(a) suspend the name of a notary public from the roll of notaries public for a specified period or indefinitely; or

(b) remove the name of a notary public from the roll of notaries public,

if the Court considers that a ground exists for so doing.

(2) An application under this section—

(a) must be served on the notary public to whom it relates in accordance with the rules of the Supreme Court; and

(b) must—

(i) specify the order sought by the applicant; and

(ii) state the ground for seeking the proposed order; and

(iii) invite the notary public to make written representations to the Court, within a time specified by the Court of not less than 7 days and not more than 28 days, as to why the order should not be made.

(3) If the Supreme Court makes an order suspending or removing a person's name from the roll of notaries public, the Court must give the person a written notice about the order setting out—

(a) the terms of the order; and

(b) the reasons for the order.

10—Automatic removal of name from roll

(1) The name of a legal practitioner who is admitted and enrolled as a notary public under this Act is, by force of this section, taken to be removed from the roll of notaries public if—

(a) the person's name is removed from the roll of legal practitioners maintained under the *Legal Practitioners Act 1981*; or

(b) in the case of an interstate legal practitioner, the person's name is removed from the roll kept in another State that corresponds to the roll of legal practitioners maintained under the *Legal Practitioners Act 1981*.

(2) The name of a legal practitioner who is admitted and enrolled as a notary public under this Act is, by force of this section, taken to be removed from the roll of notaries public for any period during which the legal practitioner is not entitled to practise the profession of the law in this State.

11—Person acting as notary public contrary to Act

If a person acts as a notary public without being admitted and enrolled as a notary public under this Act, the person is guilty of an offence.

Maximum penalty: $50 000.

12—Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

Schedule 1—Related amendments and transitional provision

Part 1—Preliminary

1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Legal Practitioners Act 1981*

2—Amendment of section 14C—Functions of LPEAC

Section 14C(1)(d)—after "assigned to LPEAC by this Act" insert:

or any other Act

3—Amendment of section 17A—Conditions as to training etc

Section 17A—after subsection (7) insert:

(8) For the purposes of this section insofar as it relates to a legal practitioner who is admitted and enrolled as a notary public under the *Notaries Public Act 2016*, a reference to rules made by LPEAC includes rules made by LPEAC under that Act.

4—Amendment of section 21—Entitlement to practise

Section 21(3)(r)—delete "public notary" and substitute:

notary public admitted and enrolled under the *Notaries Public Act 2016*

5—Repeal of Part 7

Part 7—delete the Part

Part 3—Transitional provision

6—Continuation of roll and persons admitted to the roll

The roll of all public notaries kept by the Registrar of the Supreme Court under Part 7 of the *Legal Practitioners Act 1981* immediately before the commencement of this Act continues after that commencement as the roll of notaries public required to be kept by the Registrar of the Supreme Court under section 7 of this Act and a person listed on that roll is taken to be admitted as enrolled as a notary public under this Act.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2016	42	*Notaries Public Act 2016*	29.9.2016	1.2.2018 (*Gazette 28.11.2017 p4752*)
2025	51	*Legal Practitioners (Disciplinary Matters and Fidelity Fund) Amendment Act 2025*	20.11.2025	Sch 1 (cl 1)—1.9.2026 (*Gazette 5.2.2026 p196*)