

# 香港國際公證人協會 Hong Kong Society of Notaries

## HONG KONG SOCIETY OF NOTARIES

Hong Kong Society of Notaries is the professional association for notaries public in Hong Kong. It was incorporated in 1977 as a company limited by guarantee.

The Council is the governing body of the Society.

There are eleven members of the Council. Council members are elected by the general membership annually. The President and Vice-President are elected from and by Council members.

The Council meets monthly or more frequently as is required for the conduct of business and the determination of issues. There are a number of committees to assist the Council in running the Society. These include the Management Committee, Standards and Development Committee and External Affairs Committee.

The Society maintains a secretariat for implementation of the Council's policies and decisions.

### OBJECTS

The main objects of the Society are as follows:-

1. to cultivate uniformity of practice and procedure so far as may be practicable;
2. to ensure high standards of work and honourable practice;
3. to ensure compliance with regulations relating to the profession;
4. to represent the views of members; and
5. to provide services to members.

### FUNCTIONS

The Society has a vital role to play in the following areas:-

1. appointment of notaries public;
2. administration of the notaries public examination;
3. provision of professional development programmes;
4. guidance and monitoring of notarial practice;
5. issuance of annual practising certificates; and
6. investigation of complaints and allegations of professional misconduct by notaries public.

The Society is also committed to developing relationships with notaries in other jurisdictions and international notaries organizations for enhancement of the profession's development and international co-operation generally.

### MEMBERSHIP

As of 31 May 2004, there are 374 members.

All notaries public are experienced solicitors. The majority have 15 to 20 years post-admission qualification as solicitors in addition to their notaries public qualification. This reflects the substantial experience and seniority of the notaries public profession.

### PROFESSIONAL FEES

The fees of notaries public are dependent on the nature and complexity of the service provided.

### NOTARIAL WORK

#### FUNCTIONS OF NOTARIES PUBLIC

A notary public is primarily concerned with the preparation and authentication of documents for use abroad. Notaries public are widely recognized internationally.

A notary public identifies himself on documents by the use of his individual seal. Seals have historical origins and are regarded by most other countries as of great importance for establishing the genuineness of a document. A notary public's seal is registered with the High Court of Hong Kong and with many foreign consulates. Procedures exist for the seal to be further authenticated - a process called "legalization".

#### NOTARIAL SERVICES

Common Notarial tasks are:

- \* preparing and witnessing powers of attorney for use overseas
- \* witnessing documents for purchase or sale of land or property overseas
- \* providing documents relating to the administration of the estate of persons who are abroad, or owning property abroad
- \* authenticating personal documents and information e.g. for immigration or emigration purposes
- \* authenticating company, commercial and business documents
- \* preparing ship's protests
- \* providing authentication and a secure record for a transaction, document or event

All notaries public are also solicitors and do their general legal work under the regulation of The Law Society of Hong Kong.

### NOTARIES PUBLIC PROFESSION

#### HISTORY

Prior to reunification in 1997, all Hong Kong notaries public were appointed by the Archbishop of Canterbury in England.

The duties of notaries public are ecclesiastical in origin. It is for this reason that the Archbishop of Canterbury took the place of the Pope in appointing notaries public, after the act, 25 Henry VIII, c. 21, (1533) which created the Faculty Office.

The admission of notaries public in Hong Kong was probably based on the English "District Notaries' Act" 1833 described as "An Act to alter and amend an Act of the Forty-first Year of His Majesty King George the Third, for the better Regulation of Public Notaries in England." The earliest notary public admitted in Hong Kong appears to be Edward **Farncomb** who was appointed on 24 May 1844. Until the end of the 19th Century, between one to three notaries public were admitted each year. The practice of registration of the notarial faculty of notaries public in Hong Kong started in July 1871. The first name on the Register of Notaries is that of

Edmund **Sharp** (registered 20 July 1871). Some of the names of notaries public admitted in Hong Kong still bear the mark of history in the legal profession today e.g. Victor Hobart **Deacon** (registered 30 November 1881), Alfred Bulmer **Johnson** (registered 18 February 1875), Godfrey Cornwall **Chester Master** (registered 5 January 1903), Charles David **Wilkinson** (registered 17 July 1902), Edward James **Grist** (registered 19 July 1902) and John **Hastings** (registered 6 January 1903).

#### PRE-1997

Until 1997, notaries public were appointed by the Archbishop of Canterbury in England and must have had at least 7 years post-admission experience as solicitors before they were eligible for appointment. The notary public was issued with a Notarial Faculty by the Archbishop. In addition, notaries public have to be recorded on the Register of Notaries Public at the High Court. The Registrar of the High Court of Hong Kong is responsible for verifying signatures and seals of Hong Kong notaries public.

Part IV of the Legal Practitioners Ordinance (Cap. 159) deals with the appointment, registration and regulation of notaries public.

#### REUNIFICATION

By Section 14, Hong Kong Reunification Ordinance (Cap. 2601), every notary public who immediately before 1 July 1997 was recorded on the Register of Notaries Public kept by the Registrar of the High Court continued to be a notary public with all the powers which immediately before that date were exercisable by a notary public under the laws of Hong Kong.

Part IV of the Legal Practitioners Ordinance (Cap. 159) continues to deal with the appointment, registration and regulation of notaries public. The Registrar of the High Court continues to be responsible for verification purposes.

#### POST-1997

Legislation has been enacted to localize the appointment and provide a regulatory framework for the profession since 1997. The Legal Practitioners (Amendment) Ordinance 1998 has been enacted which provides rules for examination, admission and regulation being made for the better governance of the profession and protection of the public.

Under the new appointment and regulatory framework only solicitors whose names have been on the roll of solicitors continuously for 7 years immediately before the date of application for appointment and who have practised as a solicitor for a period or periods in aggregate of not less than 7 years may apply to the Chief Judge for appointment.

### HONG KONG SOCIETY OF NOTARIES

Room 2604, Bank of America Tower,  
12 Harcourt Road,  
Central,  
Hong Kong.

Tel : (852) 2536-0961  
Fax : (852) 2522-7333  
E-mail : office@notaries.org.hk  
Website : www.notaries.org.hk