

# The Role of the Notary Public in New Zealand

## (And what happens during the current Covid-19 Crisis)

The role of the Notary Public in New Zealand could not be better described than as follows:

*A notary public (sometimes called a notary or a public notary) in New Zealand is a lawyer authorised by the Archbishop of Canterbury in England to officially witness signatures on legal documents, collect sworn statements, administer oaths and certify the authenticity of legal documents usually for use overseas.<sup>i</sup>*

The primary task of a Notary Public in New Zealand is therefore to “officially witness signatures on legal documents ...”. Best practice has in the past demanded a physical appearance by the person before a Notary Public witnessing the signing of a legal document. The appearer (“applicant”) must also identify themselves to the Notary, providing evidence by documents and circumstances sufficient to satisfy the Notary that the applicant is who she/he claims to be. Such evidence has been demanded by notaries since 2750 BC.<sup>ii</sup> How, though, is this service performed in crises such as we are now experiencing, during which personal contact is not possible? Before examining some newly minted suggestions about possible methods to allow continuance of notary work from the Notary Society, a few general observations may be of interest regarding witnessing and identification.

### ***Witnessing Signatures : Identification: the problem of fraud***

To officially witness signatures and identify people who appear before you may at first sight appear to be a simple task. However things are not always simple. The person appearing before a Notary may not be who they appear to be, even in New Zealand.

*They called him “The Doctor”. Based in Bangkok, for years hunted a man “revered among Bangkok’s criminal underworld for producing the most sophisticated forged travel documents on the market for just \$2,000-\$3,000”<sup>iii</sup>Hidden in a secret compartment were 173 passports from France, Israel, **New Zealand**, Iran and Syria, and a cache of electronic chips, moulds for visa stamps, ribbons, inks and specialist printing equipment.*

Therefore the Notary will take care to identify the person appearing before her or him, by asking for several forms of identification, and scrutinising documents in great detail, even to the point of using a magnifying glass or UV light. One flaw to look for is a slight shadow at the edge of the photograph, which may not be ascertainable on a valid passport.

In Australia documents establishing identity for notarial purposes have been attributed points, with Passports, Citizenship Certificates, and Firearm Licences at the higher end 70 points, Rates Notices and Utility Accounts at 20 points, and Motoring Association Cards and Taxation Assessment Notices at 10 points.

### ***Covid-19 Crisis and Notarial Service***

Given the mandatory isolation requirements and restrictions on movement resulting from the Government’s Covid-19 virus Alert Level 4, and the consequences of the Epidemic Preparedness (Covid-19) Notice 2020 issued by the Prime Minister of New Zealand on 25 March 2020, and given that notarial services are not in the category of being considered “essential”, it is not currently possible for a notary to lawfully be present with the applicant when asked to witness a signature on the document.

One method may to meet an applicant by audio-visual link and describe in the Notarial Certificate which system (Skype or Zoom) was used.

The Notary may then ask the applicant to scan and email complete copies of the document(s) together with copies of identification such as the photograph page of their passport, driver licence or other form of identification.

The applicant must then identify themselves by name and hold up to the camera the photograph and personal identification page from passport and driver licence, and these, of course, must match. If the Notary knows the applicant very well this may not be necessary.

As well, each page of the document to be signed must be held up to the camera, and also match.

As New Zealand Notaries may only practice within New Zealand, the Notary may request additional evidence, if this is in doubt (for example, the applicant could hold in sight a local newspaper dated the same day as the appointment or walk outside and point the device's camera at parked cars with NZ number plates).

The applicant must then place the document down on a desk in view of the camera and the Notary must witness the applicant signing the jurat page and initialling each preceding page, holding each page of the signed and initialled document up to the camera.

The Notary will qualify the Notarial Certificate with the rider that she/he had seen the applicant sign, as far as it was possible to do so by following these procedures.

After the signed and scanned document is printed and notarised, the Notary (or the applicant) should arrange a courier service for the transfer of the hard copy to either the Te Tari Taiwhenua: (Department of Internal Affairs), or back to the applicant as applicable (subject to any Governmental restriction on the use of courier services).

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<sup>i</sup> [https://www.google.co.nz/search?q=notary+public+new+zealand&rls=com.microsoft:en-NZ:IE-Address&ie=UTF-8&oe=UTF-8&sourceid=ie7&rlz=&gfe\\_rd=cr&ei=NWqFWlnKKKzr8AezpqH4CA&gws\\_rd=ssl](https://www.google.co.nz/search?q=notary+public+new+zealand&rls=com.microsoft:en-NZ:IE-Address&ie=UTF-8&oe=UTF-8&sourceid=ie7&rlz=&gfe_rd=cr&ei=NWqFWlnKKKzr8AezpqH4CA&gws_rd=ssl)

<sup>ii</sup> <https://www.superiornotaryservices.com/blog/history-of-the-notary-seal/>

*The earliest evidence of notary public were the scribes used in Egypt, dating back to 2750 BC. These chroniclers were entrusted with handling official communications, including letters, proclamations or tax documents which must go through their hands to be effective*

<sup>iii</sup> [http://www.nzherald.co.nz/world/news/article.cfm?c\\_id=2&objectid=11684667](http://www.nzherald.co.nz/world/news/article.cfm?c_id=2&objectid=11684667)