

**PROTOCOL FOR ADMISSION AS A NOTARY PUBLIC
IN SOUTH AUSTRALIA**

Pursuant to section 5 of the *Notaries' Public Act 2016* anyone seeking to be admitted as a Notary Public in South Australia must be a person who:

- (1)
 - (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,
- (2) 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) is a fit and proper person to practise as a notary public.

The forms required to be produced using the CourtsSA online portal are:


1. An Originating Summons;
2. An affidavit in Support which has annexed:
 - a. A true copy of the applicant's current Practising Certificate;
 - b. A true copy of the Certificate of Completion of the Foundations of Notarial Practice pre-admission course; and
 - c. A true copy of an advertisement in the Adelaide Advertiser placed at least 14 days prior to the date of application.
3. Notice of Directions Hearing showing the date and time of the application.

A copy of all the prescribed forms must be served on the Law Society of South Australia and the Notaries' Society of SA Inc. at least 7 days prior to the date of hearing.

Once an application is made to the Supreme Court of South Australia and that application is granted a person admitted as a notary public must make an oath in the prescribed form before the Registrar of the Supreme Court.

The person is then required to sign the roll of Notaries' Public for South Australia.

A suggested format for the required documents is shown on the following pages.

To be inserted by Court	
Case Number: CIV-21-00XXXX	
Date Filed: XX XXXXX 2021	
FDN: 1	
Hearing Date and Time:	
Hearing Location:	Supreme Court 1 Gouger Street Adelaide, SA 5000

ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA
CIVIL JURISDICTION

Please specify the Full Name including capacity (e.g. Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

XXXXX XXXXX XXXXXXXX
Applicant

LAW SOCIETY OF SOUTH AUSTRALIA
First Interested Party

THE NOTARIES' SOCIETY OF SOUTH AUSTRALIA INCORPORATED
Second Interested Party

Applicant	XXXXX XXXX		
Name of law firm / solicitor <small>If any</small>	<small>Full Name (including Also Known as, capacity (e.g. Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
Address for service	<small>Law Firm</small>	<small>Solicitor</small>	
	<small>Street Address (including unit or level number and name of property if required)</small>		
	ADELAIDE	SA	5000
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
Phone Details	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Interested Party	LAW SOCIETY OF SOUTH AUSTRALIA			
Address	Full Name (including Also Known as, capacity (e.g. Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
	178 North Terrace			
	Street Address (including unit or level number and name of property if required)			
	ADELAIDE	SA	5000	Australia
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service required for this Interested Party			
	If required mark with an 'x'			

Duplicate panel if multiple Interested Parties

Interested Party	THE NOTARIES' SOCIETY OF SOUTH AUSTRALIA INCORPORATED			
Address	Full Name (including Also Known as, capacity (e.g. Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
	C/- Lynch Meyer 190 Flinders Street			
	Street Address (including unit or level number and name of property if required)			
	ADELAIDE	SA	5000	Australia
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service required for this Interested Party			
	If required mark with an 'x'			

Duplicate panel if multiple Interested Parties

Application Details

Mark appropriate sections below with an 'x'

Matter Type: Other [Other]

This Application is for:

Nature of application in one sentence

To be appointed as a Notary Public.

This Application is made under:

Act and section or other particular provision

Section 5 of the Notaries Public Act 2016

The Applicant seeks the following orders:

Orders sought in separately numbered paragraphs. If there is a monetary sum state the amount being claimed.

1. That the Applicant be admitted as a Notary Public pursuant to Section 5 of the Notaries Public Act 2016.
2. Any such other Orders as this Honourable Court deems appropriate.

This Application is made on the grounds set out in the accompanying affidavit sworn by (full name) XXXX XXXXX on the xxst day of , 2021.

Extension of time

If applicable

The Applicant seeks an extension of time to institute this action pursuant to:

 section 48 of the Limitation of Actions Act 1936 other: State section and Act

The grounds for seeking an extension are set out in the accompanying affidavit.

To the other parties: WARNING

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?q=node/482>.

Service

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

Accompanying Documents

Accompanying this Application is a:

- Multilingual Notice (mandatory)
- Affidavit (mandatory)
- Notice to Respondent Served Interstate (mandatory if address of one respondent or interested party is interstate)
- Notice to Respondent Served in New Zealand (mandatory if address of one party to be served is in New Zealand)
- Notice to Respondent Served outside Australia (mandatory if address of one party served is outside Australia but not in New Zealand)

If other additional document(s) please document them below:

Note to Parties

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

IMPORTANT COURT NOTICE

MULTILINGUAL NOTICE – ORIGINATING APPLICATION

Originating application

A person (the Applicant) has made an application to the Court for orders. You are a person with an interest in the Application.

- If the Application contains a date and time for hearing, the Application will be considered at the hearing at the date and time set out at the top of the Application.
- If the Application does not contain a date and time for hearing, a hearing will be set to consider the Application.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application on you and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application on you.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning. Such orders may allow the person obtaining orders to take enforcement steps. This may include orders to sell your property.

For further information or assistance you can contact:

- **Interpreter Service** – Interpreting and Translating Centre, Level 4, 44 Pirie Street, Adelaide SA 5000 Telephone: 1800 280 203 (This service is not free).
- **Legal Services Commission** – 159 Gawler Place, Adelaide SA 5000 Telephone: 1300 366 424
- **A solicitor or the Law Society of South Australia**. Telephone (Law Society): 8229 0200
- **A Court Registry** – Where the staff can help explain it to you. You can go to a Court address or contact the CourtSA Registry Services by telephone on 8204 2444 or email the Court at enquiry@courts.sa.gov.au.
- **Online** – You can also obtain further information on CourtSA: <https://courtsa.courts.sa.gov.au/?q=node/482>.

Lodging a document

- Log on to the CAA portal at courtsa.courts.sa.gov.au
- Go to the Courts website for instructions at www.courts.sa.gov.au
- Attend a Court Registry

You can also:

Contact the CourtSA Registry Services on 8204 2444 or email the Court at enquiry@courts.sa.gov.au. You can also obtain further information from <https://courtsa.courts.sa.gov.au/?q=node/524>.

To be Inserted by Court
Case Number:

Date Filed:

FDN:

AFFIDAVIT

SUPREME COURT OF SOUTH AUSTRALIA
FULL COURT
CIVIL JURISDICTION

Donna Catherine Bengé
Applicant

Lodging Party	XXXXX XXXXX XXXXXX <small>Full Name (Including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
Name of law firm / solicitor <small>If any</small>	XXXXXX <small>Law Firm</small>	XXXX <small>Solicitor</small>	

Deponent Details				
Deponent	Full name			
Address	<small>Street Address (including unit or level number and name of property if required)</small>			
	Adelaide <small>City/town/suburb</small>	SA <small>State</small>	5000 <small>Postcode</small>	Australia <small>Country</small>
	<small>Email address</small>			
Occupation	Solicitor <small>Occupation</small>			

Affidavit

I _____ of _____, Adelaide in the State of South Australia, Solicitor, do truly and solemnly affirm that:

- 1. This affidavit is in support of the originating application filed contemporaneously herein seeking an order that I be admitted and enrolled as a notary public pursuant to Section 5 of the *Notaries Public Act 2016* (SA).
- 2. I was born on _____ in _____.

Qualifications

- 3. I obtained my law degree from the _____ University in South Australia.
- 4. I was admitted and enrolled as a legal practitioner by order of the Supreme Court of South Australia on I first obtained a practising certificate with effect from and have practiced the profession of law continually since that date.
- 5. I hold a current "Category A" practising certificate, which is not subject to any restrictions. Now shown to me and exhibited hereto marked **XXX-1** is a true copy of my current practising certificate.
- 6. There are no other limitations or conditions on my entitlement to practise law which would be inconsistent with me carrying out the functions of a notary public.

Knowledge of commercial and legal affairs

- 7. I practise primarily in _____ law, and have extensive knowledge and experience in such matters as:
 - 7.1 wills, codicils and other testamentary documents;
 - 7.2 applications for probate;
 - 7.3 Enduring Powers of Attorney;
 - 7.4 Advance Care Directives;
 - 7.5 estate litigation;

.....
Deponent

.....

.....
Witness

8. As part of my practice as a lawyer, I regularly conduct tasks such as:
- 8.1 verifying and certifying individuals' identity;
 - 8.2 assessing whether or not individuals have testamentary and/or legal capacity;
 - 8.3 attending to the preparation and witnessing of documents such as statutory declarations, affidavits, deeds and testamentary instruments; and
 - 8.4 keeping comprehensive records of the above.
9. In summary, I believe that my ongoing involvement in legal and commercial affairs has resulted in a depth of knowledge and experience which well equips me to discharge the duties of a notary public.

Specific knowledge of functions and duties of notaries public

10. My knowledge of the functions and duties of a notary public is derived from having studied the following resources:
- 10.1 Peter Zablud, *Principles of Notarial Practice* (Psophidian Press, 2004); and
 - 10.2 successful completion of the Foundations of Notarial Practice Course 2021 Notaries' Society of South Australia Inc pursuant to section 4(1) of the *Legal Practitioners Education and Admission Council ('LPEAC') Notary Public Rules 2019 ('LPEAC Rules 2019 (SA)')* under the *Notaries Public Act 2016 (SA)*.
11. I am aware of the functions of a notary public.
12. I am aware that great reliance is placed by authorities in other countries on the accuracy and validity of notarial acts in Australia, particularly where litigation may be involved and the relevant instrument may be tendered in evidence.

Notary Public Rules

13. The *LPEAC Rules 2019 (SA)* section 4(1) requires successful completion of a course of study related to notarial practice that has been approved by LPEAC. I have successfully completed the course as determined under section 4(2)(a) of the same act. Now shown to me and exhibited hereto marked **XXX-2** is a true copy of Foundations of Notarial Practice Course Certificate of Completion.
14. I believe I have completed all of the other listed requirements and complied with any rules in any of *The LPEAC Rules 2019 (SA)* and *The Notaries Public Act 2016 (SA)* in relation to the application and my admission as a notary public.
15. I have not been convicted or found guilty by a Court of any offences, nor, as far as I am aware, are there any charges or proceedings outstanding against me in relation to any offence or offences alleged to have been committed by me.
16. I have not otherwise done or suffered anything likely to adversely affect my good fame and character, nor am I aware of any circumstances that might affect my fitness to be admitted as a notary public.

Reasons for application

17. In my practice as a legal practitioner, many of my clients would benefit from my ability to perform functions which are the province of a notary public, and I consider that there would be public benefit in my being able to perform those functions

18. Accordingly, I seek to be admitted and enrolled as a notary public.

Other matters

19. I caused a notice of my application to be published in "The Advertiser" newspaper. Now shown to me and exhibited hereto marked **XXX-3** is a true copy of the notice which was published on _____ 2021.

20. I am not aware of any other matters relevant to the court's consideration of my application.

Deposed by the deponent

At Adelaide

On

.....
Signature of Deponent

.....

Name printed

before me
Signature of attesting witness

.....

Printed name and title of witness

Stamp here if applicable

.....
Date

ID number of witness

If applicable

Instructions

- Each page of the affidavit, including any exhibit(s), must be consecutively numbered starting with page 2.
- The affidavit should be confined to facts and should not include submissions.
- The affidavit should not reproduce material already contained in affidavits or other material already filed in the matter. It should not exhibit documents already exhibited to affidavits filed in the matter. In both cases it is sufficient to simply refer to such material or documents and the place where they may be found.
- An exhibit to an affidavit must be clearly marked to identify it as the exhibit referred to in the affidavit.
- A single 'front page' must be inserted in front of the exhibits in form 14.
- Each page of the affidavit (but not any exhibit) must be signed by both the deponent and the witness.
- An affidavit is to be sworn if it is made in this State in accordance with section 6 of the Evidence Act 1929 or, if made elsewhere, in accordance with the law for the taking of oaths or the making of affirmations in that place.
- The deponent must swear or affirm the affidavit before a person authorised by law to witness the swearing or affirming of affidavits ('the witness'). Persons authorised to witness an affidavit are:
 - (a) a Registrar or Deputy Registrar
 - (b) any other officer of the Court whom the Registrar has assigned for this purpose;
 - (c) a public notary;
 - (d) a commissioner for taking affidavits;
 - (e) a justice of the peace for South Australia;
 - (f) any other person authorised by law to take affidavits.
- The contents of an affidavit cannot be altered after the affidavit has been sworn or affirmed.
- The party serving an affidavit must serve copies of all exhibits with the affidavit.

If the deponent is illiterate or blind, see rule 31.7(6). If the deponent does not appear to understand English sufficiently, see rule 31.7(7).

Service

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

EXHIBIT

SUPREME COURT OF SOUTH AUSTRALIA
FULL COURT
CIVIL JURISDICTION

Xxxxxxx xxxxx

Applicant

These are the exhibits XXX-1 to XXX-3 used to the Affidavit of **Xxxxx** **Xxxxxx** made on
the day of 2021

..... Signature
..... Signature of attesting witness
..... Date

SOUTH AUSTRALIA
Legal Practitioners Act 1981

PRACTISING CERTIFICATE

Category A

Pursuant to Part 3 of the *Legal Practitioners Act 1981*
this is to certify that

P Code:

is entitled to practise the profession of the law for the period

1 July 2021 to 30 June 2022

Pursuant to Rule 10 of the *Rules of the Legal Practitioners Education and Admission Council 2018* this Category A practising certificate enables the holder to practise as the principal of a law practice entitled to receive and manage trust monies.





CERTIFICATE OF COMPLETION

This is to certify that

Xxxx xxxx

Successfully completed the **Foundations of Notarial Practice Course**

conducted by

**The Notaries' Society of
South Australia Inc.**

held in Adelaide

on

25 and 26 June 2021



President



Secretary

19 August 2021

COURSE PROGRAM

DAY1

Date 25 June 2021

SER	TIME	SUBJECT	INSTRUCTIONAL OBJECTIVE	INSTRUCTOR	REMARKS
1	0850-0905	COURSE SIGN IN AND ADMINISTRATION			NORMAN WATERHOUSE L11/431 King William St Adelaide
2	0910-0930	OPENING ADDRESS		JUDGE KATRINA BOCHNER	ADDRESS
3	0940-0955	AIM OF THE COURSE	102	RH	LECTURE
4	1000-1045	HISTORY	103	RJL	LECTURE
	1045-1100	Morning Tea			
5	1100-1140	FUNCTIONS OF A NOTARY	105	RH	LECTURE
6	1150-1300	PRIVATE INTERNATIONAL LAW	1013	RJL	LECTURE
	1300-1400	LUNCH			
7	1410-1500	VERIFICATION & AUTHENTICATION LEGALISATION	107	DFAT	LECTURE
8	1505-1545	INTERNATIONAL SUCCESSION	1012	RH	LECTURE
	1545-1600	AFTERNOON TEA			
9	1605-1635	<i>The Notaries Public Act 2016 and the Rules</i>	104		LECTURE

DAY2

Date 26 June 2021

SER	TIME	SUBJECT	INSTRUCTIONAL OBJECTIVE	INSTRUCTOR	REMARKS
10	0900-0950	COMMON NOTARIAL ACTS	1010	RJL	LECTURE
11	0955-1015	FEES, FORMS & SEALS	109		LECTURE
12	1015-1100	NOTARIAL ETHICS	106	FC	LECTURE
	1100-1111	Morning Tea			
13	1120-1215	PRACTICAL SESSION - BINDING	1011	RH/ FC/ SA/ OT	PRACTICAL
14	1215-1300	Q&A CLOSING ADDRESS			

INSTRUCTORS:

Franco Camatta, Adjunct Professor, Flinders University

Roy Hasda FANZCN, President Notaries' Society of SA

Guest lecturers (as available):

Dr Ricky Lee FANZCN, Adjunct Professor of Law, University of Notre Dame Australia

Jessica Pedlar/ Jessica Boase - DFAT SA Office

Others - Notaries' Society Council Members - Q & A and facilitating

CPD claim entitlement* - 8 CPD points, including Practice Management, Business Skills and Professional Ethics (*subject to self-assessment)

TAKE NOTICE that I **XXXX XXXXX XXXXXX** of
Adelaide
5000, Solicitor, intend to apply to the Supreme Court
of South Australia for an Order to be appointed as a
Notary Public pursuant to section 5 of the *Notaries
Public Act 2016*.

**ANY PERSON WHO WISHES TO OBJECT TO MY
APPLICATION** may file a Notice of Objection with
the Registrar of the Court.