



PRACTICE DIRECTION No. 9 OF 2020

GUIDANCE FOR THE REMOTE NOTARISATION AND ATTESTATION OF DOCUMENTS BY ELECTRONIC MEANS

1. These Practice Directions shall be read in conjunction with the Notaries Public Law (2014 Revision) (“the Law”) and the Notaries Public (Virtual Conduct of Notarial Acts) Regulations, 2020, (“the Regulations”) made by Cabinet on 17th April 2020 in exercise of the powers conferred by Section 15 of the Law and shall also be read, as circumstances require, in conjunction with the Justices of the Peace Regulations, 2015¹, including the Schedule thereto.
2. These Directions are primarily intended to allow notarial and Justices of the Peace (“JP”) attestation services to continue to be provided for the purposes of court proceedings whilst observing the COVID-19 Shelter-in-Place Regulations. However, they will, where necessary, continue to allow such services to be provided remotely after the lifting of the Shelter-in -Place Regulations.
3. **Conditions for conduct of notarial acts by use of communication technology**

Where any act by a notary public allowed by the Law is to be carried out virtually by use of communication technology (as defined by the Regulations), the following conditions shall apply -

 - (a) the remotely located individual seeking notarial services (“the individual”) must demonstrate that he or she is physically situated in the Islands;
 - (b) the individual shall transmit to the notary public via facsimile, email or other electronic means, a legible copy of the relevant document in relation to which notarial acts are to be performed;
 - (c) the notary public may, after observing the signature or requisite act of the individual, notarise the transmitted copy of the document and return it via facsimile, email or other electronic means;
 - (d) the notary public shall record the details of the notarial act performed in the

¹ Made under the Summary Jurisdiction Law (2006 Revision).

Notarial Acts Book in accordance with Section 13 of the Law and in so doing shall indicate that the notarial act was performed in accordance with the Regulations;

- (e) where the individual is not personally known to the notary public, the individual shall present valid photo identification to the notary public during the real time transmission interaction.

4. Recording of notarial act

A notary public who uses communication technology to –

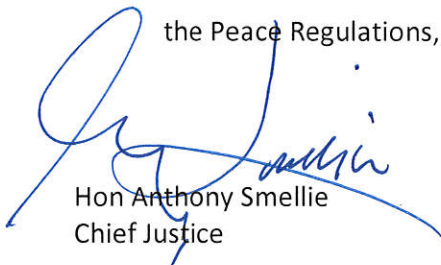
- (a) administer an oath shall record, or cause to be recorded, the performance of that notarial act;
- (b) perform an act (other than the act of administering an oath) required to be performed by a notary public under any law including the provisions of any treaty or convention and any protocol to such treaty or convention that is applicable to the Islands may, upon prior notification of the individual, record, or cause to be recorded, the performance of the act.

5. Filing of notarial certificate with the Court

- (a) Where required for the purposes of filing with the Court, a notarial certificate must disclose that the notarisation was conducted using communication technology.
- (b) The document so certified may then be filed by the individual by email with the Court and accepted as a duly sworn document for court related purposes.
- (c) The Individual will be required to provide an undertaking to the Court that the original document will be filed once the Court reopens to the public.

6. Justices of the Peace

The procedures set out above are also to be observed, *mutatis mutandis*, as they relate to attestations by Justices of the Peace. And, in particular, Justices of the Peace shall keep a written record of any attestation by use of communication technology which is to be filed with the court, in compliance with Regulation 12 of the Justices of the Peace Regulations, 2015.



Hon Anthony Smellie
Chief Justice

5 May 2020