

**Notaries Act, 1952 and**  
**Notaries Rules, 1956.**  
**Complaints of professional**  
**misconduct by Notaries appointed**  
**by the Government of Maharashtra.**

**GOVERNMENT OF MAHARASHTRA,**  
**Law and Judiciary Department,**  
**Circular No.2888 /E,**  
**Mantralaya, Bombay-400 032, dated the 28<sup>th</sup> May 1993.**

**CIRCULAR**

Recently, the Government of Maharashtra has received several complaints from the public regarding the professional misconduct committed by the Notaries Public appointed by this Government. On perusal of such complaints it is noticed that the general nature of such complaints is as follows:-

- i. Ante-dating the attestation of documents.
- ii. Attesting affidavits in the absence of its executants or deponents and authenticating instruments without verifying the identity of persons coming for attestation and the fact of execution.
- iii. Certifying forged documents without verifying as to the identity of persons coming for certification/verification of the documents and so on.

2. In this connection, attention of all notaries public is invited to section 8 of the Notaries Act, 1952, which specifies, inter-alia, the following functions of notaries, viz.-

“Section 8- (1) A notary may do all or any of the following acts by virtue of his office, namely:-

- a) verify, authenticate, certify or attest the execution of any instrument;
- c) administer oath to or take affidavit from any person;
- g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside India in such form and language as may conform to the law of the place where such deed is intended to operate;
- h) translate and verify the translation of any document from one language into another;
- i) any other act which may be prescribed.”

3. To attest is literally to witness any act or event. As per oxford dictionary “Attestation” means an act of testifying; testimonial evidence, formal confirmation by signature, oath, etc., administration of an oath. The signing by a witness to the signature of another of a statement that a document was signed in the presence of the witness (Wharton’s Law Lexicon, 14<sup>th</sup> Edition). Similarly, authentication is not mere attestation but something more. It means that a person authentication has **assured himself of the identity of the person who has signed the instrument as well as to the fact of execution.**

4. Under Section 8(1) (c) of the Notaries Act, every Notary is authorized to take affidavits and an affidavit sworn before a Notary, is admissible as an evidence in Civil Courts. Similarly, a Power of Attorney bearing the authentication of a Notary Public is taken as sufficient evidence on the instrument by the person who appears to be the executant on the face of it. It is also the duty of every Notary to maintain a notarial register in the Form XV prescribed under the Notaries Rules, 1956.

5. It has been noticed by this Government that some of the Notaries appointed by this Government do not observe the above requirements while discharging their functions as notaries. All the notaries are, therefore, hereby informed that they should not attest or authenticate any instruments in the absence of its executants or deponents or without verifying the identity of the persons coming for attestation of such instruments and/or of the persons who have signed the instruments, as well as, to the fact of execution. They are also informed that if any professional misconduct has been brought to the notice of this Government and, if proved, against any Notary, stern action will be taken against such Notary and his Certificate of Practice as a Notary will be cancelled and he will be debarred perpetually from notarial practice.

**By order and in the name of the  
Governor of Maharashtra,**

**(Smt. M.S. Vedak)  
Solicitor & Joint Secretary to Government  
of Maharashtra.**

To

**All Notaries in the State of Maharashtra.**