

Comments/Views Invited on The Draft Notaries (Amendment) Bill

The Notaries Act, 1952 was enacted by the Parliament to regulate the profession of Notaries. The provisions of the Notaries Act, 1952 and Rules framed thereunder empower the Central Government as well as State Governments to appoint Notaries who possess the prescribed qualifications.

2. In terms of existing provisions of the Notaries Act, 1952 and Rules framed thereunder, the number of terms of renewal of certificates of practice of a Notary is unrestricted after the initial appointment. There are fixed number of Notaries who are appointed by the Central as well as State Governments as reflected in the Schedule to the Notaries Rules, 1956. Further, these Notaries are appointed in a particular area, keeping in view the commercial importance and requirement of Notaries in that particular area, to avoid flooding of Notaries.

3. It is felt that an opportunity needs to be given to young eligible legal practitioners who are aspiring to serve as Notary Public which may help them to build up their professional excellence by which they can provide legal services in a more effective manner.

4. In view of the above, it is proposed to restrict the overall term of Notaries for a period upto fifteen years (initial term of five years and two renewal terms of five years each) by curtailing renewals of unlimited terms, thus providing an opportunity for young legal professionals to serve as a Notary. The same would also lead to better development and regulation of notarial work undertaken by Notaries Public and facilitate needs of the profession.

5. In order to protect the interests of Notaries and to avoid any vacuum, it is proposed that those applications received for successive renewal of certificates of practice for third or more terms and whose validity expires prior to coming into force of the Notaries (Amendment) Act, 2021 will be considered for another term. Further, the certificates of practice of Notaries already renewed and issued prior to coming into force of the Notaries (Amendment) Act, 2021 shall be valid till expiry of such renewal term.

6. Under Section 10 of the Notaries Act, 1952, the appropriate Government is empowered to remove the name of a Notary Public from the Register of Notaries maintained by it, if a Notary has been found upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as in the opinion of the Government renders him unfit to practice as Notary. However, there is no provision in the Notaries Act for suspending the certificate of practice of Notary against whom a complaint has been received or otherwise till completion of inquiry initiated against him. Consequently, in some cases, despite complaint of *prima facie* gross misconduct, the notary continues to practice during pendency of inquiry proceedings.

7. It is therefore proposed to add provisions in the Notaries Act, 1952 empowering the appropriate Government for suspension of certificate of practice of Notary Public against whom a complaint has been received or otherwise, for professional misconduct for such period as deemed appropriate for conduct of inquiry.

8. It is felt that with the advent of Digitization, the records of Notary Public be also digitized and preserved in digital form, as may be prescribed under the Rules, in order to prevent misconduct in respect of notarization and safeguard the interests of general public. This will help to avoid any fraud, deceit, tampering of records and back-dating of notarization, etc. For the aforesaid purpose, provisions have also been proposed for digitization and automation of notarial work undertaken by the Notaries.

9. In order to achieve the said objective, it is proposed to amend the Notaries Act, 1952 as per copy of the Draft Amendment Bill enclosed.

10. The main features of the proposed Bill may be briefly summarized as under:

- (i) The draft Bill proposes to restrict the renewal of certificates of practice of Notaries up to two terms, i.e., original term of five years and two renewal terms of five years each;
- (ii) Power to suspend the certificate of practice in cases of professional misconduct by the appropriate government for conduct of inquiry;
- (iii) Digitization of notarial work undertaken by Notaries.

Comments and suggestion on the above Draft Bill are invited from all stakeholders, latest by **15.12.2021**. Comments/suggestions on the draft Bill may be sent by post/email to the address detailed below:-

Shri T K Malik
Deputy Legal Adviser & Competent Authority
Department of Legal Affairs,
Room No. 417 -A, 4th Floor,
Shastri Bhawan, New Delhi 110001
E-mail: tk.malik@nic.in