

## NOTARIES (CONDUCT AND DISCIPLINE) RULES 2011

WE CHARLES RICHARD GEORGE One of Her Majesty's Counsel Commissary or Master of the Faculties of the Most Reverend Father in God Rowan Douglas by Divine Providence Lord Archbishop of Canterbury Primate of All England and Metropolitan in exercise of the powers conferred by section 4 of the Public Notaries Act 1843 and section 57 of the Courts and Legal Services Act 1990 and of all other powers Us enabling hereby make the following Rules:

### PART I: PRELIMINARY

#### 1. *Citation and Commencement*

1.1 These rules may be cited as the Notaries (Conduct and Discipline) Rules 2011

1.2 The rules come into force on the 1st day of May 2011

#### 2. *Interpretation*

2.1 In these rules:-

**'1993 Rules'** means the Public Notaries (Conduct and Discipline) Rules 1993.

**'2009 Rules'** means the Notaries (Conduct and Discipline) Rules 2009.

**'Approved Procedure'** means a complaints resolution procedure approved under rule 3 of these rules, rule 3 of the 1993 Rules, or rule 3 of the 2009 Rules.

**'Commissary'** and **'Deputy Commissary'** have the meanings assigned by the Notarial Appeals and Hearings Rules 2000.

**'Client'** includes any person who has instructed a notary to carry out a reserved legal activity within the meaning of section 12 of the Legal Services Act 2007 and any person who has placed legitimate reliance on a Notarial Act.

**'Competent Complainant'** means:-

- (i) A Nominated Notary,
- (ii) The Incorporated Company of Scriveners or a member of that Company nominated by it, or
- (iii) A Client where the complaint relates to Notarial Misconduct arising from notarial acts or other professional services performed by the notary in question.

**'The Court'** means the Court of Faculties.

**'The Contingency Fund'** means the fund referred to in the Notarial Contingency Fund Rules 1981.

**'Designated Society'** means the Incorporated Company of Scriveners, the Notaries Society, the Society of Scrivener Notaries and such other bodies as the Master may from time to time designate for the purposes of these rules.

**'Firm'** has the meaning assigned in rule 2 of the Notaries Practice Rules 2009.

**'The Master'** means the Master of the Faculties.

**'Nominated Notary'** means a notary appointed by the Registrar under rule 4 of these rules.

**'Notarial Act'** has the meaning given in rule 2 of the Notaries Practice Rules 2009.

**'Notarial Misconduct'** means:-

- (i) Fraudulent conduct,
- (ii) Practising as a notary public without a valid Practising Certificate or in breach of a condition or limitation imposed on a Practising Certificate, or
- (iii) Other serious misconduct which may include failure to observe the requirements of these rules or of the Notaries Practice Rules 2009 or falling seriously below the standard of service reasonably to be expected of a public notary.

**'Panel'** means not less than four notaries each of whom has held a Notarial Practising Certificate for a minimum of ten years.

**'The Registrar'** means the Registrar of the Court of Faculties.

**‘Scrivener Notary’** means a notary who holds the qualifications to practise as a scrivener notary from time to time prescribed by the Incorporated Company of Scriveners of London or who did hold such qualifications before being struck off the Roll of Notaries or suspended from practice by an order of the Court and a notary who does not hold such qualifications but is employed by or is otherwise professionally associated with a Scrivener Notary or a firm of Scrivener Notaries.

**‘Specified Profession’** and **‘Relevant Body’** have the meanings specified in rule 10

**‘The First Schedule’**, **‘the Second Schedule’** and **‘the Appendix’** mean respectively the First Schedule, the Second Schedule and the Appendix to these rules.

- 2.2 References in these rules to a “notary” are references to a notary enrolled on the Roll of Notaries maintained by the Court.
- 2.3 The Interpretation Act 1978 applies to these rules as it applies to an Act of Parliament.

## PART II: COMPLAINTS

### 3. *Complaints Resolution Procedures*

- 3.1 The Master may from time to time approve by written notice a complaints resolution procedure produced by a Designated Society and may at any time by written notice withdraw approval of any procedure.
- 3.2 An Approved Procedure may include provision:-
  - 3.2.1 for the informal resolution of disputes between members of the public and notaries concerning notarial acts done by a notary or the conduct of a notary’s practice,
  - 3.2.2 for the informal resolution of disputes between members of the public and notaries concerning the charges made by notaries for notarial services,
  - 3.2.3 for dealing with complaints referred to a Designated Society by the Registrar about the conduct or practice of a notary who is a member of that Designated Society,and for such other matters as the Master may from time to time specify.
- 3.3 Where a dispute with or complaint against a notary is dealt with in accordance with an Approved Procedure it shall be a duty of the notary to cooperate with the Designated Society in the operation of the procedure.
  - 3.3.1 A notary shall comply with any reasonable action proposed by the Designated Society at the conclusion of the Approved Procedure.
  - 3.3.2 A notary shall offer the client an alternative remedy which is reasonable in the circumstances of the complaint if he does not accept on reasonable grounds the conclusion of the Designated Society.
  - 3.3.3 An apology, an offer of treatment or other redress shall not of itself amount to an admission of Notarial Misconduct.
- 3.4 A notary shall give the Office of Legal Complaints all such assistance requested by that Office in connection with the investigation, consideration or determination of complaints under the ombudsman scheme established under section 115 of the Legal Services Act 2007 as he is reasonably able to give.
- 3.5 Where a dispute with or complaint against a notary is received by the Registrar and there is no Approved Procedure available to deal with the complaint, the Registrar shall refer the matter

to a member of a Panel of notaries appointed for this purpose by the Registrar to carry out the functions set out in Rule 3.2.

- 3.5.1 the notary carrying out these functions shall be entitled to a fixed fee to be specified by the Master from time to time which shall be payable by the notary complained against,
- 3.5.2 the notary carrying out these functions may not be appointed a Nominated Notary under Rule 4 in relation to the same dispute or complaint.

#### 4. *Nominated Notaries*

A Nominated Notary appointed by the Registrar under these rules shall be a notary (but not a Scrivener Notary) who holds a Notarial Practising Certificate and has held such a Certificate for not less than five years.

#### 5. *Functions of Nominated Notaries*

- 5.1 A Nominated Notary may be appointed by the Registrar to investigate an allegation of Notarial Misconduct referred to him by the Registrar and, if he thinks fit, to prepare and prosecute disciplinary proceedings against a notary in the Court in accordance with the provisions of these rules and to carry out such other functions as may be provided in these rules.
- 5.2 A Nominated Notary appointed under this rule shall be independent of and not personally acquainted with the notary who is the subject of the allegations of Notarial Misconduct to be investigated.
- 5.3 If the Registrar is unable to identify a Nominated Notary who fulfils the requirements in Rule 5.2 the Master shall appoint an independent person, who may or may not be a notary, to act in place of a Nominated Notary for the purposes of Rule 5.1, and that person shall carry out all functions conferred on a Nominated Notary by these rules.
- 5.4 Where a Nominated Notary investigates an allegation of Notarial Misconduct referred to him by the Registrar but such investigation does not lead to the issue of disciplinary proceedings in the Court the Nominated Notary shall be entitled to be paid such fixed fee as may have been previously authorised by the Registrar or such fee as the Registrar may determine should be paid for work properly done after considering a bill and other representations submitted by the Nominated Notary and such fee shall be paid by the Registrar out of the Contingency Fund.

#### 6. *Referral of Allegations by Registrar*

- 6.1 Where the Registrar receives evidence or an allegation concerning the conduct or practice of a notary which in his opinion does not amount to an allegation of Notarial Misconduct or where the precise nature of the allegation is unclear he shall refer the matter to a Designated Society or a notary appointed under Rule 3.5, to be dealt with in accordance with an Approved Procedure.
- 6.2 Where the Registrar receives evidence or an allegation concerning the conduct or practice of a notary (other than a Scrivener Notary) which appears to him to amount to an allegation of Notarial Misconduct he shall appoint a Nominated Notary to investigate the allegation pursuant to rule 5 of these rules.

- 6.3 Where the Registrar receives evidence or an allegation concerning the conduct or practice of a Scrivener Notary which appears to him to amount to an allegation of Notarial Misconduct he shall refer the allegation to the Incorporated Company of Scriveners.
- 6.4 Upon the referral of such an allegation to the Incorporated Company of Scriveners it shall be investigated by that Company under arrangements made by it and approved by the Master and if it thinks fit the Incorporated Company of Scriveners or a member of the Company nominated by it shall prepare and prosecute disciplinary proceedings in the Court against the Scrivener Notary in question in accordance with the provisions of these rules and the Incorporated Company of Scriveners or the member so nominated shall be regarded as a Nominated Notary for the purposes of rule 9.5 of these rules.
- 6.5 Where the Registrar receives evidence concerning a notary which amounts to *prima facie* evidence of gross misconduct, the Registrar, if he is satisfied that it is required for the protection of the public, may make an interim order to suspend the notary from practice or restrict or limit or impose conditions on the notary's practice pending the conclusion of disciplinary proceedings under Part III of these rules, save that the notary may appeal to the Master against the Registrar's decision within seven days of the issue of that interim order and on such appeal the Master shall have the same power as the Registrar has under this rule 6.5. The Registrar's power under this rule 6.5 shall not be exercisable after the end of the twenty-one day period specified in paragraph 4 of Part II of the First Schedule. Any interim order made under this rule 6.5 may be discharged or varied by the Commissary on application made to him after the end of that twenty-one day period.

7. *Referral of Allegations by Designated Societies*

Where an allegation against a notary comes to the attention of a Designated Society (whether or not in the course of the operation of an Approved Procedure) and it appears that such allegation amounts to an allegation of Notarial Misconduct the Designated Society shall refer the allegation to the Registrar for consideration in accordance with rule 6.2 or rule 6.3 of these rules as appropriate.

### PART III: DISCIPLINARY PROCEDURE

8. *Disciplinary Proceedings in the Court of Faculties*

- 8.1 A complaint of Notarial Misconduct may be made to the Court by any Competent Complainant.
- 8.2 Where:
- 8.2.1 Evidence or an allegation concerning the conduct or practice of a notary has been received by the Registrar and he has not appointed a Nominated Notary to investigate the allegation or referred the allegation to the Incorporated Company of Scriveners (as the case may be) under rule 6.2 or rule 6.3 of these rules within 28 days of receiving the allegation, or
- 8.2.2 The Registrar has appointed a Nominated Notary or referred the evidence or allegation to the Incorporated Company of Scriveners and the Nominated Notary or the Incorporated Company of Scriveners has determined not to make a complaint of Notarial Misconduct to the Court in respect of the allegation or has not so made a complaint within 112 days of his appointment or the referral of the allegation (as the case may be);

then a complaint of Notarial Misconduct in respect of that allegation may be made to the Court by any notary who holds a Notarial Practising Certificate and such notary shall be deemed to be a Competent Complainant for the purposes of these rules.

- 8.3 Where a complaint against a notary has been made to the Court under rule 8.1 and the notary has been struck off or suspended from legal practice by a Relevant Body, as defined in rule 10, following a finding of misconduct, the Court may of its own initiative, or on the application of the complainant, suspend the notary from practice or make an order restricting or limiting or imposing conditions on the notary's practice pending the determination of the complaint, provided that the Court first considers any representations which the notary wishes to make about any such suspension or order.
- 8.4 The procedure set out in Part II of the First Schedule shall apply to all complaints of Notarial Misconduct made to the Court.
- 8.5 The forms set out in the Appendix with such variations or additions thereto as the Master may from time to time approve shall be used in all proceedings before the Court to which these rules relate.

## 9. *Disciplinary Sanctions*

- 9.1 Where the Court after hearing a complaint of Notarial Misconduct against a notary finds that it has been proved it may:
- 9.1.1 Order that the notary be struck off the Roll of Notaries,
  - 9.1.2 Order that the notary be suspended from practice as a notary for a specified period or until certain conditions have been met or indefinitely,
  - 9.1.3 Impose conditions as to the future scope or conduct of the notarial practice of the notary or conditions relating to the monitoring or supervision of his practice and direct that his Practising Certificate be endorsed or the endorsement on his Solicitor's Practising Certificate be marked accordingly,
  - 9.1.4 Impose conditions as to the training that the notary must complete or further examination or examinations that he must pass before he may continue or resume practice as a notary, or
  - 9.1.5 Order that the notary be admonished.
- 9.2 In addition to imposing any of the penalties listed in sub-rule 9.1 above the Court may order that unless the notary:-
- 9.2.1 Indemnifies any Client of the notary whom the Court finds to have suffered actual loss as a result of the Notarial Misconduct in question and;
  - 9.2.2 Pays a monetary sum not exceeding £10,000 (or such higher sum as the Master may from time to time specify for the purpose of these rules) such sum to be paid to whomsoever the Court may direct,
- the notary shall be struck off the Roll of Notaries.
- 9.3 Subject to rule 9.5 it shall be within the discretion of the Court to order:
- 9.3.1 That the costs of either party to the complaint be paid by the other party,
  - 9.3.2 That the costs of the Court be paid by either party or by both parties (whether in equal or unequal shares),
  - 9.3.3 That the costs of either party or of the court shall be paid from the Contingency Fund, and;
  - 9.3.4 That a party against whom an order for Costs is made shall, instead of paying those costs to the other party or the Court, pay them into the Contingency Fund.

- 9.4 Any order for costs may be in a fixed sum assessed by the Court as representing or being a contribution towards the reasonable costs of the party concerned or may be for costs to be taxed.
- 9.5 The Court shall not make any order for costs against a Nominated Notary who shall in all cases be entitled to an order for costs in his favour such costs to be paid from the Contingency Fund.
- 9.6 Where an order is made for costs to be taxed the costs shall be taxed by the Registrar on such basis and in accordance with such scale applicable in the High Court or the County Court as the Court may direct.

#### 10. *Specified Professions and Relevant Bodies*

- 10.1 For the purposes of these rules a 'Specified Profession' means a profession specified in the Second Schedule and in respect of a Specified Profession 'Relevant Body' means the disciplinary body named for that profession in the Second Schedule.
- 10.2 The Master may by order add to or amend the Second Schedule.
- 10.3 It shall be the duty of any notary who is also a member of a Specified Profession and against whom a complaint has been made to the Relevant Body, and where such complaint has been found by that body to be substantiated, to report such finding forthwith to the Registrar (whether or not a penalty is imposed by the Relevant Body and without regard to the nature of such penalty).
- 10.4 Where it comes to the attention of the Registrar that a Relevant Body has found a complaint against a notary (other than a Scrivener Notary) to be substantiated, the Registrar shall appoint a Nominated Notary to investigate the matter and if he thinks fit to prepare and prosecute disciplinary proceedings as if he were acting under rule 5.
- 10.5 Where it comes to the attention of the Registrar that a Relevant Body has found a complaint against a Scrivener Notary to be substantiated, the Registrar shall refer the matter to the Incorporated Company of Scriveners for investigation in accordance with rule 6.4.
- 10.6 In proceedings under these rules the written decision of a Relevant Body shall be evidence of the facts stated in that decision.

#### 11. *Application for Review*

- 11.1 Where as a result of an Order made under these rules or the 1993 Rules or the 2009 Rules a notary:
- 11.1.1 has been struck off the Roll of Notaries other than pursuant to proceedings under rule 10 of the 1993 Rules, under rule 10 of the 2009 Rules, or under rule 10 of these rules, and a period of not less than twelve months has elapsed since the date of striking off,
  - 11.1.2 has been suspended from practice for a period exceeding twelve months or for an indefinite period and a period of not less than twelve months has elapsed since the date of the suspension,
  - 11.1.3 has had conditions imposed as to the future scope or conduct of his notarial practice, or conditions relating to the monitoring or supervision of his practice, or
  - 11.1.4 has been struck off the Roll of Notaries pursuant to proceedings under rule 10 of the 1993 Rules, or under rule 10 of the 2009 Rules, or under rule 10 of these rules, and has since been restored to the Roll of Solicitors, or, where relevant, the equivalent record of practitioners maintained by a Specified Profession,

the notary may apply to the Court to review the Order.

- 11.2 In the case of an application under rule 11.1.1, rule 11.1.2 or rule 11.1.4 above it shall be for the notary to prove to the satisfaction of the Court that circumstances have changed since the Order was made and that it is not contrary to the public interest or the interest of the notarial profession that the order be reviewed and, in the case of a petition under rule 11.1.3, it shall be for the notary to prove to the satisfaction of the Court that as a result of a change in circumstances the conditions imposed are no longer necessary or desirable in the public interest.
- 11.3 The procedure set out in Part III of the First Schedule shall apply to an application brought under this rule.
- 11.4 On receiving an application brought under this rule by a notary other than a Scrivener Notary the Registrar shall appoint a Nominated Notary to act as respondent to the application and on receiving an application brought under this rule by a Scrivener Notary the Registrar shall appoint the Incorporated Company of Scriveners to act as respondent to the application.
- 11.5 Except in exceptional circumstances the costs of the respondent to an application brought under this rule and of the Court shall be paid by the applicant regardless of the outcome; in all other respects the provisions of rule 9.3 shall apply *mutatis mutandis*.
- 11.6 Upon hearing an application brought under this rule the Court may:
  - 11.6.1 In the case of an application under rule 11.1.1 or 11.1.4 order that the notary be restored to the Roll of Notaries either immediately or on some specified future date;
  - 11.6.2 In the case of an application under rule 11.1.2 order that the suspension be lifted either immediately or on some specified future date;
  - 11.6.3 In the case of an application under rule 11.1.3 order that the conditions imposed be lifted or that different conditions be imposed;
  - 11.6.4 Impose such conditions upon any order or require such undertakings to be given by the petitioner as it thinks fit, or
  - 11.6.5 dismiss the application.

## 12. *First Schedule and Appendix*

- 12.1 The provisions of Part I of the First Schedule shall apply to all proceedings under these rules.
- 12.2 It shall be within the discretion of the Registrar to grant to a party to proceedings before the Court such extension to any of the time limits contained in the First Schedule as appears to him to be reasonable.
- 12.3 Forms 3, 5, 6, and 8 set out in the Appendix shall be issued by the Registrar under the seal of the Court but any omission to affix the seal of the Court shall not invalidate a form or any proceedings to which it relates.

## 13. *Revocation, Savings and Consequential Amendments*

- 13.1 Subject to rule 13.2 the 2009 Rules are hereby revoked.
- 13.2 Where any proceedings before the Court had been commenced under the 2009 Rules prior to the coming into force of these rules the 2009 Rules shall continue to have effect in respect of those proceedings.

13.3 In rule 3.3 of the Notaries (Prevention of Money Laundering) Rules 2007 “Notaries (Conduct and Discipline) Rules 2009” is omitted and “Notaries (Conduct and Discipline) Rules 2011” substituted therefor.

## **THE FIRST SCHEDULE**

### **PART I: PRELIMINARY**

1. References in this Schedule to forms are to the forms set out in the Appendix, references in Part II to the complainant and the respondent are to the person bringing a complaint and the notary against whom a complaint is brought respectively and references in Part III to the applicant and the respondent are to the notary applying for review and the person or body appointed to act as respondent to the application respectively.
2. Any notice or document required by this Schedule to be delivered to the Registrar shall be delivered to him at the Court of Faculties, 1 The Sanctuary, Westminster, London SW1P 3JT and shall be deemed to be delivered on the day on which it is actually received by the Registrar.
3. Any notice or document required by this Schedule to be served by the Registrar may be served by sending it by ordinary first class post or document exchange to such address as may have been specified by the party concerned as his address for service or if no such address has been specified for a notary to the address appearing for him on the Roll of Notaries, and any notice or document so sent shall be deemed to have been served on the second working day after dispatch by post or document exchange.
4. The hearing of a complaint or application under these rules shall take place at such venue as the Commissary may direct and each party shall be entitled to be present and to be represented by a notary, a solicitor or counsel.

## PART II: PROCEEDINGS UNDER RULE 8

1. A complaint of Notarial Misconduct shall be made by a written complaint in form 1 and shall be supported by an affidavit in form 2.
2. The written complaint and affidavit in support shall be delivered to the Registrar.
3. On receiving a written complaint and affidavit in support the Registrar shall issue the complaint and serve a copy of each document together with notice of proceedings in form 3 on the respondent.
4. Within twenty-one days of service of the notice of proceedings on him the respondent shall deliver to the Registrar an answer to the complaint in form 4 and on receipt of an answer the Registrar shall serve a copy on the complainant.
5. Within forty-two days of service of the notice of proceedings on him the respondent shall, if he intends to contest the proceedings, deliver to the Registrar an affidavit in reply to the complaint and on receipt of such affidavit the Registrar shall send a copy to the complainant.
6. If the respondent fails to deliver an answer within the time prescribed by paragraph 4 the Registrar shall appoint a date for the hearing of the complaint and give notice to both parties in form 5.
7. If the respondent delivers an answer within the time prescribed the Registrar shall refer the papers to the Commissary who shall make such directions for the future conduct of the complaint as he thinks fit including directions:-
  - 7.1 for the filing and service of further evidence including the affidavit evidence of witnesses,
  - 7.2 for the preparation and disclosure of lists of documents and for the inspection of such documents,
  - 7.3 for a preliminary hearing to consider any point of law or procedure which may be raised by the proceedings or to consider the making of further directions,
  - 7.4 for the hearing of the complaint and the attendance of witnesses at the hearing,and the Registrar shall serve a copy of the Commissary's directions and notice of any hearing (which shall be in form 5) on each party.
- 8.1 If a party to the complaint requires the deponent to any affidavit filed to attend at the hearing of the complaint he shall give notice to the Registrar and to the other party not less than fourteen days before the date appointed for the hearing.
- 8.2 If a deponent who has been so required to attend the hearing does not attend the onus shall be on the party seeking to rely on the affidavit evidence of that witness to show why the affidavit should be accepted in evidence.
- 9.1 The procedure adopted at the hearing shall take such form as the Court thinks fit in all the circumstances of the case but shall ensure that both parties are given an opportunity to state their case to the Court and to cross-examine any witnesses giving evidence in person at the hearing.
- 9.2 Subject to the provisions of paragraph 8 the complaint shall be decided on the basis of the affidavits filed.

- 9.3 At any time prior to the conclusion of a hearing the Court may, if it thinks it expedient to do so, adjourn the hearing and give such further directions as it thinks fit.
10. After hearing the complaint the Court may give its decision at the hearing or reserve judgment and the Registrar shall give notice to the parties of the Court's Order in form 6.
- 11.1 If the complainant wishes to apply to the Court for an order suspending the respondent from practice or restricting or limiting or imposing conditions on the respondent's practice pending the determination of the complaint he shall make the application in form 7, and shall lodge an affidavit in support of the application.
- 11.2 Subject to paragraph 11.8, on receiving an application in form 7 and affidavit in support the Registrar shall serve a copy of each document on the respondent and appoint a date for the hearing of the application (which shall be not less than ten days after the date on which the documents are served on the respondent) and shall give notice to the parties in form 8.
- 11.3 If the respondent wishes to oppose the application he shall, within fourteen days of its service upon him, deliver to the Registrar an affidavit in response and the Registrar shall serve a copy of the response on the complainant.
- 11.4 When the application has been determined by the Court the Registrar shall give notice to the parties of the Court's order in form 6.
- 11.5 Unless the Court orders otherwise the costs of the parties to the application shall be reserved to the hearing of the substantive complaint.
- 11.6 An application under this paragraph shall be heard by the Commissary or a Deputy Commissary alone and when the application has been heard by the Commissary or a Deputy Commissary the Commissary or (as the case may be) the Deputy Commissary in question shall not sit on the hearing of the substantive complaint.
- 11.7 At the hearing of an application under this paragraph the Court may, if it considers it appropriate to do so, give directions under paragraph 7 for the hearing of the substantive complaint.
- 11.8 Where it appears to him to be necessary for the protection of the public the Commissary or Deputy Commissary to whom an application under this paragraph is referred may direct such modifications to the procedure as he thinks fit including the making of an interim order to suspend the respondent from practice or restrict or limit or impose conditions on the respondent's practice pending the hearing of the application pursuant to paragraph 11.2.

### PART III: APPLICATION FOR REVIEW UNDER RULE 11

1. An application under rule 11 of these rules shall be made in form 9 and shall be accompanied by an affidavit or affidavits setting out in full the grounds of the application and the evidence in support.
2. Upon receiving an application and affidavits in support the Registrar shall issue the application and serve a copy of each document on the Nominated Notary (or, as the case may be, the Incorporated Company of Scriveners) appointed as respondent under rule 11.4 and the Registrar shall also serve on both parties notice of hearing of the application in form 10.
3. Where the Order which the applicant is seeking to review was made as a result of a complaint brought by a person who was a Competent Complainant as a person who had been a Client of the notary the Registrar shall also send copies of the above documents and notice and any affidavit

delivered under paragraph 4 to the complainant who shall be entitled to attend the hearing and (if the Court so permits) to address the Court.

4. The function of the respondent shall be to ensure that the applicant is put to proof of his case and to bring to the attention of the Court all such facts and matters as the respondent thinks should be before the Court and if the respondent wishes to present to the Court an affidavit or affidavits in reply to the application he shall deliver the same to the Registrar not less than twenty-eight days before the date of the hearing and the Registrar shall forthwith serve copies on the applicant.
5. At the hearing the Court shall consider all documents and evidence which were before the Court before making the order which the applicant is seeking to review and shall consider the affidavits filed in support of and any affidavits filed in answer to the application and the applicant may give evidence in person. The Court shall also consider representations made to it by the parties.
6. After hearing the petition the Court may give its decision at the hearing or reserve judgment and the Registrar shall give notice to the parties of the Court's Order in form 6.

## THE SECOND SCHEDULE

<b>Specified Profession</b>	<b>Relevant Body</b>
Solicitor of the Senior Courts of England and Wales	The Solicitors Disciplinary Tribunal
Barrister in England and Wales	A Panel or Disciplinary Tribunal operated by the Bar Standards Board
Legal Executive	The Investigating Committee or the Disciplinary Tribunal of the Institute of Legal Executives
Licensed Conveyancer	The Investigating Committee established under section 24 of the Administration of Justice Act 1985 or the Discipline and Appeals Committee established under section 25(1) of that Act
Avocat or other legal practitioner in a country outside England and Wales	The body responsible for exercising disciplinary regulation over the avocat or other legal practitioner in the country in question

## APPENDIX

### Form 1: Written Complaint

IN THE COURT OF FACULTIES

In the Matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the Registrar

I, the undersigned [CD] of [address] do hereby make complaint that the said [AB] of [address] has been guilty of Notarial Misconduct within the meaning of the said rules in that he/she has ...(insert summary of allegation(s) of misconduct).

.....

Details of my complaint are contained in the affidavit which accompanies this written complaint.

DATED this ..... day of ..... 20...

Signed

Address for service

### Form 2: Affidavit in support of Written Complaint

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

I [CD] of [address] make oath and say as follows:-

1. I am a Competent Complainant within the meaning of the said rules as [specify how the deponent is a Competent Complainant].
2. I make this affidavit in support of my written complaint against the above named [AB] a notary of [address]
3. [Here state the facts concisely in numbered paragraphs and show the complainant's means of knowledge.]

### Form 3: Notice of Proceedings

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

TO: [AB] a notary of [address]

TAKE NOTICE that a written complaint has been received by the Court alleging that you have been guilty of Notarial Misconduct. A copy of the complaint and the affidavit supporting it are attached to this notice.

You are required:-

1. Within twenty-one days of service of this notice upon you to deliver to me an answer to the complaint in the form prescribed by the above rules, and
2. If you intend to contest these proceedings, to deliver to me within forty-two days of service of this notice upon you a affidavit in reply to the complaint.

If you fail to comply with these requirements I will proceed to appoint a date for the hearing of the complaint.

All communications should be addressed to "The Registrar, The Court of Faculties, 1 The Sanctuary, Westminster, London SW1P 3JT".

DATED this ..... day of ..... 20...

### Form 4: Answer to Complaint

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the Registrar

I, [AB] in answer to the complaint of [CD], say that:-

1. I intend to contest the complaint OR I do not intend to contest the complaint [and I consent to being struck off the Roll of Notaries] [delete as applicable]

2. My address for service is

DATED this ..... day of ..... 20...

**Form 5: Notice of Hearing**

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the above named respondent [AB] of [address] and to the complainant [CD] of [address]

TAKE NOTICE that this complaint will be heard by the Court on ..... day the ..... day of ..... at [time of day] at ..... when you are required to attend.

If you do not attend the hearing may proceed in your absence.

DATED this ..... day of ..... 20...

Signed

Registrar

**Form 6: Order**

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the above named [respondent/petitioner] [AB] of [address] and to the [complainant/respondent] [CD] of [address]

The Court having heard this [complaint] [application] on the ..... day of ..... 200..

THE COURT ORDERS as follows:-

DATED this ..... day of ..... 20...

Signed

Registrar

**Form 7: Application for Suspension etc pending determination of Complaint**

IN THE COURT OF FACULTIES

In the Matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the Registrar

I, the undersigned complainant [CD] of [address] apply to the Court for an order that pending the determination of this complaint [the said respondent [AB] of [address] be suspended from practice as a notary] OR [the practice of the said respondent [AB] of [address] be restricted or limited as follows: *[specify restrictions or limitations]*] OR [the following conditions be imposed on the practice of the said respondent [AB] of [address]: *[specify conditions]*]

The grounds of this application are contained in the accompanying affidavit.

DATED this ..... day of ..... 20...

Signed

Address for service

**Form 8: Notice of Hearing of Application**

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the above named respondent [AB] of [address] and to the complainant [CD] of [address]

TAKE NOTICE that the complainant’s application that the respondent be suspended from practice as a notary or that the practice of the respondent be restricted or limited or that conditions be imposed on the practice of the respondent will be heard by the Court on ..... day the ..... day of ..... at [time of day] at ..... when you are required to attend.

The Court may also give directions for the hearing of the substantive complaint.

If you do not attend the hearing may proceed in your absence.

DATED this ..... day of ..... 20...

Signed

Registrar

**Form 9 Application under Rule 11**

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the Registrar

I [AB] of [address for service] apply to the Court as follows:-

1. By an Order of the Court made on [date] it was ordered that [set out the terms of the Order other than terms as to costs]
2. I now apply that the said Order be reviewed pursuant to rule 11 of the said rules.
3. The grounds of this application and the evidence in support of it are fully set out in the accompanying affidavit[s]

DATED this ..... day of ..... 20...

Signed

Petitioner

**Form 10 Notice of Hearing of Petition under Rule 11**

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 2011

To the above named applicant [AB] of [address] and to [CD] of [address] appointed to act as respondent to this application.

TAKE NOTICE that this application will be heard by the Court on ..... day the ..... day of ..... 20... at [time of day] at ..... when you are required to attend. If you do not attend the hearing may proceed in your absence.

DATED this ..... day of ..... 20...

Signed

Registrar

.....  
MASTER