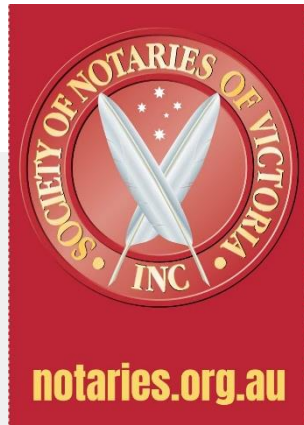


Europe
October 2024

An Introduction to the Notariats of Australia – seen through the Society of Notaries of Victoria



Michael Bula Solicitors

MBS International Lawyers

MBS Notary



PRESENTATION

MICHAEL LEOPOLD BULA, LL.B, B.A. [Uni Melb]

Grad. Dip. Notarial Prac. [Vic Uni] FSNV, FANZCN

Barrister, Solicitor and Notary

Immediate Past President SNV

Adjunct Research Fellow - Victoria University

Sessional Lecturer – Victoria + Bond Universities

NAATI French ↔ English certified translator

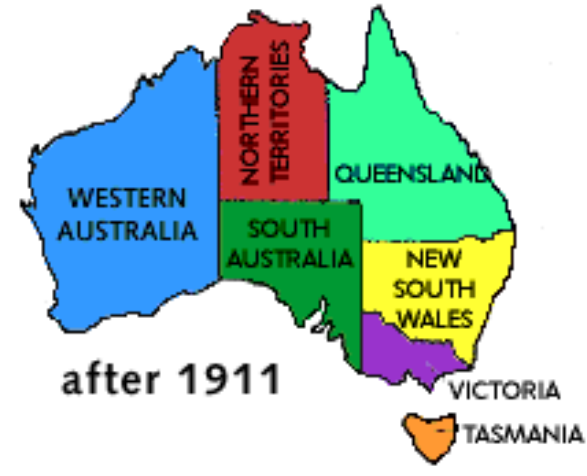
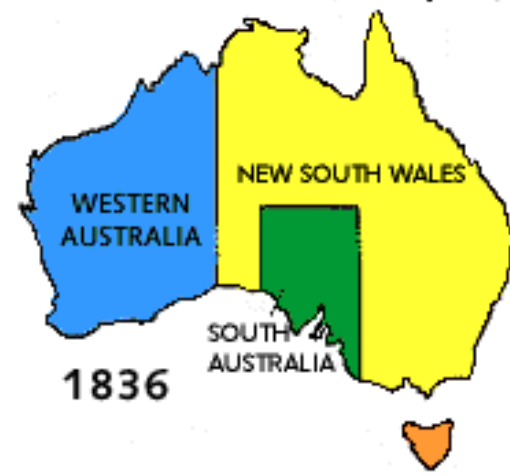
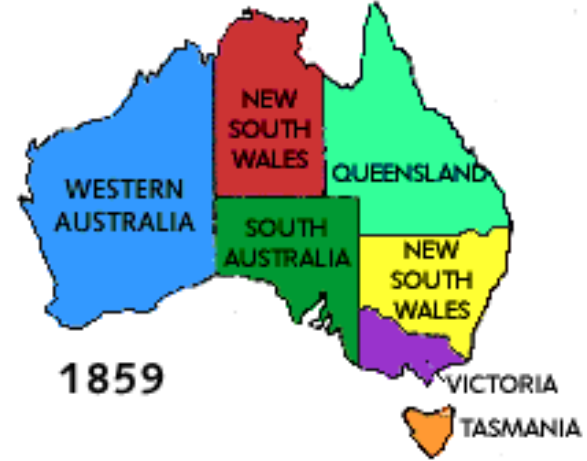
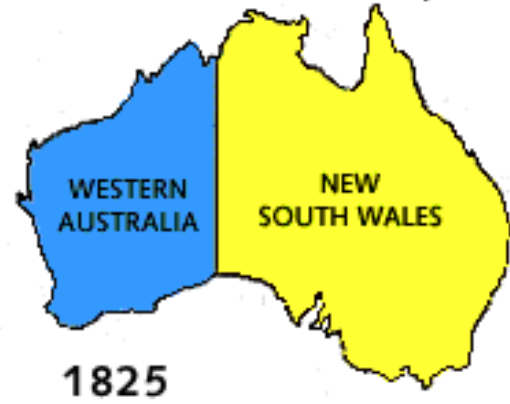


www.notaries.org.au



Notaries in Australia

Australian Notaries Public are all senior practising lawyers appointed by the Supreme Court of the relevant State or Territory in which they intend to practice, except in the State of Queensland and New Zealand where legislation does not exist and appointments rely on English law [similar to those in Great Britain – Scriveners and General Notaries] where Notaries are appointed under its common law heritage by England’s Archbishop of Canterbury, acting through the Master of the Faculties.



Australia

States with their Flags and Capitals





Australian territories

Australia has 6 federated states: New South Wales (including Lord Howe Island), Queensland, South Australia, Tasmania (including Macquarie Island), Victoria, and Western Australia

Australia also has 10 federal territories:

3 *internal territories*: the Australian Capital Territory, the Jervis Bay Territory, and the Northern Territory on the Australian mainland

7 *external territories*: the Ashmore and Cartier Islands, the Australian Antarctic Territory, Christmas Island, the Cocos (Keeling) Islands, the Coral Sea Islands, Heard Island and McDonald Islands and Norfolk Island - offshore dependent territories.

Every state and internal territory (except the Jervis Bay Territory) is self-governing with its own independent executive government, legislative branch, and judicial system, while the rest only have local government status overseen by federal departments.





Notariats in Australia

South Australia

Notaries' Society of South Australia Inc. <http://notaries-sa.org.au/>

Notaries Public Act 2016

Tasmania

Notaries Public Act 1990

No Society of Notaries

Western Australia

Society of Notaries in Western Australia <https://notarieswa.com.au/>

Public Notaries Act 1979



Notariats in Australia

Northern Territory

Public Notaries Act 1992

A new Society of Notaries was formed this year

Australian Capital Territory

Notaries Public Act 1984

No Society of Notaries

+++

NEW ZEALAND – UNITARY STATE

New Zealand Society of Notaries

No Act – appointed by England’s Archbishop of Canterbury, acting through the Master of the Faculties



Notariats in Australia

AUSTRALIAN AND NEW ZEALAND COLLEGE OF NOTARIES

<http://anzcn.org/>

PROFESSIONAL COURSE IN NOTARIAL PRACTICE

<https://www.vu.edu.au/courses/professional-course-in-notarial-practice-jqnp>

In Victoria all notaries must be senior principal or partner or director level lawyers with full certificates who have practised as such for 5 years and completed an approved course of education, the highest stand in Australia and New Zealand

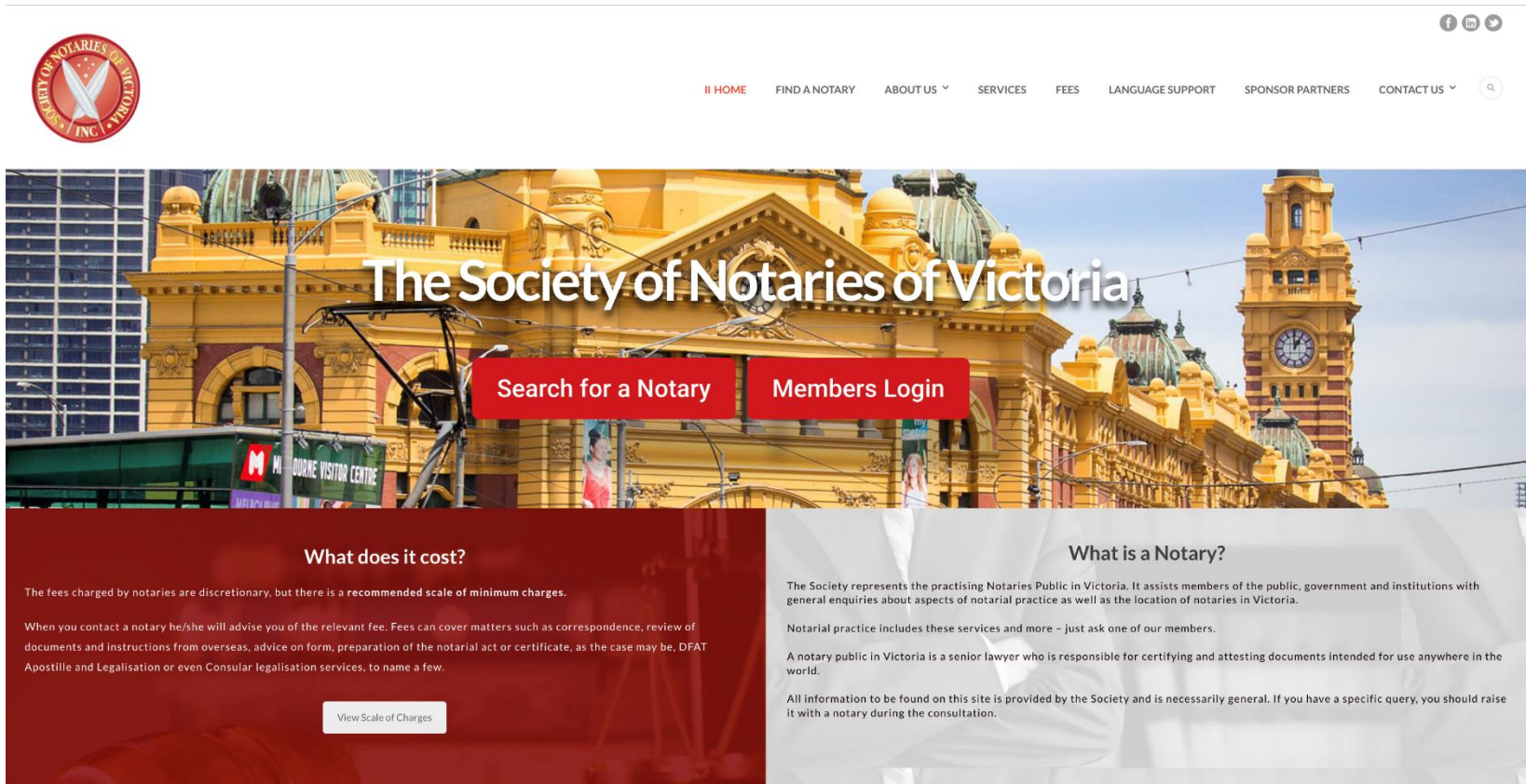


The Society

- **Founded in 1883, according to *Victorian Notary* (2018) by Paul J. Cariss - 510 years after the Scriveners**
- **The sole representative body of the Victorian Notariat**
- **Part of a national and international network of notariats by twinning agreements, offering opportunities and events well beyond Victoria in common/civil law**
- **Participation provides education, mentoring, improvement of standards, knowledge access**
- **Greater contribution by election to Council**
- **Form: Victorian Incorporated Association**

Website: www.notaries.org.au

- Search function – foreign languages + laws
- Member only log in
- Member privileges – Fellow + education, mentor
- Practice Notes + Papers
- Secure online payment
- Language support + more
- E-bulletins + posts
- Social media



The screenshot shows the homepage of the Society of Notaries of Victoria. At the top left is the organization's logo, a red circular emblem with a white cross and the text 'SOCIETY OF NOTARIES OF VICTORIA INC'. To the right of the logo is a navigation menu with links: HOME, FIND A NOTARY, ABOUT US, SERVICES, FEES, LANGUAGE SUPPORT, SPONSOR PARTNERS, and CONTACT US. Below the navigation is a large banner image of a grand, ornate yellow building with a clock tower. Overlaid on the banner is the text 'The Society of Notaries of Victoria' in white. Below this text are two red buttons: 'Search for a Notary' and 'Members Login'. The main content area is divided into two columns. The left column has a dark red background and features the heading 'What does it cost?' followed by text explaining that fees are discretionary but a recommended scale of minimum charges exists. A 'View Scale of Charges' button is at the bottom. The right column has a light grey background and features the heading 'What is a Notary?' followed by text explaining the Society's role and the duties of a notary public in Victoria.

What does it cost?

The fees charged by notaries are discretionary, but there is a recommended scale of minimum charges.

When you contact a notary he/she will advise you of the relevant fee. Fees can cover matters such as correspondence, review of documents and instructions from overseas, advice on form, preparation of the notarial act or certificate, as the case may be, DFAT Apostille and Legalisation or even Consular legalisation services, to name a few.

[View Scale of Charges](#)

What is a Notary?

The Society represents the practising Notaries Public in Victoria. It assists members of the public, government and institutions with general enquiries about aspects of notarial practice as well as the location of notaries in Victoria.

Notarial practice includes these services and more – just ask one of our members.

A notary public in Victoria is a senior lawyer who is responsible for certifying and attesting documents intended for use anywhere in the world.

All information to be found on this site is provided by the Society and is necessarily general. If you have a specific query, you should raise it with a notary during the consultation.



THIRD EUROPEAN CIVIL LAW + LONDON COMMON LAW

STUDY TOUR 3 to 17 October 2024 = 25 CPD points

Organised by the SNV with the International Institute of Notarial Studies [Switzerland]
and the Scriveners of London

Vienna - Zagreb - Athens - Tirana - Pristina - Vienna - London:

Austria

Croatia

Greece

Albania

Kosovo

Austria

UK

Especially designed for the Notaries of Australia



- Bookings close 24 April 2024
- Details SNV website
- 5 civil law notariats:
 - Austria
 - Croatia
 - Greece
 - Albania
 - Kosovo
- 1 leading common law notariat:
 - Scriveners of London

TOPICS:

- Electronic signatures
- E-technologies
- Remote online notarisation
- Australian acts received in Europe and more!

Included in Europe:

- 4 star hotels, most meals, CPD events, internal Europe flights

Included in London:

- CPD events, most meals, Scriveners' autumn dinner, 25 CPD points



The SNV

- **Oldest [1883] continuous Notarial Society in Australia - one of the most dynamic bodies in the common law world - promote the notariat – ANZ + International links**
- **CPD Events + European Study Tour + Annual Dinner**
- **Post-nominals “FSNV” – Fellow of the Society of Notaries of Victoria**
- **Licence to use the SNV logo**
- **Membership prices for events**
- **Practice notes + e-bulletin + website exposure**
- **Networking + Professional Collegiality/Solidarity**
- **Mentoring + resources – precedents – civil law education**
- **Notice of Australian and overseas conferences**
- **Merchandise + many other benefits**

Typical acts of Australian Notaries

MBS Notary

Michael Bula Solicitors

MBS International Lawyers

www.mbsols.com.au



SUMMARY

MBS Notary



- **Introduction – Export Acts**
- **Authentic act**
- **Public + private form acts – civil law + common law**
- **Elements of the authentic act**
- **Foreign language authentic deeds + translations**
- **Observations**
- **Examples of Authentic Acts**



BROOKE'S NOTARY

- **Functions of a Common Law Notary**
- **Authentic Act**
- **Types of Notarial Acts**
- **Private Form**
 - *Civil law*
 - *Common law*



ZABLUD FORMS AND PRECEDENTS + PRINCIPLES OF NOTARIAL PRACTICE

- **Acts in Public Form - elements**
- **Acts in Private Form – appended certificate :
nature, validity, legal status, identity, capacity,
signature**
- **Common Law [2 Forms]
-v- Civil Law [Authentic]**
- **Draft/tailor acts for foreign use**



ZABLUD

- **Preamble: notary ID, date, place appearer, representative capacity, verification by notary**
- **Operative: record by declaration – matters which are the subject of the instrument**
- **NAATI translation – foreign language - bilingual**
- **Eschatocal: [civil law] act read over, acknowledged, signed notarial certification, witnesses, local/foreign law execution formalities**
- **Originals/counterparts for client**
- **Notarial Protocol [electronic]**



FOREIGN LANGUAGE AUTHENTIC DEEDS + TRANSLATIONS

- It is the notary's act!
- Official or certified NAATI translator [new system]
- Due diligence
- Elements required for translator deed
- Translation [written] in the client's own language
- Interpretation [oral] – additional requirement
- Notary and Client to sign off [certificate]



COMMENTS AND PROPOSITIONS

Public Notaries Act 2001 proposed amendment

PART III – General

Section 10A

Public Notary empowered to receive all notarial acts

A Public Notary is authorised to prepare, draft and receive all notarial acts in both public or authentic form and in private form for use and production outside Australia including but not limited to certificates of Australian law and deeds and other instruments of all kinds authenticated by his or her signature and official seal.



EXAMPLES

Authentic Acts

A non-exhaustive checklist

1. ships protests
2. foreign law certificates where an overseas Notary, lawyer or institution/authority requests a position concerning state, territory or Commonwealth laws concerning a specific fact situation, such as:
 - (i) certificate of next of kin
 - (ii) certificate of devolution;
 - (iii) laws relating to incapacity



EXAMPLES

Authentic Acts

- (iv) representation of minors in real property and deceased estate transactions and claims;**
- (v) provenance of funds for overseas transactions concerning anti-money laundering laws for companies and individuals;**
- (vi) certificates of capacity to undertake transactions overseas for Australian companies and trusts;**
- (vii) certificates concerning civil status and proofs of paternity;**
- (viii) attestations concerning business names, their operation and nature for overseas purposes;**



EXAMPLES

Authentic Acts

- (ix) operation of the Guardianship Administration Act, judgments and powers of guardians and administrators;**
- (x) life certificates with or without photos for overseas purposes usually pensions;**
- (xi) matrimonial regime operative in Australia;**
- (xii) matters concerning The Family Law Act – divorce, property division, custody and access etc;**
- (xiii) execution of documents and deeds in Australia – bankruptcy attestations for individuals;**



EXAMPLES

Authentic Acts

- (xiv) effect of Australian general and enduring Powers of Attorney with reference to the legislation and common law issues;**
- (xv) freedom to marry in overseas jurisdictions;**
- (xvi) the change of name processes in the Australian states and territories for overseas purposes;**
- (xvii) an act attesting to service or provision of documents to an Australian appearer;**
- (xviii) act to prove sale moneys for an overseas property passed between an Australian purchaser and an Australian vendor;**



EXAMPLES

Authentic Acts

(xix) certificate to provide proof of bank account details;

(xx) certificate as to jurisdiction, renvoi and double renvoi and partial renvoi;

(xxi) change of sex certificate;

(xxii) proofs concerning the estate and public trustees and their statutory, executorial and fiduciary powers for deceased estates with assets overseas;

(xxiii) numerous acts concerning specific aspects of the laws relating to Australian deceased estates with overseas property;



EXAMPLES

Authentic Acts

- 3. company certificates of good standing or their equivalent as well as capacity for conclusion of overseas transactions;**
- 4. Powers of Attorney in public form – possibly the most common and yet the most high risk, as a result, for all Australian Notaries;**
- 5. attestation relating to de facto status of a couple and consequences for overseas matters;**
- 6. acts with respect to domicile;**
- 7. certification of the existence of universities, tertiary institutions, colleges, TAFES as well as secondary and primary schools;**



EXAMPLES

Authentic Acts

- 8. certificates with respect to citizenship;**
- 9. parental delegations and travel authorities for a minor;**
- 10. protests for bills of exchange;**
- 11. certifications for corporate and financial documents;**
- 12. true certified and verified copy documents;**
- 13. acts relating to proper process for translators and interpreters as well as verifications in Affidavit or certificate form;**
- 14. certificates relating to export of goods, therapeutic goods, manufacture, free sale etc.;**



EXAMPLES

Authentic Acts

15. certain certificates for Australian tertiary and secondary qualifications, degrees and diplomas;

16. numerous verifications for qualifications, deaths certificates, probate, intellectual property;

17. certificate of authorised person pursuant to the Uniform Law on the Form of an International Will – Washington Convention of 26 October 1973;

18. add any others here.

END