



AN CHUIRT UACHTARACH
THE SUPREME COURT

O'Donnell C.J.

**In the Matter of Michael Prior (seeking to be a Notary Public) and
In the Matter of the Courts (Supplemental Provisions) Act, 1961**

**Ruling of Mr. Justice O'Donnell, Chief Justice delivered on the 13th of
December, 2023.**

1. By a petition of 4 November, 2022, Michael Prior sought appointment as Notary Public for the counties of the City of Dublin and Administrative Areas of Dun Laoghaire-Rathdown, South Dublin County Council and Fingal County Council (together with counties adjoining thereto, Kildare, Meath and Wicklow), ("the Dublin application"), and also for the City and County of Cork, together with the counties adjoining thereto, namely Kerry, Limerick, Tipperary and Waterford ("the Cork application").
2. On the 22 March, 2023, I granted Mr. Prior's petition, in respect of the Dublin application, and I adjourned the Cork application for further submissions on the issues raised by the application. The petitioner expressly seeks appointment for non-contiguous areas, namely both Dublin (and surrounding counties) and Cork (and surrounding counties). This raises issues of practice, precedent, and principle. I have been furnished with helpful observations by the Faculty of

Notaries Public in Ireland's Vetting Committee, and with a detailed and informative memorandum from Dean Emeritus, E. Rory O'Connor, the co-author of the textbook "*The Notary of Ireland: Law and Practice*".¹

3. The background is traced in the submissions. It has certainly been the practice in Ireland since independence that notaries have been appointed for specified areas, normally an administrative county or city and county, and normally where the petitioner has their place of business.
4. As explained by Mr. O'Connor, growing industrialisation led to a demand for the provision of notarial services beyond the administrative county for which appointment was made, and the practice was developed of permitting an extension of the original appointment to adjoining counties and administrative areas. In 2011, my predecessor Chief Justice Murray refused an application from an existing notary for appointment to all counties which he did not then have jurisdiction to act as a notary (*In Re Hussey* (Unreported, Supreme Court, Murray C.J., 18 July, 2011)). This ruling has been understood to be the basis of an accepted view that it is not possible to appoint a notary for the entirety of the administrative areas of the Republic of Ireland, or the Republic of Ireland more generally, although strictly speaking that was not what was applied for in that case. It certainly appears to be the case that since 1922 the practice in Northern Ireland has been for the appointment of notaries for all the administrative areas in Northern Ireland.

¹ Eamonn G. Hall and E. Rory O'Connor, *The Notary of Ireland: Law and Practice* (2nd edn, Faculty of Notaries Public Ireland 2018).

5. My attention has also been drawn to two important precedents in which petitioners sought appointments for non-contiguous areas, and, as it happens, those areas being Cork and Dublin. In *In Re Holohan* [2000] Keane C.J. appointed the petitioner as a Notary Public for both Cork and Dublin. In *In Re Hammond* [2016] IESC 54 (Unreported, Supreme Court, Denham CJ., 27 September, 2016), Denham C.J., made an appointment on similar terms. In that case, Denham C.J. observed that the applicants in both cases had a number of features in common as follows:-
 1. Both applications related to Cork-based solicitors who spent a significant amount of professional time in Dublin;
 2. Both had a significant client base;
 3. Both had wide interests including being Fellows of the Chartered Institute of Arbitrators, accredited mediators, registered trademark agents, European trademark and design attorneys, and both were members of the Irish Society of Insolvency Practitioners;
 4. Both had a significant amount of published work;
 5. Both had made significant contributions to the Law Society and local Bar Association; and
 6. Both have a high profile within the solicitors' profession because of the nature of their specialized work.
6. The Faculty submits that the criteria here identified should be seen as an acknowledgement of the exceptional calibre of the particular petitioners, and not as proofs required for appointment as a Notary in non-contiguous areas. I agree. In this case, there is no question but that the applicant has satisfied the

demanding educational requirements of the Faculty, has given satisfactory assurances as to the form of his practice, and is clearly considered to be a person fit to be a Notary Public, all of which is shown by the fact of his appointment as a Notary Public for Dublin and adjoining counties. I do not think it would be desirable to allow the creation of a further category of persons qualified, not just to be appointed a Notary Public, but also to be appointed as such a Notary for non-contiguous areas, and I do not understand what legal basis there could be for requiring any additional qualifications for such appointment.

7. Once it is accepted that a Notary can be appointed for more than a single area, there is, in my view, no reason in principle for not appointing a Notary for non-contiguous areas. In this regard, it is also notable that practice has advanced significantly. The practice is now to seek appointment for a named county and administrative area, and for adjoining counties. In this case, that will incorporate some very heavily populated areas, with no immediate or obvious connection to the primary area. Furthermore, although in accordance with practice, the petitioner has submitted a certificate of fitness signed by six members of the local business community in Dublin and fifteen members of the local business community in Cork, and by six solicitors in Dublin and fifteen solicitors in Cork, he does not submit, and is not required to submit, any such certificate in the case of Kerry, Limerick, Tipperary and Waterford, or Meath, Kildare and Wicklow. Again, in the case of Dublin, it is the practice to include four local authority areas as a single area, and the counties that adjoin the county of Dublin, although there is no necessary connection, either physical or business wise, between Wicklow and Fingal on the one hand, or Dun Laoghaire-Rathdown and Meath

on the other. These developments are, in my view, an indicator that the business of a Notary cannot necessarily be tied to a particular local area.

8. The Faculty submits, and I agree, that methods of business have advanced significantly in recent years, and there is no longer any practical reason for imposing a general requirement of contiguity, which requirement is, as already observed, already subject to significant exceptions. Furthermore, it is important to distinguish between those traditions and practices that go to ensuring that the business of a Notary is provided in a professional way, and those which no longer are consistent with modern practice and conditions.
9. In this case, the petitioner has produced satisfactory proof that he meets the criteria necessary for appointment as a Notary Public, and I am accordingly satisfied to appoint him as a Notary Public for the area of Cork and the adjoining counties of Kerry, Limerick, Tipperary and Waterford. The application does not seek appointment for all the counties of the Republic of Ireland. If such an application were made by any petitioner, I would invite submissions from the Faculty as to the appropriateness of such a course, the manner in which the relevant precedents should be analysed, and if appropriate, the conditions upon which any such appointment should be made.