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## Notaries Act

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RT I 2000, 104, 684  
Entry into force 01.02.2002

Amended by the following acts

Passed	Published	Entry into force
14.11.2001	RT I 2001, 93, 565	01.02.2002
12.06.2002	RT I 2002, 57, 357	01.08.2002
19.06.2002	RT I 2002, 64, 390	29.07.2002
19.06.2002	RT I 2002, 61, 375	01.08.2002
20.11.2002	RT I 2002, 102, 600	01.01.2003
29.01.2003	RT I 2003, 18, 100	07.03.2003, partially 01.05.2004
03.12.2003	RT I 2003, 78, 527	01.01.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
15.06.2005	RT I 2005, 39, 308	01.01.2006
12.10.2005	RT I 2005, 57, 450	01.01.2006
15.12.2005	RT I 2005, 71, 549	01.01.2006
26.01.2006	RT I 2006, 7, 42	04.02.2006
21.11.2007	RT I 2007, 67, 413	28.12.2007
19.12.2007	RT I 2008, 3, 21	28.01.2008
12.03.2008	RT I 2008, 15, 108	01.11.2008
04.06.2008	RT I 2008, 27, 177	10.07.2008
19.06.2008	RT I 2008, 30, 191	01.07.2008
09.12.2008	RT I 2008, 56, 313	24.12.2008
10.12.2008	RT I 2008, 59, 330	01.01.2009
06.05.2009	RT I 2009, 27, 164	08.06.2009; partially 30.08.2009, 01.01.2010, 01.07.2010 and 01.01.2010 upon entry into force of an Act regulating conciliation procedure
21.10.2009	RT I 2009, 51, 349	15.11.2009
29.10.2009	RT I 2009, 54, 363	01.01.2010
16.12.2009	RT I 2009, 67, 460	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24 - 26).
17.06.2010	RT I 2010, 38, 231	01.07.2010, partially 01.08.2010
16.12.2010	RT I, 30.12.2010, 2	01.01.2011
26.09.2013	RT I, 09.10.2013, 1	28.10.2013, partially 19.10.2013 and 01.01.2015

11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2015 and 01.01.2020
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act
10.12.2014	RT I, 31.12.2014, 1	10.01.2015
18.02.2015	RT I, 19.03.2015, 2	29.03.2015
16.02.2016	RT I, 10.03.2016, 2	20.03.2016
05.04.2017	RT I, 20.04.2017, 1	15.01.2018
07.12.2016	RT I, 21.12.2016, 1	01.03.2018
20.04.2017	RT I, 09.05.2017, 1	01.07.2017
09.05.2018	RT I, 31.05.2018, 2	10.06.2018, partially 01.10.2018 and 01.01.2021
06.06.2018	RT I, 29.06.2018, 1	01.07.2018
30.01.2019	RT I, 22.02.2019, 2	01.02.2020
21.02.2019	RT I, 19.03.2019, 8	01.04.2019

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application

(1) This Act regulates the office of notary and the status of the Chamber of Notaries.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) The procedure for notarial authentication, the disciplinary liability of notaries and the rates of notaries' fees are regulated by other Acts.

(3) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act. The Administrative Procedure Act does not apply to notarial acts.  
[RT I 2003, 18, 100 – entry into force 07.03.2003]

## Chapter 2 OFFICE OF NOTARY

### § 2. Legal status of notary

(1) A notary is a holder of office in public law, an independent official to whom the state has delegated the duty of ensuring the security of legal relationships and prevention of legal disputes.

(2) The professional activities of a notary are divided into the performance of notarial acts and the provision of notarial services.

(3) A notary executes his or her office as a liberal profession in his or her own name and at his or her own responsibility. An undertaking or a state official shall not be a notary.

(4) A notary shall be impartial and reliable in his or her professional activities.

(5) A notary shall be guided by the oath of office and shall also act in a dignified manner outside of his or her professional activities.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

### § 3. Duty to maintain confidentiality

(1) A notary is required to maintain the confidentiality of information which he or she receives through professional activities. The duty of a notary to maintain confidentiality remains also after he or she resigns from office, and extends to the employees of a notary's office, translators and interpreters and other persons who have access to such information. The provisions of this section apply to the notarial services specified in § 32 of this Act unless otherwise provided by law.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) A notary shall disclose information concerning notarial acts performed by the notary only to persons at whose request or concerning whom the notarial acts are performed, or to the representatives of such persons. At the request of a court, a notary shall disclose information to the court concerning notarial acts performed in a criminal, civil or administrative matters pending before the court. On the basis of a court ruling, a notary shall disclose information concerning notarial acts performed by the notary to investigative bodies.

(2<sup>1</sup>) In order to prove their right of representation, the representatives specified in subsection (2) of this section shall submit to the notary a digitally signed or notarially certified power of attorney or, in the case of representation not related to a transaction, another document which is the basis for the right of representation.  
[RT I 2007, 67, 413 – entry into force 28.12.2007]

(2<sup>2</sup>) Disclosure of information to a body exercising administrative supervision pursuant to § 5 of this Act and to a person conducting disciplinary or court of honour proceedings with regard to a notary is not deemed to be violation of the duty to maintain the confidentiality of information.  
[RT I, 31.05.2018, 2 - entry into force 10.06.2018]

(2<sup>3</sup>) A notary is released from the duty to maintain confidentiality upon the performance of obligations related to issuing of a certificate (*apostille*).  
[RT I 2010, 38, 231 – entry into force 01.07.2010]

(2<sup>4</sup>) At the request of the head of a security authority, a notary shall, with the permission of an administrative court, provide information to the security authority on notarial acts for the performance of functions provided for in § 6 and subsection 7 (1) of the Security Authorities Act. The grant of permission shall be decided based on a reasoned written application of the head of a security authority pursuant to the provisions for granting permission for an administrative measure specified in the Code of Administrative Court Procedure. The provisions of this subsection shall not be applied to the disclosure of information specified in subsection (3) of this section.  
[RT I, 19.03.2015, 2 – entry into force 29.03.2015]

(2<sup>5</sup>) At the request of the head of a security authority, a notary shall provide information to the security authority on notarial acts for the performance of a security vetting specified in the State Secrets and Classified Information of Foreign States Act if the person at whose request the notary performed the notarial act has granted consent for the performance of a security vetting pursuant to the procedure provided for in the State Secrets and Classified Information of Foreign States Act. The provisions of this subsection shall not be applied to the disclosure of information specified in subsection (3) of this section.  
[RT I, 19.03.2015, 2 – entry into force 29.03.2015]

(3) A notary may disclose information concerning the existence and the content of a will only after the death of the testator. After the death of one spouse, a notary may disclose information concerning the existence of the reciprocal will of the spouses and dispositions made by the deceased spouse.  
[RT I 2010, 38, 231 – entry into force 01.07.2010]

(4) A person at whose request a notary performed a notarial act or the legal successor or representative of the person may release a notary from the duty to maintain the confidentiality of the notarial act by submitting written consent to this effect which is notarially certified, digitally signed or given in the presence of a notary. If the person is deceased and has no legal successors or if it is not possible to establish contact with the person, a court may release a notary from the duty to maintain confidentiality. At the request of the notary, a court may also release a notary from the duty to maintain the confidentiality of a notarial act with other good reason.  
[RT I 2007, 67, 413 – entry into force 28.12.2007]

(5) The duty to maintain the confidentiality of notarial acts also extends to credit institutions, courts, archives and other legal persons and agencies, and to the employees thereof who possess documents containing the information specified in subsection (1) of this section or who have access to such documents, unless otherwise provided by law. Credit institutions, courts, archives and other legal persons and agencies who possess documents containing notarial acts or information pertaining thereto shall disclose the information analogously with the procedure provided for in subsection (2) of this section, unless otherwise provided by law.

**§ 4. Right to use image of national coat of arms**  
[Repealed -RT I, 31.05.2018, 2 - entry into force 10.06.2018]

#### **§ 4<sup>1</sup>. Official seal of notary**

The description and types of an official seal of a notary and the procedure for use and destruction thereof shall be established by a regulation of the minister responsible for the area.  
[RT I, 31.05.2018, 2 - entry into force 10.06.2018]

## **§ 5. Administrative supervision over professional activities**

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) The Ministry of Justice shall exercise administrative supervision over the professional activities of notaries. The Ministry of Justice may involve the Chamber of Notaries in the administrative supervision activities.  
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(2) The Ministry of Justice may delegate the exercise of administrative supervision over compliance with the requirements of the Money Laundering and Terrorist Financing Prevention Act and legislation established on the basis thereof and exercise of administrative supervision over other individual matters to the Chamber of Notaries. In the delegated area of administrative supervision, the Ministry of Justice may give instructions for the exercise of administrative supervision and amend resolutions adopted by the Chamber of Notaries with respect to such areas.  
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(3) The objective of administrative supervision is to monitor the professional activities of notaries according to the requirements, including the organisation of work of notaries' offices, keeping of books concerning professional activities, preservation of documents, electronic processing of personal data in notaries' offices and the existence of prescribed connection to the registers through computer networks, performance of notarial acts specified in § 35 of this Act, representation of parties pursuant to subsection 30 (2) of this Act and the existence of required professional liability insurance. Administrative supervision shall not extend to the content of notarial acts.  
[RT I, 31.05.2018, 2 - entry into force 10.06.2018]

(4) Administrative supervision means periodical inspection over professional activities of notaries. Additional inspection is allowed only in justified cases where there is information referring to the need of inspection. In the case of a new notary, the first inspection shall be conducted within the notary's second year of office.  
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(5) A notary is required to present the books concerning his or her professional activities and other materials which are necessary for exercising administrative supervision.  
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(6) This section also applies to the inspection of the professional activities of substitute notaries.

## **§ 6. Requirements for becoming notary**

(1) A citizen of a Member State of the European Union with active legal capacity who has completed candidate service and passed the notary examination, is proficient in oral and written Estonian, is honest and of high moral character and whose education meets the educational requirements for the position of a judge pursuant to clause 47 (1) 1) of the Courts Act may become a notary.  
[RT I 2008, 27, 177 – entry into force 10.07.2008]

(2) The following shall not be appointed notary:  
1) a person specified in subsection 47 (2) of the Courts Act;  
2) a person who has lost the right to substitute a notary on the basis of subsection 19 (2) of the Notaries Disciplinary Action Act;  
3) a notary candidate released from the candidate service on the basis of subsection 20 (2) or clause 22 3) of the Notaries Disciplinary Action Act.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(3) [Repealed - RT I 2005, 71, 549 – entry into force 01.01.2006]

## **§ 7. Filling of office on basis of competition**

An office of notary shall be filled on the basis of competition. The conditions and procedure for the competition shall be determined by the minister responsible for the area after hearing the opinion of the Chamber of Notaries.

## **§ 8. Number of offices and appointment to office**

(1) The number of notaries' offices and their corresponding territorial jurisdiction shall be determined by the minister responsible for the area on the basis of the estimated number of notarial acts to be performed.

(2) A notary shall be appointed to office by the minister responsible for the area.

(3) A notary shall be appointed to a specified territorial jurisdiction and a professional certificate shall be issued to the notary.

(4) A notary shall be appointed to office for life. At the request of a notary, the minister responsible for the area may permit the notary to remain in office after attaining pensionable age if this is necessary to satisfy the need for notarial acts to be performed, but for no longer than ten years.

#### **§ 9. Oath of office**

(1) Prior to assumption of office, a person appointed to the office of notary shall take the following oath of office before the minister responsible for the area: "I swear by my honour and my knowledge to be faithful to the Republic of Estonia, to observe its Constitution and to be subject only to the law. As a notary, I swear that I shall execute my office in an honest, dignified and impartial manner."

(2) The oath of office of a notary shall be deposited in the Ministry of Justice.

#### **§ 10. Assumption of office**

(1) A notary shall assume office within four months after appointment to office.

(2) Before assumption of office, a notary shall submit a professional liability insurance certificate to the Chamber of Notaries.

[RT I, 31.05.2018, 2 - entry into force 10.06.2018]

#### **§ 10<sup>1</sup>. Specimen signature and specimen of impression of seal**

Before assumption of office, and also upon change of his or her name or change of his or her seal, a notary shall present his or her specimen signature and a specimen of the impression of his or her seal to the Chamber of Notaries.

[RT I 2009, 27, 164 – entry into force 01.01.2010]

#### **§ 11. Notary's office**

(1) A notary's place of work is his or her office.

(2) A notary is permitted to open only one office. At the request of a notary, the minister responsible for the area may permit the notary to open several offices within the territorial jurisdiction of the notary.

(3) Two or more notaries appointed to the same territorial jurisdiction may operate a common office with the consent of the Board of the Chamber of Notaries. The rights and obligations of notaries in operating a common office shall be specified in a contract entered into between them. In operating a common office, each notary shall perform notarial acts in his or her own name and shall be personally liable for his or her professional activities.

(4) A notary is prohibited from practising in common office premises with representatives of other professions, except for sworn translators.

(5) A notary's office shall be open on working days for at least five hours a day. If a notary opens several offices in his or her territorial jurisdiction, the specified requirement shall be valid only for one office. The notary shall determine the business hours of the other offices according to the need.

(6) A notary, being a holder of an office in public law and member of a liberal profession, shall perform in person the duties imposed on him or her by law. Persons requesting the performance of notarial acts and parties entering into transactions to be notarially authenticated shall always have the possibility to directly address a notary in connection with the notarial act.

#### **§ 12. Restrictions related to office**

(1) A notary shall not hold other paid offices besides the office of notary or perform any other paid work except teaching or research or creative activities.

[RT I 2009, 27, 164 – entry into force 30.08.2009]

(2) Also, a notary shall not engage in enterprise, or:

- 1) participate in a company or be a member of the management or supervisory board or a liquidator or procurator of a company;
- 2) be the director of a branch of a foreign company;
- 3) be a trustee in bankruptcy, member of a bankruptcy committee or compulsory administrator of immovable.

(3) A notary may acquire securities which are publicly issued, including shares and convertible bonds.

(4) A notary shall not be a member of the leadership of a political party or belong to foreign political organisations.

(5) A notary and the employees of his or her office are prohibited from acting as intermediaries between parties entering into transactions unless otherwise provided by law.

(6) [Repealed - RT I 2008, 15, 108 – entry into force 01.11.2008]

### **§ 13. Accounting and taxation of notaries**

(1) A notary is a person required to maintain accounting and pay value added tax. Notaries operating a common office may maintain common accounts.

(2) For accounting and taxation purposes, notaries are considered to be sole proprietors.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 14. Liability**

(1) A notary shall be liable for damage arising from wrongful violation of his or her official duties. A notary as a public authority shall be liable on the bases and in the extent specified in the State Liability Act. Claims for the compensation of damage shall be heard in an action in county court.  
[RT I 2005, 39, 308 – entry into force 01.01.2006]

(2) If a party to a transaction or a third person is also liable for damage, a notary shall be liable for damage arising from wrongful violation of his or her official duties in the extent that remains uncompensated by other persons who caused the damage.

(3) The requirement arising from subsection (1) of this section shall expire within three years after the time when the victim became aware of the damage and of the person liable to compensate for the damage, but not later than within ten years after the damage was caused.

(4) If claims for damages cannot be satisfied from the assets of a notary or any other person liable for the damage or if such claims cannot be satisfied in full, the state is liable for the damage caused. The state has the right of recourse to the notary or any other person liable for the damage to the extent of the compensation paid for the damage.  
[RT I 2008, 59, 330 – entry into force 01.01.2009]

### **§ 15. Professional liability insurance**

(1) In order to ensure compensation for the damage specified in § 14 of this Act, a notary is required to enter into a professional liability insurance contract which shall meet the following conditions:

- 1) the insurer shall be a company which has permission to engage in insurance activities in Estonia;
- 2) the contract shall fully cover the liability arising from § 14 of this Act and also include the names of persons to whom the notary has professional liability;
- 3) the minimum amount of insurance coverage for one insured event shall be not less than 63 910 euro and the maximum amount of insurance indemnities payable during an insured year shall be not more than 191 700 euro.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(1<sup>1</sup>) A notary may insure his or her liability for damage caused by the provision of notarial services also only to the extent specified in subsection 32 (1) of this Act. In such case the notary shall not provide notarial services not covered by the insurance contract.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) Liability for intentional violation of duties need not be insured.

(2<sup>1</sup>) The minister responsible for the area has the right to establish additional conditions for professional liability insurance contracts of notaries concerning insured events, grounds for reduction of the indemnity or refusal to indemnify and the terms for indemnification.

(3) The Chamber of Notaries shall enter into insurance contracts to ensure compensation for damage caused by notary candidates and persons specified in subsection 20 (4) of this Act, and may enter into additional insurance contracts to secure the compensation for damage specified in § 14 of this Act.

(4) A notary shall give written notice to the Chamber of Notaries of the circumstances listed in subsections 514 (1) and (3) of the Law of Obligations Act within two weeks after becoming aware of such circumstances, and of the payment by the insurer of the sum insured to the person bearing damages, of the event which caused the insurance case and of the amount of the sum insured within two weeks after the payment of the sum insured. Section 3 of this Act applies to such notices and only the general figures not connected to the notary or insurer may be disclosed.  
[RT I, 31.05.2018, 2 - entry into force 10.06.2018]

## **§ 16. Preservation of documents**

(1) The documents, including the source documents of notarial acts and books concerning the professional activities of a notary, prepared by a notary or substitute notary upon the performance of notarial acts and preserved pursuant to law belong to the state.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(1<sup>1</sup>) Notaries may establish a common archival repository for storing documents.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(1<sup>2</sup>) Notaries shall record the documents specified in subsection (1) of this section in the digital notarial archives in the E-notary information system.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) If a notary resigns from office or is transferred to another territorial jurisdiction, the notary shall transfer the documents which belong to the state pursuant to subsection (1) of this section to the state archive of his or her territorial jurisdiction. Upon the death or serious illness of a notary, a representative of the Chamber of Notaries shall transfer the documents. Documents may be transferred during the period of holding office.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(3) At the order of the minister responsible for the area, a substitute notary appointed to the office of a notary which is temporarily vacant may be required to receive the documents of a notary. At the order of the minister responsible for the area, another notary who holds office within the same territorial jurisdiction may be required to receive the documents of a notary which are necessary for the conclusion of commenced acts.

(4) [Repealed - RT I, 09.10.2013, 1 – entry into force 19.10.2013]

(5) The terms for preservation and the procedure for preservation and transfer of notaries' documents belonging to the state shall be established by the minister responsible for the area. The terms for preservation and the procedure for preservation and transfer of other notaries' documents prepared upon the provision of notarial services shall be established by the Chamber of Notaries.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

## **§ 17. Release and removal from office**

(1) A notary shall be released from office by the minister responsible for the area on the following bases:

- 1) at the notary's initiative;
- 2) due to the state of health of the notary which does not allow him or her to practise as a notary;
- 3) upon attaining the age limit specified in subsection 8 (4) of this Act;
- 4) if the notary does not assume office within the term specified in subsection 10 (1) of this Act;

[RT I 2009, 27, 164 – entry into force 08.06.2009]

5) if the notary does not commence performance of his or her official duties after expiry of the term of the suspension of period of office based on subsection 18 (6) of this Act;

[RT I 2009, 27, 164 – entry into force 08.06.2009]

6) if the notary fails to run as a candidate in a competition for the filling of an office of notary after expiry of the term of the suspension of period of office pursuant to subsection 18 (7) of this Act.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) The minister responsible for the area shall remove a notary from office on the following bases:

- 1) if a conviction of a court for an intentionally committed criminal offence has entered into force in respect of the notary, and also if any other conviction of a court has entered into force in respect of the notary by which a criminal punishment is imposed on the notary which makes it impossible for the notary to act as a notary;

1<sup>1</sup>) if the notary is declared bankrupt or bankruptcy proceedings are terminated by abatement;

[RT I, 31.05.2018, 2 - entry into force 10.06.2018]

2) in the case of serious violation related to office;

3) [Repealed - RT I 2009, 27, 164 – entry into force 08.06.2009]

4) if other circumstances become evident which make it impossible for a person to practise as a notary.

(3) Before the release or removal of a notary from office, the minister responsible for the area shall hear the explanation of the notary and the opinion of the Chamber of Notaries, except in the case specified in clause (2) 1) of this section.

## **§ 18. Absence from performance of professional duties and suspension of period of office**

(1) A notary is required to notify the Chamber of Notaries of an absence from the performance of professional duties for more than two days.

(2) A notary's office may, with the consent of the Chamber of Notaries, be closed for up to 28 days a year for the simultaneous holidays of the notary and his or her employees. The Chamber of Notaries gives its consent provided that the availability of notarial services does not deteriorate considerably in this territorial jurisdiction.

(3) The minister responsible for the area may suspend the period of office of a notary for a specified term in the following circumstances:

- 1) at the request of the notary and with the approval of the Chamber of Notaries in the case the notary wishes to engage in individual professional development, or if the notary commences employment in the service of the Chamber of Notaries or other association of notaries, or for other good reason;
- 2) in the case provided for in clause 17 (1) 2) of this Act, until the release from office of the notary is decided;
- 3) in the case of the commencement of disciplinary proceedings against the notary, until the termination of the disciplinary proceedings;
- 4) in the case charges are brought against the notary pursuant to criminal procedure, from the date on which the charges are brought until the proceedings are terminated or the notary is acquitted, or until the minister responsible for the area decides to terminate the suspension of the period of office of the notary.

(4) A notary whose period of office is suspended is prohibited from performing notarial acts and providing notarial services.

(5) A period of office is suspended for the maximum of five years. With good reason, the suspension may be extended for a period of five years.

(6) The minister responsible for the area shall suspend the period of office of a notary at the request of the notary for up to one year by preserving his or her office if the notary submits a reasoned request concerning the occurrence of persuasive circumstances and preservation of his or her office is possible taking account of the need for notarial acts to be performed.

(7) The office of a notary shall not be preserved if the period of office of the notary is suspended at the request of the notary for more than one year and § 16 of this Act applies to the transfer of documents. A notary need not pass the notary examination after termination of the suspension, the notary, however, shall run as a candidate in a competition for the filling of an office of a notary pursuant to the procedure provided for in §§ 7, 8 and 10 of this Act.

(8) Permission of the minister responsible for the area is required for a notary's absence from the performance of professional duties for more than one month, except in the case of illness, pregnancy, childbirth or parental leave if the period of office is not suspended.

(9) In the cases specified in subsections (2) and (6) of this section, a notary is required to ensure proper completion of the uncompleted notarial acts and the opportunity to examine the documents stored by him or her and to obtain transcripts of such documents.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

**§ 19. [Repealed - RT I 2009, 27, 164 – entry into force 08.06.2009]**

## **Chapter 3**

# **SUBSTITUTION OF NOTARY**

### **§ 20. Substitution of notary**

(1) The minister responsible for the area shall, on the proposal of the Chamber of Notaries, appoint a substitute for a notary in the cases provided for in clauses 18 (3) 2) – 4) and subsection 18 (8) of this Act and in the case a notary is absent from the performance of professional duties due to pregnancy and maternity leave or parental leave and his or her period of office is not suspended.

(2) At the request of a notary and with the approval of the Chamber of Notaries, the minister responsible for the area may appoint a permanent substitute for the notary for a calendar year. In addition to substituting for a notary, a substitute notary has the right to perform the acts of certification specified in § 38 the Notarisation Act concurrently with the notary.

(3) If a notary or substitute notary specified in subsection (1) of this section becomes ill or is absent from the performance of professional duties for five days up to one month, the Chamber of Notaries shall appoint a substitute for the notary unless a permanent substitute has been appointed for the notary pursuant to the procedure provided for in subsection (2) of this section.

(4) On the proposal of the Chamber of Notaries, the minister responsible for the area may appoint a substitute notary for up to one year, if the office of a notary is temporarily vacant.

(5) In the event of substituting for a notary in the cases provided for in subsection (1) or (3) of this section, the notary who is substituted for is prohibited from performing notarial acts.

[RT I 2009, 27, 164 – entry into force 08.06.2009]



## **§ 21. Substitute notary**

(1) A substitute notary may be another notary, a former notary or a notary candidate who has sufficient practical experience.

(2) At the request of a notary, another citizen of a Member State of the European Union who complies with the requirements for notaries (except the requirement for completion of candidate service and passing of the notary examination) and who has passed the examination of a substitute notary may also be appointed as a substitute notary. The membership and rules of procedure of the examination board shall be approved by the minister responsible for the area.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2<sup>1</sup>) In the case specified in subsection (2) of this section, the trustworthiness of a candidate for substitute notary shall, pursuant to § 117<sup>1</sup> of the Courts Act, be verified before he or she is allowed to take the examination.

[RT I 2007, 67, 413 – entry into force 28.12.2007]

(2<sup>2</sup>) A former notary who has been removed from office or a person released from the notary's candidate service on the basis specified in clause 28 (2) 2) or 4) of this Act shall not be a substitute notary. Also, a notary candidate whose candidate service has been suspended and who has commenced employment in a place other than the Chamber of Notaries or a notary's office or has commenced work other than teaching or research shall not be a substitute notary.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(3) A person who is appointed as a substitute notary shall take the notary's oath of office before the minister responsible for the area before assumption of office if he or she has not done so previously.

(4) The duties and rights related to office of a substitute notary shall commence from his or her appointment to substitute office and terminate on the date of his or her release from substitute office.

(5) The provisions concerning notaries also apply to substitute notaries.

## **§ 22. Remuneration of substitute notary**

(1) A substitute notary appointed pursuant to the provisions of subsection 20 (4) of this Act shall receive remuneration from the Chamber of Notaries in the amount specified by the Chamber of Notaries. The fees received for notarial acts performed by a substitute notary shall be transferred to the Chamber of Notaries; the Chamber of Notaries shall also bear the maintenance costs of the notary's office.

(2) A notary candidate who has been appointed substitute notary during the training of candidate service pursuant to subsections 20 (1) – (3) of this Act shall not receive additional remuneration for substitution.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

## **§ 23. Liability of substitute notary**

(1) A substitute notary is held liable on the same bases as a notary.

(2) A notary and his or her substitute shall be solidarily liable for proprietary damage caused by the activity of the substitute notary appointed at the request of the notary (subsections 20 (1) and (2)).

(3) The Chamber of Notaries and a substitute notary shall be solidarily liable for proprietary damage caused by the activity of the substitute notary appointed at the request of the Chamber of Notaries (subsection 20 (4)).

# **Chapter 4 NOTARY CANDIDATE**

## **§ 24. Notary candidate**

(1) Any citizen of a Member State of the European Union concerning whom no facts are known due to which he or she could be presumed to be unsuitable to practice as a notary may become notary candidate.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) The Chamber of Notaries shall organise competitions for applicants for notary candidate. The conditions of and procedure for the competitions shall be determined by the minister responsible for the area after hearing the proposals of the Chamber of Notaries.

(3) Applicants for notary candidate shall be appointed to candidate service by the minister responsible for the area.

### **§ 24<sup>1</sup>. Verification of trustworthiness of applicants for notary candidate**

Section 117<sup>1</sup> of the Courts Act applies to the verification of the trustworthiness of applicants for notary candidate.

[RT I 2005, 71, 549 – entry into force 01.01.2006]

### **§ 25. Candidate service**

(1) Candidate service is training held on the basis of a programme approved by the minister responsible for the area and performance of duties assigned by the Chamber of Notaries. The number of notary candidates in candidate service shall be determined by the minister responsible for the area. The Chamber of Notaries shall be liable for the activities of notary candidates related to service. A notary shall ensure a notary candidate who is referred to service with the notary by the Chamber of Notaries with activities which correspond to the objective of the training.

(2) The training of a notary candidate shall last for two years and end with the notary examination. On the proposal of the Chamber of Notaries, the minister responsible for the area may change the duration of the training.

(3) After passing the notary examination, the candidate service is suspended for up to ten years.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(4) A notary candidate whose candidate service is suspended is required to run as a candidate in a competition for the filling of an office of notary. If a notary candidate fails, without good reason, to apply for an office of notary being filled by competition, the provisions of clause 28 (2) 3) of this Act apply to the notary candidate.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(5) A notary candidate whose candidate service is suspended is prohibited from operating in a profession, operation in which is contrary to the requirements for the professional ethics of notaries or the principle of independence or unsuitable for the office of notary in any other way.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 26. Remuneration of notary candidate**

During candidate service, a notary candidate shall receive monthly remuneration from the Chamber of Notaries. The amount of monthly remuneration of notary candidates shall be established by the general meeting of the Chamber of Notaries.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 27. Notary examination**

(1) A notary candidate who has successfully completed the training programme shall perform the notary examination. The membership and rules of procedure of the examination board shall be approved by the minister responsible for the area.

(2) Before the notary examination, a notary candidate shall submit to the Chamber of Notaries a report concerning his or her training.

(3) Before the notary examination, the notary instructing a notary candidate shall submit to the Chamber of Notaries his or her opinion on the suitability of the notary candidate to practice as a notary.

### **§ 28. Termination of candidate service**

(1) Candidate service shall be terminated by the minister responsible for the area on the proposal of the Chamber of Notaries.

(2) Candidate service is terminated on the following bases:

1) at the notary candidate's initiative;

1<sup>1</sup>) by agreement between the notary candidate and the Chamber of Notaries;

[RT I 2009, 27, 164 – entry into force 08.06.2009]

2) if the notary candidate is determined to be unsuitable to practice as notary;

3) if, after passing the notary examination and without good reason, a notary candidate fails to apply for an office of notary being filled by competition;

3<sup>1</sup>) after ten years have passed from suspension of candidate service;

[RT I 2009, 27, 164 – entry into force 08.06.2009]

4) if the termination of candidate service is imposed on a notary candidate as disciplinary punishment.

(2<sup>1</sup>) Candidate service may be terminated on the bases specified in subsection (2) of this section also at the time when candidate service is suspended.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(3) Candidate service ends with appointment of a notary candidate as a notary.

## **Chapter 5**

# **PROFESSIONAL ACTIVITY OF NOTARIES**

[RT I 2009, 27, 164 - entry into force 08.06.2009]

### **§ 29. Notarial acts**

(1) A notary performs notarial acts at the request of persons pursuant to the procedure prescribed by law.

(2) A notary shall charge fees prescribed by law for the performance of notarial acts. Agreements for changing the rates of fees provided by law are prohibited and void.

(3) The following are notarial acts:

1) a notarial act based on the Notarisation Act, except the notarial acts specified in subsection 32 (3) of this Act;

2) conduct of succession proceedings;

[RT I, 09.10.2013, 1 – entry into force 28.10.2013]

3) declaration of a power of attorney as invalid on the basis of the Notarisation Act;

4) issue of a certificate (*apostille*) on the basis of the Act on Accession to Convention Abolishing the Requirement of Legalisation for Foreign Public Documents;

[RTL 2009, 27, 164 – entry into force 01.01.2010]

5) declaration of enforcement of an agreement entered into through an advocate who is the conciliator or another notary on the basis of an Act regulating conciliation procedure;

[RTL 2009, 27, 164 – entry into force 01.01.2010 - upon entry into force of an Act regulating conciliation procedure]

6) submission of an annual report of a legal person on the basis of an application of the legal person to the court maintaining the register pursuant to the procedure established on the basis of clause 67 (4) 1) of the Commercial Code;

7) certification of contraction of marriage and divorce and making of marriage and divorce entries on the basis of the Family Law Act and the Vital Statistics Registration Act, making of marital property entries pursuant to the procedure provided for in the Marital Property Register Act and issue of a certificate on the data contained in the marital property register pursuant to the procedure provided for in the Marital Property Register Act;

[RT I, 21.12.2016, 1 – entry into force 01.03.2018]

8) issuing a certificate concerning a notarial document to be executed in Estonia on the basis of Article 60 and Annex II to Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1–32);

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

8<sup>1</sup>) issuing a certificate concerning the legal force of a notarial instrument in Estonia on the basis of Article 59 (1) and Annex II to Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.07.2012, p. 107–134), and issuing a certificate concerning the preparation of a notarial instrument to be executed in Estonia on the basis of Article 60 (2) and Annex II;

[RT I, 10.03.2016, 2 – entry into force 20.03.2016]

8<sup>2</sup>) issuing an extract concerning the preparation of a notarial instrument to be executed in Estonia on the basis of Article 48 (3) and Annex III and IV to Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 007, 10.01.2009, p. 1–79);

[RT I, 10.03.2016, 2 – entry into force 20.03.2016]

9) depositing of money, securities and documents;

[RT I 2009, 27, 164 – entry into force 08.06.2009]

10) enabling access to the data entered in the register of the land registry department or registration department or to the document preserved in the register.

[RT I, 09.10.2013, 1 – entry into force 28.10.2013]

11) submission of notices and applications, at the request of an undertaking, to economic administrative authorities on the basis of subsection 9 (3) of the General Part of the Code of Economic Activities Act, receipt of documents or other information from economic administrative authorities on the basis of subsection 9 (4) of the General Part of the Code of Economic Activities Act and delivery of an administrative act to an undertaking on the basis of subsection 60 (4) of the General Part of the Code of Economics Act;

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

12) entry of information, at the request of an undertaking, in the register on the basis of subsection 58 (2) of the General Part of the Code of Economic Activities Act;

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

13) submission of data of the beneficial owner at the request of a legal person.

[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

### **§ 30. Legal assistance and representation arising from notarial acts**

(1) Upon receipt of an application for contraction of marriage or divorce, a notary shall explain the applicants the legal consequences relating to and arising from marriage or divorce respectively, including the duties to provide maintenance in a family.

[RT I 2009, 27, 164 – entry into force 01.07.2010]

(1<sup>1</sup>) Before acceptance of an application for divorce, the notary shall ascertain the law ultimately applied. The notary shall explain to the applicants the possibility to conclude an agreement concerning the law applied to divorce and the content and consequences of the applicable law.

[RT I, 10.03.2016, 1 - entry into force 01.07.2016]

(2) A notary shall represent the parties in connection with notarial acts in judicial and administrative agencies and:

1) shall prepare and forward applications for the registration of notarially authenticated transactions and applications for the withdrawal of applications;

2) shall prepare and forward notarially certified applications for registration in a land registry department or registration department of a court and applications for the amendment or withdrawal of applications.

[RT I 2010, 38, 231 – entry into force 01.07.2010]

(2<sup>1</sup>) At the request of the parties, a notary shall prepare and submit appeals and challenges in connection with notarial acts on behalf of the parties in order to contest the activities of the registrar and shall represent the parties in connection with notarial acts if a notarially authenticated transaction is subject to entry in the register.

[RT I 2010, 38, 231 – entry into force 01.07.2010]

(3) An application, appeal or challenge which is submitted on behalf of parties and bears the signature and impression of the seal of a notary, or, in the case of a digital document, the digital signature of a notary, is valid as a notarially certified application, appeal or challenge. Notarial certification of the authenticity of the signature and a separate authorisation for the representation of the parties are not required.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(4) If the parties so desire, the notary has the right and obligation to prepare and forward notices and applications related to an authenticated transaction which, in legal practice, usually accompany such transaction.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(5) The extent of the occupational commitment specified in subsection (4) of this section shall be established by a regulation of the minister responsible for the area.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(6) At the request of a notary, judicial and administrative agencies shall submit documents necessary for the performance of notarial acts and copies thereof to notaries, unless otherwise prescribed by law.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 31. Verification of registers arising from notarial acts**

(1) In order to ensure the correctness of a notarial act, a notary shall verify the information relating to the act from the relevant registers. The minister responsible for the area may establish a specific procedure for the use of the registers.

(2) A notary may issue a certificate concerning data entered in registries or a certified printout from registries as a notarial document or a part of it, which can be used as proof on equal grounds with certificates or printouts issued by a registrar.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 32. Notarial services**

(1) A notary shall publish information concerning the notarial services provided by him or her on the website specified in subsection 46 (2) of this Act.

(2) The fee charged by a notary for the provision of a notarial service shall be agreed upon between the notary and the person requesting the service before the provision of the service in a format which can be reproduced in writing.

(3) The following are notarial services:

1) legal counselling not related to a notarial act;

- 2) counselling in the field of taxation and law of a foreign state not related to or in the framework of a notarial act;
- 3) conciliation pursuant to the Conciliation Act;  
[RTL 2009, 27, 164 – entry into force 01.01.2010 - upon entry into force of an Act regulating conciliation procedure]
- 4) acting as an arbitrator on the basis of the Code of Civil Procedure;
- 5) conducting of auctions, voting, ballots, drawing of lots and authentication of the results on the basis of the Notarisation Act;
- 6) taking persons' oaths and authentication of statements given under oath on the basis of the Notarisation Act;
- 7) forwarding of petitions and notices not related to the official duties provided for in § 30 of this Act and issuing of certificates concerning the forwarding or impossibility to forward thereof on the basis of the Notarisation Act;
- 7<sup>1</sup>) provision of the service of a contract person specified in § 63<sup>1</sup> of the Commercial Code;  
[RT I, 20.04.2017, 1 – entry into force 15.01.2018]
- 8) depositing of money, except cash, securities, documents and other items, if this is not an official duty or an official duty arising from it;
- 9) [Repealed -RT I, 23.12.2013, 1 - entry into force 01.01.2020]
- 10) responding to a request for explanation submitted by an undertaking pursuant to the procedure provided for in the General Part of the Economic Activities Code Act.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

### **§ 33. Counselling as notarial service**

- (1) Counselling as a notarial service may include preparation of documents and filing of petitions in a matter of expedited proceeding of a payment order through a notary, representation of persons in administrative proceedings, in court in proceedings on petition specified in clauses 475 (1) 1), 3) – 5), 8) – 11) and 13) – 14) of the Code of Civil Procedure and representation of successors in estate bankruptcy proceedings.  
[RT I 2010, 38, 231 – entry into force 01.07.2010]
- (2) Representation in court in proceedings of a registry matter is a notarial service only to the extent it is not related to an authenticated transaction.  
[RT I 2009, 27, 164 – entry into force 30.08.2009]

### **§ 34. Conciliation and acting as arbitrator**

- (1) A notary may provide conciliator service independently or through the Conciliation and Arbitration Court of the Chamber of Notaries and arbitrator service through the Conciliation and Arbitration Court of the Chamber of Notaries.  
[RT I 2009, 27, 164 – entry into force 30.08.2009]
- (2) Upon conciliation, a notary shall comply with the duty to give explanations provided for in § 18 of the Notarisation Act and shall document the course of the conciliation.  
[RTL 2009, 27, 164 – entry into force 01.01.2010 - upon entry into force of an Act regulating conciliation procedure]

### **§ 35. Deposit**

- (1) Notaries deposit money, securities and documents as notarial acts. Notaries shall not deposit cash.
- (2) Deposit is an official duty accompanying a notarial act if it is connected with a transaction authenticated by the same notary and the persons applying for deposit have legitimate interest arising from the transaction to ensure performance of the transaction by deposit.
- (3) Other deposits not provided for in § 120 of the Law of Obligations Act and subsection (2) of this section are notarial services.
- (4) A notarially certified application of a person applying for deposit is the basis for deposit unless the application is already included in the notarial instrument prepared concerning the securable transaction.
- (5) Disposal of deposited property is permitted only for delivery of the deposited property to an entitled person or a third person designated thereby or for returning the deposited property to the depositor.
- (6) Notaries shall refuse to dispose of deposited property if disposal violates the rights of persons who have entered into a securable transaction or the rights of third persons.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 36. Location of performance of notarial acts and provision of notarial services**

(1) A person may request a notarial act or a notarial service from any notary unless otherwise provided by law.

(2) A notary shall perform notarial acts in his or her office.

(3) At the request of a person, a notary shall, in justified cases, perform a notarial act in his or her jurisdiction outside of his or her office.

(4) At the request of the applicants, a notary may certify the contraction of marriage outside of his or her office and jurisdiction.

[RT I 2009, 27, 164 – entry into force 01.07.2010]

(5) A notary provides notarial services in his or her jurisdiction. A notary may provide the notarial services specified in clauses 32 (3) 3 – 5) of this Act also outside of his or her jurisdiction.

(5<sup>1</sup>) Notarial acts may also be performed by remote authentication specified in subsection 1 (3<sup>1</sup>) of the Notarisation Act.

[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

(5<sup>2</sup>) The list of notarial acts performed by remote authentication shall be established based on subsection 13 (8) of the Notarisation Act.

[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

(6) Notaries are prohibited from carrying out professional activity outside of Estonia and the notarial acts and acts performed as the provision of notarial services in violation of the prohibition are void.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(7) Upon performance of a notarial act by remote authentication specified in subsection 1 (3<sup>1</sup>) of the Notarisation Act, the place of the notarial act shall be deemed to be Estonia.

[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

### **§ 37. Prerequisites of performance of notarial acts**

(1) A notary shall perform a notarial act after all the necessary documents and data have been collected and all the prescribed payments have been made.

(2) In the case of a transaction which shall be authenticated on the basis of Chapter 2 of the Notarisation Act, a party to the transaction has the right to request that a notary make the draft notarial instrument prepared with respect to the transaction available to him or her at least two working days before the authentication of the transaction.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 38. Postponement or suspension of performance of notarial act or provision of notarial service**

(1) Performance of a notarial act or provision of a notarial service shall be postponed:

- 1) in the case of collection of supplementary information or documents, until receipt thereof;
- 2) in the case of performance of expert analysis, until receipt of the expert opinion;
- 3) at the request of an interested person who wishes to contest a fact or right concerning the content of the notarial act or notarial service in a court, once for up to ten days.

(2) The performance of a notarial act or the provision of a notarial service shall be suspended on the basis of a court ruling on securing an action or on provisional legal protection until the prohibition ceases to exist.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 39. Other restrictions on professional activities**

(1) The restrictions and the bases for nullity provided for in §§ 3, 4, 7 and 8 of the Notarisation Act apply to notarial acts, notarial acts performed as provision of notarial services and to provision of arbitrator service. A notary is, inter alia, prohibited from:

- 1) participating in a resolution of a dispute as an arbitrator if the dispute has arisen in connection with a transaction authenticated by the notary or a notary with whom he or she operates a common office;
- 2) certifying his or her signature or seal or confirming his or her competence by the certificate specified in clause 29 (3) 4) of this Act;

[RT I 2009, 27, 164 – entry into force 01.01.2010]

- 3) declaring of enforcement of agreements entered into through him or her pursuant to clause 29 (3) 5) of this Act.

[RTL 2009, 27, 164 – entry into force 01.01.2010 - upon entry into force of an Act regulating conciliation procedure]

(2) A notary who has authenticated a transaction shall issue a certificate specified in clause 29 (3) 8) of this Act. Any notary of the same territorial jurisdiction may issue a certificate concerning a transaction authenticated by a notary who has resigned from office.

(3) If, upon the application of restrictions on professional activities to a notarial act, a situation arises where no notary of a territorial jurisdiction has the right to perform an act which can be performed only by a notary of the particular territorial jurisdiction, the minister responsible for the area shall appoint a notary who shall have the right to perform the act.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

#### **§ 40. Registration of notary's professional activities and reporting**

(1) All notarial acts and notarial services shall be registered in a register of professional activities.

(2) The minister responsible for the area shall establish the types and format of and procedure for the keeping of registries of notary's professional activities.

(3) If necessary, an extract from a register of professional activities shall be issued to a person, at whose request or concerning whom a notarial act was performed or a notarial service was provided, on the basis of a written application of the person.

(4) A notary shall submit a quarterly statistical report of his or her professional activities to the minister responsible for the area. The minister responsible for the area shall determine a list of data necessary for reporting and the manner of submission of the report.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

#### **§ 41. Refusal to perform notarial act or provide notarial service**

(1) A notary shall refuse to perform a notarial act only on the bases provided by law.

(2) A notary may refuse to provide a notarial service and he or she need not justify the refusal.

(3) If a notary agrees to provide a notarial service, he or she may refuse to provide the service further only if a circumstance listed in § 4 of the Notarisation Act or any other good reason becomes evident.

(4) If a notary refuses to perform a notarial act or suspends the provision of a notarial service, the person who requested the act or service may demand a written statement concerning the reasons for refusal or suspension. A notary shall issue such a statement within three working days as of demanding of the statement.

(5) A person who was refused the performance of a notarial act may request re-review of the application for the performance of the notarial act in proceedings on petition.

(6) If a notary refuses to perform a notarial act or suspends the provision of a notarial service, he or she shall explain to the applicant his or her rights arising from subsections (4) and (5) of this section.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

#### **§ 42. Performance of notarial acts for and provision of notarial services to aliens**

Citizens of other states and stateless persons may, in person or through their representatives, request the performance of notarial acts or provision of notarial services pursuant to the same procedure as Estonian citizens.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

## **Chapter 6 CHAMBER OF NOTARIES**

#### **§ 43. Legal status of Chamber of Notaries**

(1) The Chamber of Notaries is a legal person in public law; all notaries are members of the Chamber of Notaries.

(2) The Chamber of Notaries shall operate pursuant to this Act and its statutes which shall be adopted by the meeting of the Chamber of Notaries and approved by the minister responsible for the area.

(3) The statutes of the Chamber of Notaries shall provide for the organisation of work of the bodies of the Chamber of Notaries, legal relationship between the bodies and the notaries, the procedure for administration

and management of the Chamber of Notaries and regulate other issues within the competence of the Chamber of Notaries.

(4) Administrative supervision over the legality of the activities of the Chamber of Notaries shall be exercised by the minister responsible for the area who has the right to require the submission of documents necessary for exercising administrative supervision from the Board of the Chamber of Notaries and file protests with administrative courts against legal acts of and measures taken by the bodies of the Chamber of Notaries.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(5) At the time determined by the minister responsible for the area, the Chamber of Notaries shall submit a report to the minister responsible for the area concerning the activities of the Chamber of Notaries, of notaries and notary candidates, including on the amounts compensated to the notaries on the basis of clause 44 (2) 7<sup>1</sup>) of this Act and the number and types of cases of release from payment of notary fees during the preceding year and a work schedule for the performance of the principal duties of the Chamber of Notaries during the following year.

[RT I 2005, 57, 450 – entry into force 01.01.2006]

(6) The minister responsible for the area shall hear the opinion and proposals of the Chamber of Notaries before deciding on issues within his or her competence concerning notaries.

(7) The Chamber of Notaries shall be registered in the state register of state and local government agencies pursuant to the procedure provided for in the statutes of the register.

#### **§ 44. Activities of Chamber of Notaries**

(1) The objective of the Chamber of Notaries is to:

1) inspect that notaries execute their activities conscientiously and correctly, observe professional ethics, act in a dignified manner and observe the resolutions and instructions of the Chamber of Notaries;

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

1<sup>1</sup>) monitor that notaries comply with the requirements of the Money Laundering and Terrorist Financing Prevention Act and legislation established on the basis thereof;

[RT I 2008, 3, 21 – entry into force 28.01.2008]

2) harmonise professional activities of notaries;

3) organise training of notaries and employees of notaries' offices;

4) organise candidate service;

4<sup>1</sup>) organise the activities of the Conciliation and Arbitration Court of the Chamber of Notaries;

[RT I 2009, 27, 164 – entry into force 30.08.2009]

5) provide assistance to the minister responsible for the area in exercising the administrative supervision specified in § 5 of this Act;

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

6) administer and develop the information systems maintained by the Chamber of Notaries;

[RT I, 21.12.2016, 1 – entry into force 01.03.2018]

7) execute court decisions concerning release from payment of notary fees.

(2) For the fulfilment of its objectives, the Chamber of Notaries:

1) represents notaries before administrative agencies and other domestic and foreign institutions;

2) prepares recommendations for the harmonising of the practice of notaries related to office;

2<sup>1</sup>) prepares recommended model texts of conciliation and arbitration agreements and rules of procedure for regulating the conciliation and arbitration proceedings conducted without the mediation of the Conciliation and Arbitration Court of the Chamber of Notaries in so far as no procedural provisions are provided by law;

[RT I 2009, 27, 164 – entry into force 30.08.2009]

3) requires written explanations from notaries concerning complaints filed with regard to the notaries and submits proposals for the commencement of disciplinary proceedings to the minister responsible for the area if necessary;

3<sup>1</sup>) exercises supervision over whether the notaries comply with the requirements of the Money Laundering and Terrorist Financing Prevention Act and legislation established on the basis thereof;

[RT I 2008, 3, 21 – entry into force 28.01.2008]

4) establishes compulsory contributions by notaries to the Chamber of Notaries;

5) establishes salaried offices within the Chamber of Notaries;

6) allocates funds from its budget to notaries whose income is insufficient to hold an office of a notary due to circumstances independent of the notary but whose holding the office is material for the service of the needs of the residents of the corresponding territorial jurisdiction;

7) allocates subsidies to retired notaries and their family members if necessary;

7<sup>1</sup>) compensates from its budget to the notary, in the case of release from the payment of notary fees in part or in full, the part of the notary fees indicated in the court decision from the payment of which the applicant was released;

8) may acquire and dispose of real and movable property necessary for the performance of the duties specified in this Act;

9) uses other methods of activity which are in compliance with law and its statutes.



(3) The Chamber of Notaries has the right to issue specifying instructions which are binding on notaries in accordance with this Act and other legislation:

1) in order to ensure compliance with the provisions of subsections 2 (3) and (4), subsection 11 (6) and § 12 of this Act;

2) in order to ensure the proprietary interests of parties to notarial acts and of third persons;

3) concerning the operating of common offices and use of common office space;

4) concerning public appearances by notaries and the format of the signs of notaries' offices;

5) concerning the workload of employees of notaries' offices and organisation of training for the employees;

6) concerning the volume of professional in-service training for notaries and participation of notaries in the training;

7) concerning the performance of notarial acts outside of notaries' offices or territorial jurisdiction of notaries;

8) concerning training provided for notary candidates at notaries' offices;

9) concerning duties of office upon communication with other notaries, courts, administrative agencies, advocates and persons involved in authentication procedure;

10) concerning compliance with the diligence measures and rules of procedure provided for in the Money Laundering and Terrorist Financing Prevention Act;

[RT I 2008, 3, 21 – entry into force 28.01.2008]

11) concerning terms for preservation and the procedure for preservation and transfer of documents specified in subsection 16 (5) of this Act.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(4) The Chamber of Notaries shall ensure the free of charge inspection of public and business files through one notary's office in Harju, Tartu, Pärnu and Ida-Viru County.

[RT I, 09.05.2017, 1 – entry into force 01.07.2017]

#### **§ 44<sup>1</sup>. Information system of notaries**

(1) The electronic information system of notaries (hereinafter electronic notary) shall contain digital notarial archives and books concerning the professional activities of a notary and may contain other functions necessary for the activities of a notary.

(2) The minister responsible for the area may establish the extent to which the electronic notary must allow digital exchange of data with other state databases.

(3) Documents recorded on the basis of subsection 16 (1<sup>2</sup>) of this Act shall be preserved in digital notarial archives.

(4) The duty to maintain confidentiality provided for in § 3 of this Act also extends to data recorded in the electronic notary. The Chamber of Notaries and notaries shall ensure the data protection of the electronic notary.

(5) In the electronic notary, notaries shall have access to the data recorded by them. Notaries may also verify data recorded by other notaries if notarial instruments prepared or notarial notations made by the other notaries are submitted to them as bases for notarial acts.

[RT I 2007, 67, 413 – entry into force 28.12.2007]

#### **§ 44<sup>2</sup>. Register of certificates (*apostilles*)**

(1) In order to keep records of the certificates (*apostilles*) issued by notaries, the Chamber of Notaries maintains a register of certificates (*apostilles*). The register is maintained electronically. The register contains specimens of the impressions of the seals of the Estonian authorities who issue public documents, specimen signatures of the persons who sign the abovementioned documents and information concerning the name, official title and term of office of the signatories and the given names and surnames of the persons who submit public documents for certification by a certificate (*apostille*) shall also be entered in the register.

(2) The authorities who issue public documents shall, on their own initiative or at the request of the Chamber of Notaries, send the specimens and information specified in subsection (1) of this section to the Chamber of Notaries in adherence to the format and the method of sending established by the Chamber of Notaries.

(3) The statutes of the register of certificates (*apostilles*) shall be established by a regulation of the minister responsible for the area.

[RT I 2009, 67, 460 – entry into force 01.01.2010]

#### **§ 44<sup>3</sup>. Maintenance of succession register**

(1) The succession register is maintained by the Chamber of Notaries.

(2) In the case specified in clause 177<sup>1</sup>(4) of the Law of Succession Act, the Chamber of Notaries shall make an entry in the succession register.  
[RT I, 10.03.2016, 2 – entry into force 20.03.2016]

(3) In the case specified in subsection 179 (2<sup>2</sup>) of the Law of Succession Act, the Chamber of Notaries shall provide information on the data entered in the succession register.

(4) For an act specified in subsection (2) of this section, the Chamber of Notaries shall be entitled to charge a fee pursuant to the procedure provided for in the Law of Succession Act.  
[RT I, 09.10.2013, 1 – entry into force 01.01.2015]

#### **§ 45. Right of Chamber of Notaries to use national coat of arms**

(1) The Chamber of Notaries shall have a seal with the image of the national coat of arms of Estonia.

(2) The Chamber of Notaries has the right to use the image of the national coat of arms of Estonia on its documents and on signs.

#### **§ 46. Website of Chamber of Notaries**

(1) On the website of the Chamber of Notaries, the Chamber of Notaries shall make available information concerning notaries which is necessary to the public and above all, shall indicate the addresses, office hours and telecommunication numbers of notaries' offices and the instructions given based on subsection 44 (3) of this Act.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) Information concerning the fact which notarial services specified in subsection 32 (3) of this Act are provided by which notaries shall be published on the website of the Chamber of Notaries.  
[RT I 2009, 27, 164 – entry into force 08.06.2009]

#### **§ 47. Calling meeting of Chamber of Notaries and adoption of resolutions**

(1) Regular meetings of the Chamber of Notaries shall be held once a year.

(2) Extraordinary meetings shall be called:

- 1) on the initiative of the Board of the Chamber of Notaries;
- 2) on the proposal of the minister responsible for the area;
- 3) at the request of at least 1/5 of the members of the Chamber of Notaries.

(3) A meeting shall be called by the Board of the Chamber of Notaries by giving notice to the members of the Chamber of Notaries of the time, place and agenda of the meeting at least two weeks in advance.

(4) The minister responsible for the area shall call a meeting of the Chamber of Notaries (clause (2) 2) of this section) if issues concerning notaries which allow no postponement need to be resolved. The minister responsible for the area shall also determine the agenda of the meeting. If the Chamber of Notaries has not been able to fulfil its duties to a material extent, the minister responsible for the area may make a proposal for the election of a new Board upon calling an extraordinary meeting.

(5) Members of the Board of Notaries shall participate in meetings personally or through a representative. Notaries may represent one another on the basis of a power of attorney.

(6) A meeting has a quorum if at least two-thirds of the total number of members of the Chamber of Notaries are represented at the meeting. The resolutions of meetings shall be made by a simple majority vote.

#### **§ 48. Competence of meeting of Chamber of Notaries**

(1) The meeting of the Chamber of Notaries may enter on its agenda and adopt resolutions concerning any issue within the competence of the Chamber of Notaries.

(2) Only the meeting is competent to decide on the following issues:

- 1) approval of statutes;
- 2) issue of the instructions specified in subsection 44 (3) of this Act;
- 3) election of the Board;
- 4) approval of annual budget;
- 5) establishment of amount of compulsory contributions by notaries to the Chamber of Notaries;
- 6) approval of annual reports;
- 7) election of the revision committee;
- 8) election of court of honour;
- 9) appointment of auditor.

(3) The meeting may grant the Board the right to make, with good reason, amendments to the budget of the Chamber of Notaries which shall be submitted for approval to the next meeting.

#### **§ 48<sup>1</sup>. Election of bodies of Chamber of Notaries**

(1) Bodies of the Chamber of Notaries shall be elected at the meeting of the Chamber of Notaries in accordance with the following principles:

- 1) the members of each body are elected separately;
- 2) votes are given by secret ballot;
- 3) the candidate who receives the greatest numbers of votes is elected unless this Act provides for a different voting requirement.

(2) The Board of Chamber of Notaries shall be elected in the following order: the chairman and deputy chairman of the Chamber of Notaries and other members of the Board.

(3) In the election of the chairman of the Chamber of Notaries, the candidate who receives more than one-half of the votes of the participants shall be elected. If no candidate receives the required majority of votes, a second round shall be held between the two candidates who received the largest number of votes. The candidate who receives the larger number of votes in the second round shall be elected. If votes are divided equally, lots shall be drawn.

[RT I 2003, 18, 100 – entry into force 07.03.2003]

#### **§ 49. Membership and sessions of Board of Chamber of Notaries**

(1) The Board of the Chamber of Notaries is comprised of the chairman and deputy chairman of the Chamber of Notaries and the members of the Board.

[RT I 2005, 57, 450 – entry into force 01.01.2006]

(2) The Board shall be elected for three years.

(3) Sessions of the Board are generally held once a month and convened by the chairman of the Chamber of Notaries.

#### **§ 50. Competence of Board and chairman of Chamber of Notaries and duty to maintain confidentiality**

(1) During the time between the meetings of the Chamber of Notaries, the Board of the Chamber of Notaries shall perform all duties of the Chamber of Notaries which do not fall within the competence of the revision committee, court of honour or exclusively within the competence of the Chamber of Notaries. The Board shall ensure compliance with the statutes of the Chamber of Notaries and implementation of the resolutions of meetings of the Chamber of Notaries.

(2) The chairman of the Chamber of Notaries shall represent the Chamber of Notaries in all legal acts.

(3) Notaries who are members of the Board of the Chamber of Notaries, revision committee or court of honour and the employees of the Chamber of Notaries shall not disclose information concerning the content of notarial acts which have become known to them through their activities. They are allowed to disclose such information only in court if they have respective permission of the Board. The duty to maintain the confidentiality of information shall continue also after resignation from a body of the Chamber of Notaries or the service of the Chamber of Notaries.

#### **§ 51. Revision committee**

(1) The revision committee of the Chamber of Notaries shall audit the economic activities and management of the Chamber of Notaries on the initiative of the committee or at the request of at least 1/5 of the notaries.

(2) Before the Board submits an annual report of the Chamber of Notaries to the meeting of the Chamber of Notaries for approval, the revision committee shall express its opinion concerning the report.

(3) The revision committee shall be elected with at least three members for up to three years. A member of the revision committee shall not be a member of the Board or the court of honour.

(4) The revision committee adopts resolutions by a majority of the votes of the members in favour.

#### **§ 52. Court of honour**

(1) The court of honour of the Chamber of Notaries shall, on the initiative of notaries, notary candidates, substitute notaries, the Board, the revision committee or the Ministry of Justice, hear complaints filed against the execution of professional activities by notaries, notary candidates or substitute notaries, the professional ethics and conduct of notaries, notary candidates or substitute notaries. The court of honour shall act as a court of arbitration in matters of honour among notaries, notary candidates and substitute notaries at the request of the parties to a dispute.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(2) Upon the hearing of a matter, the court of honour has the right to require explanations from the persons concerned. The persons concerned have the right to be present at the hearing of the matter.

(3) The court of honour has the right to admonish the person at fault or make a proposal to the Ministry of Justice to commence disciplinary proceedings or release a notary from office. The court of honour as a court of arbitration has the right to obligate the party in error to apologise. The opinions of the court of honour concerning heard matters shall be communicated to all notaries, notary candidates, substitute notaries and the Ministry of Justice.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

(4) The court of honour shall be elected with at least three members for up to three years. An appropriate number of alternative members shall be elected together with the members and a procedure for substitution shall be determined.

(5) The court of honour adopts resolutions by a majority of the votes of the members in favour. If a member of the court of honour cannot be impartial in a matter under hearing, the member shall remove himself or herself from the hearing. A removed member shall be substituted by an alternative member.

(6) A member of the court of honour shall not be a member of the Board or the revision committee.

### **§ 52<sup>1</sup>. Conciliation and Arbitration Court of Chamber of Notaries**

(1) The Conciliation and Arbitration Court of the Chamber of Notaries is a body for extra-judicial resolution of disputes.

[RT I, 19.03.2019, 8 - entry into force 01.04.2019]

(2) The Chamber of Notaries shall establish the rules and regulations of the Conciliation and Arbitration Court, which shall set out the competence and procedure of the Conciliation and Arbitration Court taking account of the mandatory rules of civil procedure and the Conciliation Act and the remuneration.

(3) Chapter 6 of the Conciliation Act does not apply to the activity of the Conciliation and Arbitration Court of the Chamber of Notaries.

[RT I 2009, 27, 164 – entry into force 30.08.2009]

## **Chapter 7 IMPLEMENTING PROVISIONS**

### **§ 53. Persons and agencies with right of authentication**

(1) The following officials and administrative agencies have the right to perform notarial acts instead of a notary:

1) consular officers under the conditions provided for in the Consular Act;  
2) rural municipality and city secretaries, in the certification of copies and transcripts of documents and authentication of power of attorneys for the receipt of pensions, support payments and benefits and authentication of applications for the transfer of pensions and benefits into the bank account of another person;

[RT I 2009, 51, 349 – entry into force 15.11.2009]

3) public archives, in the certification of the authenticity of copies and transcripts of records and of record notices;

4) judges, assistant judges, heads of court offices, court archivists and land registry and registry secretaries, upon the certification of the authenticity of copies and transcripts of documents which are preserved in a court;

5) surveyors – upon certification of the authenticity of signature of the owner of an immovable on boundary reports and on the plan for the division, joining, alteration of boundaries and exchange of parts of an immovable;

[RT I, 29.06.2018, 1 - entry into force 01.07.2018]

5<sup>1</sup>) persons entitled to perform reallocation – upon certification of the authenticity of signature of the parties to land consolidation and holders of limited real rights on the reallocation plan;

[RT I, 29.06.2018, 1 - entry into force 01.07.2018]

6) sworn translators, upon the certification of the correctness of translations of documents, and of the authenticity of copies;

[RT I 2007, 67, 413 – entry into force 28.12.2007]

7) directors of prisons, upon the certification of the authenticity of signatures of prisoners and persons held in custody, and at the request of a prisoner or a person held in custody, upon the certification of the authenticity of copies and transcripts of documents.

(1<sup>1</sup>) Clause (1) 2) of this section shall not be applied to certifying the authenticity of copies and extracts of documents from the registers specified in subsection 15 (2) and subsection 16 (2) of the Courts Act.

[RT I, 09.05.2017, 1 – entry into force 01.07.2017]

(2) The minister responsible for the area has the right to issue regulations on the formalisation and registration of the notarial acts within the competence of the persons and agencies specified in clauses (1) 2), 3), 4) and 7) of this section, and on the statistical reports to be submitted to the Ministry of Justice concerning such acts.

#### **§ 54. Attestation of notaries**

(1) Notaries who are appointed or will be appointed to office before 1 January 2002 are subject to attestation. Notaries shall be attested from 1 January until 31 December 2003.

(2) Upon attestation, suitability of a notary's expertise and professional skills for the office of a notary is assessed. The attestation shall be carried out in the form of an examination; the content of the examination and examination schedule shall be approved by the minister responsible for the area.

(3) Attestation is carried out by the attestation committee (hereinafter committee). The committee consists of two officials of the Ministry of Justice appointed by the minister responsible for the area, two notaries appointed by the Chamber of Notaries, two judges appointed by the Chief Justice of the Supreme Court and two persons who have academic higher education in law appointed by the minister responsible for the area. The rules of procedure and membership of the committee shall be approved by the minister responsible for the area.

(4) A notary is deemed to be suitable or unsuitable for office by a decision adopted by the committee.

(5) If a notary is deemed to be unsuitable for office or fails to appear for attestation without good reason, the committee shall set a term for the notary subject to attestation after which the notary shall be re-attested. The term specified in the second sentence of subsection (1) of this section does not apply to re-attestation.

(6) If upon re-attestation, a notary is determined to be unsuitable for office or if a notary fails to appear for re-attestation without good reason, the minister responsible for the area shall release the notary from office.

(7) A notary has the right to file an action with a court against his or her release within one month after the date on which he or she was notified of the release.

#### **§ 55. Specifications of candidate service**

(1) Until 31 December 2002, the employees of notaries' offices of at least two years of experience who have academic higher education in law may take the notary examination without entering candidate service and participate in competitions for the filling of offices of notaries. After appointment to office as notaries, such persons are subject to attestation pursuant to § 54 of this Act.

(2) Until 31 December 2003, the minister responsible for the area has the right to shorten the period of candidate service for up to six months on the basis of the need for notarial acts to be performed.

#### **§ 56. [Omitted from this text.]**

#### **§ 57. Implementing regulations**

The minister responsible for the area shall issue regulations:

- 1) in formatting and technical issues relating to notarial acts, including the use of official seal of notary;
- 2) concerning the organisation of the notary examination;
- 3) concerning the procedure for substitution of notary;
- 4) for the organisation of supervision of notaries and the Chamber of Notaries;
- 5) concerning the preparation and submission of statistical reports by notaries and the Chamber of Notaries;
- 6) concerning the procedure for the performance of the notarial acts specified in § 33 of this Act;
- 7) concerning the term for the introduction of digital notarial archives on the proposal of the Chamber of Notaries.

[RT I 2001, 93, 565 – entry into force 07.03.2003]

#### **§ 57<sup>1</sup>. Application of clause 29 (3) 6)**

Clause 29 (3) 6) of this Act applies to annual reports which are prepared for the accounting period beginning on 1 January 2009 or later.

[RT I, 09.10.2013, 1 – entry into force 28.10.2013]

#### **§ 57<sup>2</sup>. Validity of insurance contracts**

The professional liability insurance contracts entered into pursuant to § 15 of this Act before supplementation of this Act with the regulation of notarial services remain valid with respect to the notarial services specified in clauses 32 (3) 5) – 9) of this Act.

[RT I 2009, 27, 164 – entry into force 08.06.2009]

### **§ 57<sup>3</sup>. Suspension of candidate service**

The minister responsible for the area shall suspend the candidate service of a candidate appointed to candidate service before 8 June 2009, who has passed the notary examination, on the proposal of the Chamber of Notaries on the basis of subsection 25 (3) of this Act. The Chamber of Notaries shall pay compensation to the candidate in the amount of twice the average monthly wages of the candidate not later than on the day preceding the suspension of candidate service.

[RT I 2010, 38, 231 – entry into force 01.07.2010]

### **§ 58. Entry into force of Act**

(1) This Act enters into force concurrently with the Notarisation Act.

(2) Clause 29 (1) 8) and subsection 35 (4) of this Act enter into force by a separate Act upon Estonia's accession to the European Union.

[RT I 2003, 18, 100 – entry into force 07.03.2003]