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# Notaries Disciplinary Liability Act

Passed 20.09.1995  
RT I 1995, 75, 1322  
Entry into force 14.10.1995

Amended by the following acts

Passed	Published	Entry into force
28.09.1999	RT III 1999, 24, 230	28.09.1999
14.11.2001	RT I 2001, 93, 565	01.02.2002
15.12.2005	RT I 2005, 71, 549	01.01.2006
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
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
17.02.2011	RT I, 14.03.2011, 3	24.03.2011
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 starting from the wording in force as of 1 July 2014.
09.05.2018	RT I, 31.05.2018, 2	10.06.2018, partially 01.01.2021
09.12.2020	RT I, 22.12.2020, 34	01.01.2021

## Chapter 1 GENERAL PROVISIONS

### § 1. Purpose of Act

This Act provides for the disciplinary liability of notaries, substitute notaries and notary candidates and the procedure for the conduct of disciplinary proceedings and proceedings of court of honour.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## Chapter 2

# DISCIPLINARY LIABILITY OF NOTARIES

## § 2. Disciplinary offences of notaries

(1) Disciplinary offences of notaries are:

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

1) wrongful non-performance or unsatisfactory performance of official duties, including violation of a clearly stated and unambiguous legal provision upon application of an Act or charging fees not in compliance with the rates of notaries' fees;

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

2) an indecent act, that is, a wrongful act which is in conflict with the generally recognised moral standards or which discredits the profession of notary, regardless of whether the act is committed in the performance of duties or not.

(2) Disciplinary proceedings may not be initiated with regard to a notary in connection with his or her acting as an arbitrator, except in the case provided for in clause (1) 2) of this section.

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

## § 3. Disciplinary penalties

The disciplinary penalties imposed on notaries are:

- 1) a reprimand;
- 2) a fine;
- 3) removal from office.

## § 4. Authority to impose disciplinary penalty

The Ministry of Justice and the court of honour of the Chamber of Notaries (hereinafter the court of honour) has the authority to impose a disciplinary penalty on a notary. Only the minister responsible for the area has the right to impose a disciplinary penalty provided for in clause 3 (1) 3) of this Act.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## § 5. Initiation of disciplinary proceedings and proceedings of court of honour

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

(1) The results of supervision over the activities of a notary, a proposal of the Board of the Chamber of Notaries, a complaint from a person or any other document or communication which gives reason to believe that a notary has committed a disciplinary offence may be the basis for the initiation of disciplinary proceedings or the proceedings of court of honour. The Ministry of Justice or the court of honour shall request a written explanation from the notary concerning the circumstances which are the basis for the initiation of disciplinary proceedings or the proceedings of court of honour.

(2) Disciplinary proceedings shall be initiated by the Ministry of Justice. Proceedings of the court of honour shall be initiated by the court of honour. Disciplinary proceedings or proceedings of the court of honour shall be initiated within two months after the day of becoming aware of the elements of disciplinary offence. The notary regarding whom the disciplinary proceedings or the proceedings of court of honour are initiated shall be notified thereof immediately.

(3) The Ministry of Justice may send the disciplinary matter initiated with regard to a notary for adjudication to the court of honour. Transmission of the complaint by the Ministry of Justice to the court of honour shall initiate the proceedings of court of honour.

(4) Disciplinary proceedings and the proceedings of court of honour shall not be conducted simultaneously in the same matter. If the Ministry of Justice has initiated disciplinary proceedings with regard to a notary and the court of honour has initiated the proceedings of court of honour in the same matter, the proceedings initiated later shall be terminated.

(5) If the court of honour submits a proposal to the minister responsible for the area to decide on the removal of the notary from office, the Ministry of Justice shall not be required to initiate disciplinary proceedings and may, based on the circumstances for the establishment of offence and the proposal transmitted by the court of honour, make a decision to remove or not remove a notary from office. If the court of honour has failed to collect sufficient evidence in the course of disciplinary proceedings, the Ministry of Justice may collect additional evidence itself or remit the disciplinary matter to the court of honour for the collection of additional evidence.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## § 6. Committee for establishment of disciplinary offence

[Repealed - RT I, 31.05.2018, 2 – entry into force 01.01.2021]

### **§ 6<sup>1</sup>. Proceedings of disciplinary matter**

[Repealed - RT I, 31.05.2018, 2 – entry into force 01.01.2021]

### **§ 6<sup>2</sup>. Proposal of committee**

[Repealed - RT I, 31.05.2018, 2 – entry into force 01.01.2021]

### **§ 6<sup>3</sup>. Proceedings of court of honour**

(1) Proceedings of the court of honour are mandatory for the notary.

(2) The notary has the right to examine the records of the matter, provide statements to the court of honour, present objections, submit reasons and considerations related to all questions which arise in the course of proceedings in the court of honour, submit petitions of challenge against a member or recording secretary of the court of honour, if circumstances give reason to doubt his or her impartiality, submit evidence and applications and participate in the inspection and examination of evidence, submit questions to persons invited to a session and receive a copy of the decisions of the court of honour. If the notary fails to appear at a session of the court of honour without good reason, the matter may be heard without his or her attendance.

(3) The court of honour may adjudicate a matter in written proceedings if the notary has not applied for adjudication of the matter in oral proceedings.

(4) Upon adjudication of the matter the court of honour requests explanations from the persons concerned. The court of honour shall be required to establish material circumstances in the matter being heard and collect evidence for that purpose on its own initiative, if necessary. Upon the request of the court of honour, a notary shall be required to submit evidence to the court of honour in his or her possession. The court of honour may apply for assistance from an administrative court in order to collect or secure evidence. An administrative court shall adjudicate the request of the court of honour by a ruling according to the provisions of grant of permission to take administrative measures of the Code of Administrative Court Procedure.

(5) The specific procedure of the proceedings of the court of honour shall be established by the statutes of the Chamber of Notaries. The provisions of the Administrative Procedure Act apply in the proceedings of the court of honour in the extent unregulated in this Act and the statutes of the Chamber of Notaries.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

### **§ 7. Decision in disciplinary offence**

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

(1) A matter concerning a disciplinary offence shall be adjudicated by a reasoned decision within six months after the initiation thereof. The court of honour shall also make a reasoned decision if the court of honour does not establish an offence. The court of honour may extend the hearing of a disciplinary offence up to three months in case of good reason. The period during which the matter concerning the disciplinary offence cannot be heard due to circumstances which depend on the person with regard to whom the proceedings of the court of honour were commenced shall be excluded from the period of proceeding a disciplinary offence.

(2) If the court of honour has established the commission of such disciplinary offence for which the appropriate punishment is removal from office, the court of honour shall make a proposal to the minister responsible for the area for removal of the notary from office. The court of honour shall append the materials collected in the course of proceedings to the proposal.

(3) The decision to impose a penalty in a disciplinary offence shall be announced on the website of the Chamber of Notaries after the term for contesting the decision has expired.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

### **§ 7<sup>1</sup>. Time limit for imposition of disciplinary penalty**

(1) A disciplinary penalty for a disciplinary offence may be imposed within three years after the disciplinary offence was committed.

(2) The limitation period of a disciplinary offence is suspended for the duration of proceedings in the disciplinary case, including the duration of proceedings before the courts, as well as for the duration of the term for filing an appeal or appeal in cassation.

(3) If a court annuls a disciplinary penalty imposed on a notary due to the fact that such a penalty does not correspond to the offence, a new penalty may be imposed on the notary within one month after entry into force of the court judgment without initiating new disciplinary proceedings.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## **§ 7<sup>2</sup>. Contestation of decision**

(1) An interested person may file an action with an administrative court against a decision made in a disciplinary offence matter within 30 days after receipt of the decision.

(2) The Ministry of Justice may file a protest with an administrative court against a decision of the court of honour within 30 days after the receipt of a decision of the court of honour.

(3) The court of honour shall immediately transmit the decision to the Ministry of Justice. The Ministry of Justice shall also be entitled to request other documents of the proceedings of the court of honour for examination in the given matters of proceedings of the court of honour.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## **§ 8. Reprimand**

(1) A decision concerning a reprimand shall be forwarded to the notary who is reprimanded within three days as of the signing of the decision.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

(2) All notaries shall be notified of a reprimand.

## **§ 9. Fine**

(1) A fine is imposed in the amount of up to 16 000 euros.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(2) A fine shall be paid within three months as of the imposition thereof. If the fine is imposed by the Ministry of Justice, it shall be transferred into public revenues. If the fine is imposed by the court of honour, it shall be transferred into the revenues of the Chamber of Notaries.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

(3) The Ministry of Justice or the court of honour may prescribe in the decision imposing a fine that the fine shall be paid in instalments on specified dates during a period of up to one year.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

(4) A decision of the court of honour on a fine imposed as a disciplinary penalty is an execution document for the purposes of clause 2 (1) 21) of the Code of Enforcement Procedure.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## **§ 10. Removal from office**

(1) A notary may be removed from office for a serious disciplinary offence which is an intentionally committed offence or an offence committed while a disciplinary penalty which has not expired or is not cancelled had been imposed on the notary or an indecent act which renders it impossible for the person to act as a notary.

(2) Before the removal of a notary from office, the minister responsible for the area shall hear an explanation from the notary and the opinion of the Chamber of Notaries.

## **§ 10<sup>1</sup>. Sending of records to Chamber of Notaries**

Upon the establishment of a disciplinary offence of a notary, the Ministry of Justice may decide not to impose a disciplinary penalty and instead send the records of the matter to the Chamber of Notaries for the taking of measures if the content of the disciplinary offence is a mistake in case of which a single legal practice has not been established or which is common in the activity of many notaries. Upon deciding not to impose a disciplinary penalty the Ministry of Justice shall take into account the form of guilt of the notary having committed the disciplinary offence.

[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## **§ 11. Limitation period of disciplinary offence**

(1) A disciplinary penalty may not be imposed if the disciplinary offence has expired.

(2) Disciplinary offence expires three years after the commission thereof.

(3) The limitation period of a disciplinary offence shall be suspended for the period of hearing the disciplinary matter, including for the proceedings in the court as well as for the period of filing an appeal and an appeal in cassation.

(4) Regardless of the limitation period of a disciplinary offence, proceedings in the disciplinary matter may be conducted and a decision concerning the establishment or absence of a disciplinary offence may be made.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

#### **§ 12. Prohibition on imposition of several disciplinary penalties for one offence**

(1) Only one disciplinary penalty may be imposed for one offence.  
[RT I 2009, 27, 164 - entry into force 08.06.2009]

(2) Continuation of an offence after imposition of a disciplinary penalty is a new offence and a disciplinary penalty may be imposed on the notary therefor.

#### **§ 13. Combination of disciplinary penalty with administrative, criminal or proprietary liability**

The bringing of administrative, criminal or proprietary charges against a notary does not prevent the imposition of a disciplinary penalty for the same act.

#### **§ 14. Expiry of disciplinary penalty**

A disciplinary penalty expires if no new disciplinary penalty is imposed on the notary within three years as of the date on which the penalty was imposed.

#### **§ 15. Cancellation of disciplinary penalty**

The minister responsible for the area may cancel a disciplinary penalty before the prescribed time after having heard the opinion of the Chamber of Notaries.

#### **§ 15<sup>1</sup>. Contestation**

[Repealed - RT I, 31.05.2018, 2 – entry into force 01.01.2021]

#### **§ 16. [Repealed – RT I 2001, 93, 565 – entry into force 01.02.2002]**

#### **§ 17. Hearing of actions**

(1) If a notary was unlawfully punished or if the penalty does not correspond to the gravity of the offence and the circumstances of its commission or to the notary's behaviour prior to the offence, the court shall annul the imposed disciplinary penalty.

(2) If a court annuls the removal of a notary from office due to the fact that such removal does not correspond to the gravity of the disciplinary offence, the notary does not have the right to request compensation for unreceived income.

#### **§ 18. Release of notary from office at own request**

If disciplinary proceedings or proceedings of the court of honour have been initiated against a notary, the notary shall not be released from office at his or her own request before the termination of the disciplinary proceedings.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## **Chapter 3**

# **DISCIPLINARY LIABILITY OF SUBSTITUTE NOTARIES**

#### **§ 19. Liability of substitute notaries**

(1) Persons specified in subsections 21 (1) and (2) of the Notaries Act bear liability for the commission of a disciplinary offence as a substitute notary on the bases and pursuant to the procedure provided for in §§ 2-18 of this Act.

(2) Upon the imposition of disciplinary penalty specified in clause 3 3) and § 10 of this Act to persons specified in subsections 21 (1) and (2) of the Notaries Act, the person loses the right to be a substitute notary.  
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(3) Disciplinary penalty specified in clause 3 3) and in § 10 of this Act shall be imposed to the persons specified in subsections 21 (1) and (2) of the Notaries Act by the Chamber of Notaries.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## **§ 20. Liability of notary candidates substituting for notary**

(1) A notary candidate who has been designated as a substitute notary shall bear liability for the commission of a disciplinary offence as a substitute notary on the bases and pursuant to the procedure provided for in §§ 2, 4-7, 11-17 of this Act.

(2) One of the disciplinary penalties set out in § 22 of this Act may be imposed on a notary candidate substituting for a notary for the commission of a disciplinary offence as a substitute notary.

## **Chapter 4 DISCIPLINARY LIABILITY OF NOTARY CANDIDATES**

### **§ 21. Disciplinary offences of notary candidates**

Disciplinary offences of notary candidates are:

- 1) the wrongful non-performance or unsatisfactory performance of duties of candidate service;
- 2) an indecent act, that is, a wrongful act which is in conflict with the generally recognised moral standards or which discredits the profession of notary, regardless of whether the act is committed in the performance of the duties of candidate service or not.

### **§ 22. Disciplinary penalties**

The disciplinary penalties imposed on notary candidates are:

- 1) a reprimand;
- 2) a fine not exceeding ten times the daily wages of a candidate;
- 3) termination of the candidate service.

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

### **§ 24. Procedure for conduct of disciplinary proceedings**

(1) The offences specified in § 21 of this Act shall be heard by the court of honour.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

(2) The court of honour shall hear the disciplinary offence of a notary candidate pursuant to the procedure for conduct of disciplinary proceedings of a public servant, taking account of the specifications provided for in the Notaries Act.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

(3) A disciplinary matter may be initiated, heard and a penalty may be imposed also for the time candidate service is suspended.

(4) Termination of candidate service shall be decided by the Chamber of Notaries, after having considered the explanations of the notary candidate.  
[RT I, 31.05.2018, 2 – entry into force 01.01.2021]

## **Chapter 5 IMPLEMENTING PROVISIONS**

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

### **§ 25. Election of members of committee for establishment of disciplinary offences of notaries**

(1) The judges who shall participate in the work of the committee for establishment of disciplinary offences of notaries shall be elected at the first Court *en banc* which takes place after 1 January 2006. Until such time, two members appointed by the minister responsible for the area shall participate in the committee.

(2) The authority of the notaries who were elected to participate in the work of the committee for establishment of disciplinary offences of notaries before 1 January 2006 shall be in force for the period of five years. Not later than on 15 January 2006, the chairman of the Chamber of Notaries shall organise the drawing of lots in order to determine the ranking of the notaries who will take part in the work of the committee, and shall inform the Ministry of Justice of the results.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]