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.

Chapter 2
DISCIPLINARY LIABILITY OF NOTARIES

§ 2. Disciplinary offences of notaries

(1) Disciplinary offences of notaries are:

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;

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 Minister of Justice has the authority to impose a disciplinary penalty on a notary.

§ 5. Initiation of disciplinary proceedings

(1) The results of supervision over the activities of a notary, a proposal of the Board or the court of honour 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. The Minister of Justice shall request a written explanation from the notary concerning the circumstances which are the basis for the initiation of disciplinary proceedings.

(2) In order to initiate disciplinary proceedings, the Minister of Justice shall issue a directive and the notary regarding whom the disciplinary proceedings are initiated and the Chamber of Notaries shall be notified thereof immediately.
[RT I 2001, 93, 565 - entry into force 01.02.2002]

§ 6. Committee for establishment of disciplinary offence

(1) A committee shall be formed for the establishment of disciplinary offences by a directive for the initiation of disciplinary proceedings (hereinafter the committee).
[RT I 2009, 27, 164 - entry into force 08.06.2009]

(2) A judge, a notary and an official appointed by the Minister of Justice shall belong to the committee.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

(2¹) The Court en banc shall elect five judges or justices from among the circuit court judges or justices of the Supreme Court, and a meeting of the Chamber of Notaries shall elect five notaries for the period of five years who shall participate in the committee. A judge or a notary with respect to whom a disciplinary penalty is in force may not participate in the committee.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

(2²) Judges and notaries shall participate in the committee pursuant to a ranking determined by drawing lots. The drawing of lots shall be organised, immediately after the elections, by the Court en banc and the chairman of the meeting of the Chamber of Notaries who shall inform the Ministry of Justice of the results of the drawing of lots.
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(2³) If a member of the committee who is a judge or a justice no longer holds the position of a county or circuit court judge or a justice of the Supreme Court, or if a member of the committee who is a notary no longer holds the position of a notary, the authority of such person as a member of the committee shall terminate. The authority of a new member elected in place of such person shall terminate at the same time as the authority of the member for whom the new member substitutes. The new member receives the ranking which corresponds to the ranking for participating in the committee of the substituted member.
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(3) –(5)
[Repealed – RT I 2009, 27, 164 – entry into force 08.06.2009]

§ 6¹. Proceedings of disciplinary matter

(1) The committee shall hear a disciplinary matter in written proceedings. A hearing shall be held if it is requested by the notary or if it is deemed to be necessary by the committee.

(2) The committee may summon the notary with regard to whom the disciplinary proceedings were commenced to the hearing for the provision of additional explanations. Summons to the committee’s hearing shall be sent to the notary at least 15 days before the hearing. If the notary fails to appear at a hearing of the committee without good reason, the matter may be heard without his or her attendance.
(3) The committee 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 committee, the notary shall be required to submit evidence in his or her possession to the committee.

(4) The committee may apply for assistance from an administrative court in order to collect or secure evidence. An administrative court shall adjudicate the application of the committee by a ruling in written proceedings.

(5) A hearing of the committee shall be recorded if the notary or a third person has been summoned to provide explanations at a hearing.

(6) The notary shall have the right to examine the records in the matter, provide additional explanations, applications and evidence and submit questions to the persons summoned at the hearing until the submission of a proposal by the committee specified in subsection 6.2(1) of this Act.

(7) The notary shall have the right to submit a reasoned petition of challenge to the committee against a member of the committee within 15 days as of the day on which the notary became aware or should have become aware of the circumstances which give reason to doubt the impartiality of a member of the committee. The committee shall resolve the petition of challenge within 15 days with a written decision. In case the votes are divided equally, the member whose removal is requested shall be deemed to be removed.

§ 6. Proposal of committee

(1) The committee shall submit a reasoned proposal concerning the establishment of a disciplinary offence and the disciplinary penalty to be imposed or concerning the establishment of a disciplinary offence and sending of records to the Chamber of Notaries for the taking of measures or concerning the absence of a disciplinary offence to the Minister of Justice within six months as of the commencement of disciplinary matter.

(2) The committee may extend the hearing of a disciplinary matter up to three months in case of good reason.

(3) The period during which the disciplinary matter cannot be heard due to circumstances which depend on the notary with regard to whom the disciplinary proceedings were commenced shall be excluded from the period of proceeding a disciplinary matter.

(4) The committee has a quorum if all the members of the committee participate in the hearing of a matter. The committee’s decision on a proposal shall be adopted by a simple majority vote. If a member of the committee has a dissenting opinion as compared to the opinion of the committee, it shall be appended to the opinion of the committee in writing.

§ 7. Decision of Minister of Justice in disciplinary matter

(1) The Minister of Justice shall issue a directive which deems a disciplinary offence to be established and imposes a disciplinary penalty, or deems the offence to be established and sends the records to the Chamber of Notaries for the taking of measures and terminates disciplinary proceedings, or deems the absence of a disciplinary offence to be established and terminates disciplinary proceedings.

(2) In issuing the directive, the Minister of Justice shall be guided by the proposal of the committee, except in the case the committee fails to submit the opinion in time. The Minister of Justice shall not be bound by the proposal of the committee not to impose a penalty.

§ 8. Reprimand

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

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

§ 9. Fine

(1) A fine is imposed in the amount of up to 6400 euros.

Notaries Disciplinary Liability Act
(2) A fine shall be paid within three months as of the imposition thereof and shall be transferred into public revenues.

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

§ 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 of Justice shall hear an explanation from the notary and the opinion of the Chamber of Notaries.

§ 10¹. Sending of records to Chamber of Notaries

Upon the establishment of a disciplinary offence of a notary, the Minister 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 Minister of Justice shall take into account the form of guilt of the notary having committed the disciplinary offence.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

§ 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, the committee shall have the right to hear the disciplinary matter and to submit a proposal to the Minister of Justice and the Minister of Justice shall have the right to issue a directive concerning the establishment or absence of a disciplinary offence.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

§ 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 of Justice may cancel a disciplinary penalty before the prescribed time after having heard the opinion of the Chamber of Notaries.

§ 15¹. Contestation

(1) A notary may bring an action against the directive specified in subsection 7 (1) of this Act with an administrative court within one month as of the receipt of the directive.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
(2) A notary may not rely on the unlawfulness of membership of the committee or the partiality of a member of the committee in the action specified in subsection 1 (1) of this section if he or she failed to submit a petition of challenge pursuant to the procedure provided for in subsection 6(7) of this Act.

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

§ 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 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.

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]

§ 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 clause 21 1) of this Act shall be heard by the court of honour of the Chamber of Notaries and the offences specified in clause 21 2) shall be heard by the committee specified in § 6 of this Act.

(2) The court of honour of the Chamber of Notaries 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.

(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 Minister of Justice on the proposal of the Chamber of Notaries, after having considered the explanations of the notary candidate.

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

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 of Justice 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]