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Notarisation Act

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Amended by the following acts

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05.06.2002	RT I 2002, 53, 336	01.07.2002
29.01.2003	RT I 2003, 18, 100	07.03.2003
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
23.11.2006	RT I 2006, 55, 412	01.01.2007
21.11.2007	RT I 2007, 67, 413	28.12.2007
06.05.2009	RT I 2009, 27, 164	08.06.2009
17.06.2010	RT I 2010, 38, 231	01.07.2010
26.09.2013	RT I, 09.10.2013, 1	28.10.2013
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2015 and 01.01.2020
11.06.2014	RT I, 21.06.2014, 8	01.01.2015, partially 01.07.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers are replaced pursuant to subsection 107 ³ (4) of the Government of the Republic Act.
16.02.2016	RT I, 10.03.2016, 1	01.07.2016
16.02.2016	RT I, 10.03.2016, 2	20.03.2016
30.01.2019	RT I, 22.02.2019, 2	01.02.2020

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application and meaning of notarial act

(1) This Act establishes the procedure for the performance of notarial acts which are within the competence of notaries.

(2) This Act, except subsection 5 (2), also applies to the acts of other officials and authorities if these acts are deemed to be equal to the notarial acts which are within the competence of notaries.

(3) The forms of notarial acts are notarial authentication (hereinafter authentication) and notarial certification (hereinafter certification).

(3¹) A notarial act can also be performed by remote authentication (hereinafter remote authentication).
[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

(4) In the course of performing a notarial act, a notary records the circumstances perceived by him or her in a notarial instrument or notarial notation.

(4¹) Notarial instruments and notarial notations shall be documents on paper unless otherwise provided by law.

(5) It is presumed that notarial instruments and notarial notations which are prepared within competence and comply with the requirements for formal validity are correct.

(6) Notarial acts are void in the cases provided for in this Act.

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

§ 2. Leaving territorial jurisdiction

(1) A notarial act is not void for the reason that a notary performs it outside his or her territorial jurisdiction.

(2) A notarial act which a notary performs outside the territory of the Republic of Estonia is void.

(3) In case of remote authentication, Estonia shall be deemed to be the place of performing the notarial act.

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

§ 3. Prohibition on participation as notary

(1) A notary shall refrain from performance of a notarial act if the act concerns:

1) his or her own interests; a notary shall also refrain from performance of a notarial act if he or she is only a jointly entitled or jointly obligated person;

2) the interests of his or her spouse or former spouse;

3) the interests of a person who is the notary's, his or her spouse's or former spouse's direct blood relative, brother, sister, half-brother or half-sister or their descendant;

4) the interests of a person with whom the notary operates a common office, who is a permanent substitute for the notary or with whom he or she uses common office space;

5) the interests of a person whose legal representative the notary or a person specified in clause 4) is;

6) the interests of a person into whose management board the notary or a person specified in clause 4) belongs;

7) the interests of a person who has authorised the notary in the same matter or whose employer the notary or a person specified in clause 4) is;

8) the interests of a general partnership, limited partnership or private limited company, foundation or commercial association, of which the notary or a person specified in clause 2) is a partner, shareholder, founder or member;

9) the interests of a public limited company in which the notary or a person specified in clause 2) holds more than 5 percent of the votes determined by the shares.

(1¹) A notary shall refrain from authentication of an application for the commencement of succession proceedings if commencement of succession proceedings is requested in relation to the death of a person and the notary has been or is the representative of a petitioner in proceedings on petition for recognition of a document related to the same person's succession proceedings.

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

(2) A notary shall inform parties of the risk of a conflict of interests and shall ask their consent for performance of a notarial act, if the act concerns:

1) the interests of a person where the notary is a member of a body without the right of representation of the person;

2) the interests of a rural municipality or city government if the notary is a member of the council thereof;

3) the interests of any other legal person in public law where the notary is a member of a body with the right of representation of the person. In such case, clause (1) 6) of this section does not apply;

4) the interests of a legal person, of which a rural municipality or city is a partner, shareholder, member or founder, if the notary is a member of the corresponding rural municipality council or city council;

5) the interests of several persons, one of which is a person to whom the notary has provided legal counselling outside the notarisation procedure.

(3) If a notarial act is performed in the form of authentication, a notary shall indicate the consent specified in subsection (2) of this section in the notarial instrument.

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

§ 4. Refusal to perform notarial act

A notary shall refuse to perform a notarial act if the objectives of the act which are applied for are contrary to law, other legislation, or good morals, or are evidently prohibited and dishonest, or it becomes evident that a party to a transaction or other party lacks the necessary passive or active legal capacity, the capacity to exercise will or the right of representation.

§ 5. Language of document

(1) Notarial instruments and notarial notations shall be prepared in Estonian.

(2) At the request of an applicant for a notarial act, a notary may prepare a notarial instrument or notarial notation in another language if the notary is sufficiently proficient in the corresponding language. At the request

of an applicant for a notarial act, a notary shall translate a notarial instrument or notarial notation prepared in another language into Estonian or shall certify the correctness of a translation provided.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

Chapter 2

AUTHENTICATION OF TRANSACTION

Division 1

General Provisions

§ 6. Authentication of transaction and declaration of intent

(1) In order to authenticate a transaction, a notary shall prepare a notarial instrument pursuant to the procedure provided for in this Chapter. Authentication without a notarial instrument is void.

(2) The provisions concerning authentication of transactions apply to the authentication of a declaration of intent which is a part of a transaction.

(3) The provisions of Chapter 3 of this Act apply to the authentication of resolutions of a body of a legal person.

§ 7. Participation of notary or persons connected with notary

(1) Authentication of a transaction is void if one of the parties is:

- 1) the notary;
- 2) the spouse of the notary;
- 3) a person who is a direct blood relative of the notary;
- 4) the representatives of persons specified in clauses 1) – 3).

(2) A party is a person whose declaration of intent is contained in the transaction being authenticated or who submits a declaration of intent which in the name of another person is contained in such transaction.

§ 8. Authentication in favour of notary or persons connected with notary

Authentication of a transaction is void to the extent that the authentication is aimed at the creation of legal rights for a person specified in clauses 3 (1) 1)–3) of this Act.

Division 2

Preparation of Notarial Instrument

§ 9. Content of notarial instrument

(1) A notary shall indicate his or her personal data, the personal data of the parties and information disclosed by the parties in a notarial instrument. Authentication of a transaction without the specified data is void.

(2) A document, map, drawing or illustration which is appended to a notarial instrument and referred to in the instrument and which contains a declaration of intent of a party or is connected with the declaration of intent is deemed to be a part of the notarial instrument.

(3) A notarial instrument shall set out the date and place of authentication. In case of remote authentication, also the location of the persons participating via a video bridge shall be set out in the notarial instrument.
[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

§ 10. Identification of party

(1) The notary shall indicate the personal data of a party in a notarial instrument in such detail as to preclude doubt or confusion.

(2) A notary shall indicate in which manner he or she identifies a party. If the notary knows the party personally, he or she shall indicate the fact in the notarial instrument. In the absence of an identity document, the notary shall identify a party under 15 years of age on the basis of state issued documents proving birth and filiation and the statements of the guardian and shall indicate it in the notarial instrument.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

(3) If a notary cannot identify a person or doubts the identity of a person, but authentication of a transaction is requested regardless of that, the notary shall indicate such fact in the notarial instrument.

(4) Subsections (1)–(3) of this section also apply to the translators or interpreters, witnesses and representatives involved in authentication.

§ 11. Establishment of active legal capacity and capacity to exercise will

(1) If a notary is convinced that a party lacks the necessary active legal capacity or the capacity to exercise will, the notary shall refuse from authentication.

(2) A notary shall indicate his or her doubt concerning a party's necessary active legal capacity or capacity to exercise will in the notarial instrument.

(3) If a party is seriously ill, a notary shall indicate such fact together with his or her observations on the party's active legal capacity and capacity to exercise will in the notarial instrument.

(4) A notary shall indicate the age of a party who is a minor in the notarial instrument.

§ 12. Establishment of right of representation

(1) A notary shall indicate the grounds of the right of representation and explain how he or she has established it in the notarial instrument.

(2) If the notary cannot establish the necessary right of representation or doubts the right of representation, but authentication is requested regardless of that, the notary shall indicate such fact in the notarial instrument.
[RT I 2007, 67, 413 - entry into force 28.12.2007]

§ 13. Reading, approval and signing

(1) In order to authenticate a transaction, a notarial instrument shall be read out to the parties in the presence of a notary, approved by the parties and signed by the parties and the notary in handwriting. Authentication without approval and signing is void.

(2) Reading includes the reading out of documents appended to a notarial instrument. Documents specified in §§ 10 and 12 of this Act shall not be read out. If a notarial instrument refers to a map, drawing or illustration, it shall be presented to the parties for review instead of reading. In the case of a blind person, the map, drawing or illustration shall be sufficiently described instead of review.

(3) Before approval, a notarial instrument shall be presented to the parties for review.

(4) At the end of a notarial instrument, a notary shall indicate that the reading, review and approval have taken place. If the parties have signed a notarial instrument in handwriting, the instrument is presumed to have been read out to them in the presence of the notary, reviewed or described according to subsection (2) of this section, and approved by them.

(5) Upon preparation of several notarial instruments which are partial or full replicas of each other, single reading of their identical parts and presentation for review according to subsection (3) of this section shall be sufficient.

(6) A notary shall add his or her official title and affix a seal to his or her signature.
[RT I 2003, 18, 100 - entry into force 07.03.2003]

(7) In case of remote authentication, the acts specified in this Act shall be carried out via a video bridge enabling to identify a person and their intention, subject to the specifications deriving from the manner of authentication, and the act shall be deemed to have been performed in the presence of the notary. The notary and the participants in the transaction shall sign the notarial instrument by digital signature.
[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

(8) The procedure for remote authentication and the list of notarial acts and transactions carried out by remote authentication shall be established by a regulation of the minister responsible for the area.
[RT I, 22.02.2019, 2 – entry into force 01.02.2020]

§ 14. Reference to another notarial instrument

(1) If the declaration of a party in a notarial instrument is indicated as a reference to another notarial instrument, the notarial instrument which is referred to need not be read out if all parties declare that they know the content of the instrument and waive the right to have the instrument read out to them. A notary shall indicate such fact in the notarial instrument. A notary may authenticate only if the notarial instrument which is referred to is presented to the parties upon authentication as an original, first transcript or a notarially certified copy.

(2) Subsection (1) of this section also applies to the review of maps, drawings and illustrations appended to another notarial instrument.

(3) A notarial instrument which is referred to need not be appended to the notarial instrument being prepared if all parties agree to this. A notary shall indicate such agreement in the notarial instrument.

(4) If another notarial instrument can be examined within a reasonable period of time at a notary's office or elsewhere before authentication of a transaction, the notary shall inform the parties thereof. In addition to the duties arising from § 18 of this Act, the notary shall explain to the parties the meaning of reference to the other notarial instrument.

(5) If a notarial instrument refers to a map or drawing which is certified by a signature and seal and which is issued by an authority within the limits of its competence or by a notary, subsections (1)–(4) of this section apply correspondingly.

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

§ 15. Waiver of right to have additional documents read out

(1) If a notarial instrument refers to a document appended thereto, the document need not be read out if all parties waive the right to have the document read out to them. A notary shall indicate a declaration of intent to be subject to immediate compulsory execution in a notarial instrument; if indicated only in a document appended to the instrument, such declaration is void.

(2) If a document appended according to subsection (1) of this section is not read out, a notary shall present it to the parties for review and signing. If the document has more than one page, each page shall be signed separately, except in case of remote authentication. The duties of notaries arising from § 18 of this Act remain in force unamended.

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

(3) A notary shall indicate in a notarial instrument that the parties waived the right to have the document read out to them; authentication without the above-mentioned notation is void. A notary shall also indicate in a notarial instrument the fact that an appended document has been submitted to the parties for examination.

§ 16. Auction

(1) Upon authentication of an act of auction, only these bidders who maintain their bid are deemed to be parties.

(2) If such a party withdraws before the end of an auction, subsection 13 (1) of this Act does not apply to the party if the notary indicates the withdrawal of the party in a notarial instrument.

§ 17. Interpretation or translation of notarial instrument

(1) If a party, according to him or her or according to the observations of a notary, is not sufficiently proficient in Estonian or, if a notarial instrument is prepared in a foreign language, is not sufficiently proficient in such language, the notary shall indicate such fact in the notarial instrument.

(2) In the case specified in subsection (1) of this section, instead of reading out a notarial instrument to a party, the instrument shall be interpreted or translated; authentication without the interpretation or translation is void. If all parties declare that they are proficient in the language into which the notarial instrument is interpreted or translated and waive the right to have the document read out to them, interpretation or translation shall replace the reading out. If a party so requests, a written translation shall be prepared and given to him or her for review. The written translation shall be appended to the notarial instrument. The notary shall inform the party that the latter has the right to request a written translation. The notary shall indicate such facts in the notarial instrument.

(3) If a notary does not interpret or translate himself or herself, an interpreter or translator chosen by the party or notary shall be involved. The notary has the right to refuse to involve an interpreter or translator chosen by the party if he or she has doubts concerning the correctness of the interpretation or translation. The notary and the interpreter or translator chosen by the notary shall be solidarily liable for the damage caused by incorrect interpretation or translation, unless a sworn translator interprets or translates. If the interpreter or translator is not a sworn translator, the notary shall warn him or her of the civil and criminal liability for incorrect interpretation or translation. The notary shall indicate such facts in the notarial instrument. The interpreter or translator shall also sign the notarial instrument.

(4) §§ 7 and 8 of this Act correspondingly apply to interpreters and translators, whereas both interpretation or translation and authentication shall be deemed to be void.

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

Division 3

Explanations and Verification

§ 18. Notary's duty to give explanations

(1) A notary shall ascertain the intentions of parties and the facts which are essential for performance of a legally correct transaction. The notary shall also explain to parties the meaning and legal consequences of the transaction and the different possibilities for entry into the transaction. The notary shall enter the declarations of intent of the parties in a notarial instrument clearly and unambiguously. At the same time, the notary shall ensure that errors and doubts are precluded and the rights of inexperienced or incompetent parties are not damaged.

(2) If a notary has doubts concerning the compliance of a transaction with law or the actual intentions of parties, he or she shall discuss it with the parties. If a notary doubts the validity of a transaction, and parties request authentication regardless of that, the notary shall indicate his or her explanations and the justification provided by the parties concerning the explanations in the notarial instrument.

(3) A notary shall organise the notarial authentication of a transaction in such manner as to ensure performance of the obligations arising from subsections (1) and (2) of this section.

(4) If the law of a foreign state must be applied or there are doubts concerning the law of a foreign state, a notary shall inform the parties thereof and indicate such fact in the notarial instrument.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

(5) A notary is not required to explain the contents of the law of a foreign state or the tax consequences of a transaction unless otherwise deriving from legislation.
[RT I, 10.03.2016, 1 - entry into force 01.07.2016]

§ 19. Permission and consent

A notary shall call the attention of parties to the permission or consent of a judicial institution or authority necessary for the performance of the transaction and indicate such fact in the notarial instrument.

§ 20. Legal right of pre-emption

Upon authentication of a transaction in the case of which the legal right of pre-emption can be exercised, a notary shall explain such fact to the parties and indicate it in the notarial instrument.

§ 21. Verification of data entered in registries

(1) If a transaction concerns a real right entered or subject to entry in the land register, ship registry, commercial pledge register or other register of public reliability, a notary shall verify the existence of the right of disposal necessary for the transaction beforehand on the basis of data entered in the corresponding register and, if necessary, in the marital property register.

(2) Otherwise, a notary shall authenticate a transaction only if the parties unanimously request this regardless of the explanations of the notary concerning the risks involved in authentication based on unverified circumstances.

(3) A notary shall indicate the results of verification of the right of disposal or waiver of verification together with the explanations provided by him or her in the notarial instrument.

§ 22. Establishment of marital status

(1) If an object of a transaction may be the joint property of spouses or former spouses, a notary shall indicate in the notarial instrument the marital status of a party and how the notary has established it and why the object of the transaction may be included in the joint property.

(2) Upon authentication of a real right contract, a notary shall indicate in the notarial instrument the marital status of the transferee of the object of the transaction and on which grounds the notary has established it. If the object of the transaction will be included in the joint property of spouses, the notary shall also indicate in the notarial instrument the circumstances on the basis whereof the notary has established it. In such case the notary shall indicate both spouses as transferees of the object of the transaction.

(3) The provisions of subsection (2) of this section apply only in case Estonian law is applied to the proprietary relations of spouses.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

Division 4

Disabled Parties

§ 23. Deaf, dumb or blind party

(1) If a party, according to him or her or according to the observations of a notary, does not hear, speak or see sufficiently, the notary shall involve a witness in the authentication, unless all parties waive the right to have a witness involved. The notary shall indicate such facts in the notarial instrument.

(2) A witness shall also sign the notarial instrument.

§ 24. Specifications for deaf parties

(1) A notary shall present a notarial instrument, which pursuant to subsection 23 (1) of this Act indicates that a party does not hear sufficiently, to the party for review instead of reading; authentication without the review is void. The notary shall indicate the presentation for review in the notarial instrument.

(2) If a party specified in subsection (1) of this section has signed the notarial instrument in handwriting, the instrument is presumed to have been presented to him or her for review and approved by him or her.

§ 25. Specifications concerning deaf-mute parties unable to communicate in writing

(1) If a party, according to him or her or according to the observations of a notary, does not hear or speak sufficiently and is unable to communicate in writing, the notary shall involve a representative of the party who is able to understand the party in the authentication. Authentication without the involvement of the representative is void.

(2) A notary shall indicate involvement of a representative in the notarial instrument. The representative shall also sign the notarial instrument.

(3) Authentication is void to the extent that it is related to the creation of legal rights for a representative.

(4) The requirement concerning involvement of a witness provided for in § 23 of this Act remains in force.

§ 26. Party who is unable to write

(1) If a party, according to him or her or according to the observations of a notary, is unable to sign, the notary shall involve a witness in the reading and grant of consent. The notary shall indicate such fact in the notarial instrument.

(2) A witness shall sign the notarial instrument instead of the party.

§ 27. Prohibition on involvement as witness

The following shall not be involved as witnesses:

- 1) persons who are parties to the transaction or represent a party;
- 2) persons who gain benefit from the transaction to be authenticated;
- 3) a person who is married to the notary;
- 4) a person who is the direct blood relative, brother or sister, half-brother or half-sister of the notary or his or her spouse;
- 5) employees of the notary's office;
- 6) persons with restricted active legal capacity;
- 7) persons who are unable to hear, speak or see sufficiently;
- 8) persons who are unable to write;
- 9) persons who are not sufficiently proficient in the language in which the notarial instrument is prepared.

Division 5 Testamentary Disposition

§ 28. Beneficiaries

§ 8, subsection 17 (4), subsection 25 (3) and clause 27 2) of this Act, correspondingly, apply to a person who obtains legal rights from a testamentary disposition (will, succession contract) or who is an executor of a will.

§ 29. Establishment of active legal capacity

A notary shall indicate his or her observations concerning a bequeather's active legal capacity or capacity to exercise will in the notarial instrument.

§ 30. Witness

(1) At the request of a party, a notary shall involve up to two witnesses in authentication of a testamentary disposition. The notary shall indicate the involvement of witnesses in the notarial instrument.

(2) A witness shall also sign the notarial instrument.

§ 31. Depositing of will

(1) In order to take a will into deposit, a notary shall, pursuant to this Chapter, authenticate a person's declaration that an envelope handed over to the notary contains the person's will. The notary shall indicate the fact that handing over of the envelope has taken place in the notarial instrument. The envelope which is handed over is deemed to be an appendix to the notarial instrument.

(2) If upon handing over the envelope is not closed, a notary shall seal the envelope in the presence of the testator and indicate such fact in the notarial instrument.

(3) A notary shall inscribe on an envelope that the envelope contains, according to a declaration of the testator, the will of the testator. The inscription shall include the personal data of the testator and the date of depositing the will. The notary and the testator shall sign the inscription.

§ 32. Will of dumb testator

A bequeather who, according to him or her or according to the observations of a notary, is unable to speak sufficiently, shall indicate the declaration that a document presented to the notary for authentication or an envelope submitted to the notary for depositing contains his or her testamentary disposition in handwritten form in the notarial instrument in the course of authentication, write it on a separate sheet appended to the notarial instrument or on the envelope submitted for depositing. The notarial instrument shall set out that the handwritten declaration has been written.

§ 33. Bequeather not proficient in language

If a bequeather who expresses his or her testamentary disposition orally to a notary is not sufficiently proficient in the language in which the notarial instrument is prepared and such fact is indicated in the notarial instrument, a written translation of the instrument shall be prepared and appended to the notarial instrument. The bequeather may waive the right to have the instrument translated and the waiver shall be indicated in the notarial instrument; authentication without the indication is void.

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

Chapter 3 OTHER NOTARIAL ACTS

Division 1 Other Notarial Acts in Form of Authentication

§ 34. Preparation of notarial instrument

(1) Unless otherwise provided for in § 38 of this Act, a notarial act the object of which is not a transaction or declaration of intent but another event or fact shall be in the form of notarial authentication. For authentication, a notary shall prepare a notarial instrument pursuant to the provisions of § 35 of this Act. Authentication without a notarial instrument is void.

(2) In order to authenticate a resolution of a body of a legal person, a notary shall prepare a notarial instrument pursuant to §§ 35 and 36 of this Act; authentication without a notarial instrument is void. The provisions of Chapter 2 of this Act do not apply.

§ 35. Content of notarial instrument

(1) A notarial instrument shall include the name and signature of the notary and a report on his or her observations; authentication without the above-mentioned is void.

(2) Documents, maps, drawings and illustrations which are referred to in a notarial instrument and appended thereto are parts of the notarial instrument.

(3) In a notarial instrument, a notary shall indicate the time and place of the observations and the time and place of preparation of the notarial instrument.

(4) Subsection 13 (6) of this Act applies correspondingly.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 36. Authentication of minutes of resolution of body of legal person

(1) In order to authenticate minutes drawn regarding a resolution of a body of a legal person, a notary shall verify the quorum of the meeting of the body and the identity and active legal capacity of the chair and the secretary of the meeting. If a resolution is adopted without calling a meeting, a notary shall verify the identity and active legal capacity of the person who holds the voting (members of the management board, chairman of the supervisory board) pursuant to §§ 10 and 11 of this Act.

(2) A notary shall indicate the results of verification, the agenda of the meeting, the content of the adopted resolutions, results of voting and dissenting opinions regarding the resolutions in a report on observations specified in subsection 35 (1) of this Act.

(3) The chair of the meeting shall be liable for the correctness of the list of parties and the person who holds the voting shall be liable for the correctness of the record of voting. Both of them shall sign the list or record in the presence of a notary in order to confirm the correctness. The list of parties or the record of voting shall be appended to the notarial instrument.

(4) A notary shall indicate any doubts concerning the quorum, legality of resolutions, the conformity of the list of participants or record of voting to the membership of the relevant body, and the authority of representatives in a notarial instrument prepared regarding the minutes.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

§ 37. Taking person's oath

(1) The provisions concerning authentication of transactions correspondingly apply to taking a person's oath and authentication of a written statement given under oath.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

(2) Upon taking a person's oath and authentication of a written statement given under oath, a notary shall caution the party about offences stipulated in the Penal Code for intentional submission of false information, and include the respective warning in the notarial instrument.
[RT I 2009, 27, 164 - entry into force 08.06.2009]

§ 37¹. Declaring power of attorney as invalid

(1) A declaration of intention of the principal for declaring a power of attorney as invalid shall be authenticated pursuant to the provisions relating to authentication of transactions.

(2) If a notary authenticates a declaration of intention of the principal for declaring a power of attorney as invalid, the notary shall publish the notice on declaring the power of attorney as invalid in the publication *Ametlikud Teadaanded*.
[RT I 2006, 55, 412 - entry into force 01.01.2007]

(3) A power of attorney shall become invalid ten days after publication of the notice.
[RT I 2006, 55, 412 - entry into force 01.01.2007]

§ 37². Authentication of ownership certificate

(1) On the basis of a joint notarially authenticated application of spouses, a notary shall authenticate a certificate (hereinafter ownership certificate) stating that an object is included in the joint property of spouses.

(2) The provisions of subsection 1 of this section apply also in case the marriage has been terminated but the joint property of the spouses has not been divided.

(3) If the marriage has been terminated due to the death of one spouse and the type of proprietary relations between the spouses was joint property relationship, a notary shall authenticate an ownership certificate stating that an object was included in the separate property of the dead spouse on the basis of the notarially authenticated application of a successor of the dead spouse.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

Division 2

Notarial Acts in Form of Certification

§ 38. Notarial notation

(1) For the notarial certification of a fact, a notary shall prepare a notarial notation which shall include the notary's statement concerning facts established by him or her, the signature and coloured seal of the notary; certification without the above-mentioned is void. The notarial notation shall set out the date and place of making the notation.

(1¹) A notarial notation may also be issued in digital form. In such case, the digital signature substitutes for the signature and coloured seal of the notary. A digital notation may be issued only concerning a digital document.

(2) The following shall be certified:

- 1) authenticity of signatures and specimen signatures;
- 2) determination of the time of submission of documents;
- 3) information entered in public registers and the authenticity of printouts;
- 4) authenticity of copies;
- 5) that a person is alive and the presence of a person at a certain place;
- 6) forwarding of petitions and notices;
- 7) correctness of translations of documents and
- 8) other simple facts.

(3) A notary shall issue documentation and certificates not specified in subsection (2) of this section in the form of authentication or certification at his or her discretion.

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

§ 39. Authenticity of signature

(1) A notary shall certify a signature only if the signature is given or acknowledged in his or her presence. A person who gives a signature shall confirm the acknowledgement of the signature by handwritten and signed notation which is written in the presence of a notary on a corresponding document.

(1¹) In case of a digital signature which is not written in the presence of a notary, the notary shall certify only the validity of the digital signature.

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

(2) A notary shall verify a document bearing a signature being certified only in order to identify the possible bases for refusal to perform a notarial act.

(3) In a notarial notation, a notary shall indicate the information necessary for identification of a person who gives or acknowledges a signature and whether the signature is given or acknowledged in the presence of the notary.

(4) Subsections 10 (1) and (2) of this Act apply correspondingly.

(5) A notary shall certify a signature without any text accompanying the signature (blank signature) only if he or she has ascertained that certification of the signature is necessary before determination of the content of the document. In a notarial notation, a notary shall refer to the absence of text and shall specify the circumstances which were provided as reasons for the need of certification of the blank signature.

(6) [Repealed - RT I, 23.12.2013, 1 - entry into force 01.01.2015]

§ 39¹. Certification of authenticity of translator's signature [Repealed - RT I, 23.12.2013, 1 - entry into force 01.01.2020]

§ 40. Authenticity of specimen signatures

(1) Upon certification of a specimen signature to be submitted to the registration department of Tartu County Court, the signature shall be given in the presence of a notary, or otherwise certification is void. The notary shall refer to such fact in a notarial notation. The notarial notation shall indicate that the specimen signature is for submission to the registration department of Tartu County Court for a register entry to be made. The notarial notation shall include information concerning the person who gives the signature. Subsections 10 (1) and (2) of this Act apply correspondingly.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(2) In the case of a specimen signature of a legal representative of a legal person, the name of the legal person and the office the representative holds (member of the management board, general partner etc) shall be additionally indicated on the basis of a request of the representative.

§ 41. Authenticity of copy of document

(1) Upon certification of a copy of a document, a notary shall establish whether the document is an original, first transcript, certified or uncertified copy and shall refer to such fact in a notarial notation.

(1¹) In the case of a copy of a digital document, the notary shall establish the relevant facts indicating the reliability of the document (whether the document bears a valid digital signature, has been uploaded from a computer network, copied from another data carrier, etc) and shall make reference to the findings in the notarial notation.

(2) If a document contains gaps, strikethrough, insertions, changes or illegible words, or a document contains erased or illegible text, or if a document consisting of several pages has been disassembled or other circumstances refer to changes in the original content of the document, the notary shall indicate these circumstances in a notarial notation, unless they become evident from the copy.

(3) If a copy contains only an extract of a document, the notary shall specify the object of the extract in a notarial notation and shall indicate that the document does not contain information amending or supplementing it.

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

§ 42. Authenticity of printout

(1) Upon certification of a printout of a digital document, a notary shall indicate in a notarial notation whether the information printed out bears a valid digital signature and a time-stamp or was copied from a database accessible through a computer network or a network address accessible through a computer network or from another electronic data carrier.

(2) Upon certification of a printout of copies from a database accessible through a computer network, the origin of the registered information, whether the printout contains only valid information or also invalid information and the date as at which information on the printout is presented must be indicated.

(3) Subsection 41 (3) of this Act applies correspondingly.

[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 43. Determination of time of submission of document

Subsection 41 (2) correspondingly applies to determination of the time of submission of a document by a person.

Chapter 4 PROCEDURES WITH DOCUMENTS

§ 44. Binding with string and embossing press

(1) If a document consists of several pages, the pages shall be bound with string and embossing press. Original documents and notorially certified copies which contain notarial instruments or notarial notations are deemed to be documents.

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

(2) Subsection (1) of this section also applies to documents, maps, drawings and illustrations which are appended to notarial instruments pursuant to subsection 9 (2), § 15, subsection 35 (2) and subsection 36 (3) of this Act.

§ 45. Amendments to documents

(1) A notary shall indicate amendments or supplements, except insignificant amendments without any substantive meaning, at the end of a notarial instrument or notarial notation before the signature, or in the margin of a notarial instrument or notarial notation and sign the amendments or supplements separately.

(2) If a document is appended to a notarial instrument pursuant to subsection 9 (2), § 15, subsection 35 (2) or subsection 36 (3) of this Act, amendments or supplements on the appended document need not be signed if the approval thereof becomes evident from the notarial instrument.

(3) A notary may correct an obvious error after preparation of a notarial instrument or notation with a correction notice signed and dated by the notary. The notary shall write the correction notice at the end of the notarial instrument or notarial notation after signatures or on a separate sheet bound to the document.

(3¹) In case of remote authentication, a notary shall prepare the correction notice in the case specified in subsection (3) of this section as a separate file, or refer to the amendment in the notarial notice of an amended copy.

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

(4) If, after preparation of a notarial instrument or notation, a need for amendments or supplements arises, the notary shall prepare a separate notarial instrument thereon.

§ 46. Original of notarial document

(1) A notarial instrument, except a power of attorney, is prepared as one original which shall be deposited with the notary. On the basis of an application and with the notarially certified consent of other persons entitled to request a copy, a notary shall issue the original of a notarial instrument to a person if required for use in a foreign state.

(2) A power of attorney is prepared in two original counterparts, one whereof shall be deposited with the notary and other shall be issued to the principal.

(2¹) In case of remote authentication, a power of attorney shall be prepared in one original which is in electronic use. If needed, a paper copy substituting for the original shall be issued to the participant.

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

(3) Upon issue of an original, the notary shall seal the original of the notarial instrument; the notary shall deposit a copy instead of the original and shall indicate on the copy to whom and why the original is issued. Thereafter, the copy shall substitute for the original.

(3¹) In case of remote authentication, the digital original shall be in electronic use. Only in case amendments have been made to a document in accordance with § 45 of this Act, a digital copy shall be issued.

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

(3²) In case of remote authentication, a notary shall make a certified paper copy of the digital original document which shall be deposited with the notary.

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

(4) A document with a notarial notation shall be issued unless deposit of the document with a notary is required.

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

§ 47. Replacement of original document

(1) If the original of a notarial instrument is lost or partially or completely destroyed and replacement of the instrument is necessary, a notation may be made on the existing first transcript or notarially certified copy of the instrument or on the notarially certified copy made thereof that it replaces the original document. The notation shall indicate the date and place of issue and shall be signed.

(2) A person or authority that is competent to issue a copy shall replace the original document.

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

(3) If, according to a document, a debtor must comply with immediate compulsory execution, the opinion of the debtor shall be heard before replacement of the original. Persons with the right to request a copy, if the persons can be identified without considerable difficulties, shall be informed of replacement of the original.

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

§ 48. Legal effect of copies

With regard to notarial instruments, except power of attorneys, possession of a copy of the notarial instrument substitutes for possession of the original notarial instrument in legal acts. In case of a power of attorney authenticated by remote authentication, a paper copy of the power of attorney substitutes for the original in legal acts.

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

§ 49. Competence to issue copies

(1) A person or authority that preserves the original of a notarial instrument shall issue a copy.

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

(2) If a European Certificate of Succession has been authenticated on the basis of 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 the original of such certificate has been transferred to the state archive under subsection 16 (2) of the Notaries Act, a certified copy of the certificate shall be issued by another notary.

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

§ 50. [Repealed – RT I 2009, 27, 164 – entered into force 08.06.2009]

§ 51. [Repealed – RT I 2010, 38, 231 – entered into force 01.07.2010]

§ 52. Right to receive copies and right to examine

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

(1) The following may request a certified or uncertified copy and examine an original:

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

1) everyone whose declaration of intent or declaration of intent submitted in his or her name is contained in a notarial instrument, in the case of notarial instruments prepared upon authentication of transactions or declarations of intent;

2) everyone who applies for preparation of a notarial instrument, in the case of other notarial instruments;

3) legal successors of persons specified in clauses 1) and 2).

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

(1¹) If a notarial instrument has been prepared in accordance with § 6 or § 34 of this Act, a certified copy of the notarial instrument is issued to the parties of a transaction as a part of the notarial act.

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

(2) Persons entitled to request a copy may agree on restriction of the respective right, including in such manner that a notary shall issue a copy only upon fulfilment of a condition to be verified by the notary.

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

(3) Upon existence of the consent specified in subsection 3 (4) of the Notaries Act, also other persons may examine the original and receive copies thereof in accordance with the respective consent.

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

(4) The creditors and debtors of a bequeather and other persons with legitimate interest have also the right to receive a copy of a succession certificate.

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

§ 53. Forwarding to registration department of court or land registry department

(1) If a notary authenticates a transaction or certifies an application which is to be submitted to the registration department or land registry department of Tartu County Court, the notary shall forward the transaction documents or the application and all other documents appended thereto according to law to the registration department or land registry department.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(2) [Repealed – RT I 2010, 38, 231 – entered into force 01.07.2010]

(3) If a notary authenticates a transaction on the basis of which an entry is to be made in a register maintained by the registration department or land registry department of Tartu County Court, the notary shall indicate the data concerning the state fee payable and the transaction value on the basis of which the state fee is calculated in the application to be submitted for making an entry in the registration department or land registry department of Tartu County Court.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

§ 54. Circumstances established later

(1) In the cases specified in subsection 10 (3), 12 (2) and 21 (2) of this Act, a notary may issue copies of notarial instruments only after the necessary identification of persons or establishment of the right of representation or right of disposal.

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

(2) A notary shall preserve the documents submitted for identification or establishment of the right of representation or disposal together with the original of the notarial instrument but shall not bind these to the original with string and embossing press.

(3) After the necessary identification or establishment of the right of representation or disposal, a notary shall make the corresponding notice on the notarial instrument pursuant to the procedure provided for in subsection 45 (3) of this Act. A copy can be issued only after the notice is made.

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

(3¹) If a notary has made the notice specified in subsection (3) of this section, authentication shall be deemed effective retroactively as of the signing of the notarial instrument pursuant to § 13 of this Act. Until such notice is made, authentication is invalid.

[RT I 2006, 7, 42 - entry into force 04.02.2006]

(4) If, pursuant to law or at the request of the parties, a notary must forward a notarial instrument to a competent judicial institution or authority, the obligation to forward the notarial instrument arises after the notice specified in subsection (3) of this section is made.

Chapter 5

IMPLEMENTATION

§ 55. Notarial acts commenced before entry into force of this Act

Legislation which was in force prior to entry into force of this Act is applied to notarial acts performed or commenced before entry into force of this Act.

§ 56. Documents issued abroad

(1) If a public document issued abroad must be taken as the basis for performance of a notarial act, the document shall be legalised or certified by a certificate replacing legalisation (an apostille), unless otherwise provided for in an international agreement. The document need not be certified by an apostille or legalised if the content of the document is not relevant due to the substance of the notarial act. A public document and an apostille are defined in the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents.

(2) A judicial institution, authority and a bailiff may request the legalisation or certification by an apostille of a foreign public document issued to them, unless otherwise provided for in an international agreement.

(3) If an official of a foreign state, whose competence has been certified by legalisation or apostille, certifies or authenticates a signature on a document or a copy of a document, notarial certification is unnecessary if the document or copy is used in Estonia.

(4) Authentication by an official of a foreign state and legalisation or certification of a document by an apostille shall not be sufficient if notarial authentication is requested by Estonian law and an international agreement does not prescribe otherwise.

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

§ 57. Power of attorney authenticated by official of foreign state

(1) A list of officials of foreign states in the case of whom it is presumed that the identity of the principal and his or her capacity to enter into a transaction is positively verified shall be established by a regulation of the minister responsible for the area. A power of attorney authenticated or certified by such official is equal to a power of attorney authenticated by an Estonian notary upon compliance with the requirement of legalisation or certification by an apostille arising from § 56 of this Act.

(2) A court may recognise the competence of other officials of foreign states upon authentication of power of attorneys if the professional training and status of the officials corresponds to the professional training and status of Estonian notaries and the principles of authentication of power of attorneys correspond to the provisions of this Act concerning authentication of transactions.

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

§ 58. [Repealed – RT I 2009, 27, 164 – entered into force 08.06.2009]

§ 59. Entry into force of Act

(1) This Act enters into force on 1 February 2002.

(2) Sections 56–57 of this Act enter into force on the tenth day following the date of publication of this Act in the *Riigi Teataja*.

(3) A notarially certified transaction within the meaning of this Act and the Act on Amendments to Acts Related to Implementation of the Notarisation Act is a transaction with notarially authenticated signatures within the meaning of subsection 92 (2) of the General Part of the Civil Code Act.