



Forms of legal protection for protocol recipient notaries

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Abstract

Based on Article 64 paragraph ^[1] UUJN, the Notary receiving the protocol is appointed by the Regional Supervisory Council. The notary who receives the protocol has the authority to issue grosse deeds, copies of deeds, or extracts of deeds in accordance with Article 64 paragraph ^[2] UUJN. In addition, this notary is also responsible for keeping the protocol carefully. When a protocol change occurs, there is a possibility that lawsuits or problems will arise related to the deed in the notarial protocol. Therefore, legal protection for notaries who receive protocols is important. Based on research results, currently there are no legal protection arrangements for notaries receiving protocols. Forms of protection that can be taken include limiting the responsibility of the recipient of the protocol, imposing partial responsibility on the heirs of the protocol giver, limiting storage time, storing it in electronic media, and providing the right to refuse. Repressively, legal protection needs to be given in the form of permission to attend from the Honorary Council of Notaries if there is a summons to court with limited attendance as a witness and the absence of sanctions related to cancellation of the deed by the judge. The limits of legal protection implemented to provide protection to notaries in carrying out their role as recipients of protocols from notaries were previously Disclosure of Information in Microfilm Form.

Keywords: Notary, protocol, recipient

Introduction

A notary is a public official who has the authority to compile and store authentic deeds and other documents permitted by law and regulations. When a notary dies, reaches retirement age, changes domicile, or changes profession, he is obliged to submit the retired notary's protocol to another notary appointed by the Regional Supervisory Council. Submission of notary protocols is regulated in Article 65 of the Law on Notary Positions. However, unfortunately, legal protection for notaries receiving protocols has not been clearly regulated.

In some cases, court decisions have imposed sanctions on the notary who received the protocol, even though the error occurred with the notary who provided the protocol. Therefore, this article encourages notaries who receive protocols to be given legal protection. The notary receiving the protocol only acts as the party receiving the protocol made by another notary. Imposing responsibility for the contents of the deed kept by the notary receiving the protocol will only result in injustice and legal uncertainty.

Thus, legal protection for notaries receiving protocols needs to be considered so that justice and legal certainty can be realized. Notaries as public officials have an important role in making authentic deeds. In practice, the notary can receive protocols from interested parties to make an authentic deed. However, as a public official whose job is to make deeds, notaries also need legal protection in carrying out their duties and functions. Therefore, this article will discuss the forms and limits of legal protection provided to notaries in their capacity as recipients of protocols.

A notary protocol is a collection of documents that must be stored and maintained by a notary in accordance with UUJN provisions. The protocol not only comes from the notary himself, but also from other notaries based on the provisions for submitting the protocol. Based on UUJN 2004 and

UUJN 2014, notaries have the authority to make deeds and the obligation to keep protocols. A notary protocol is a written document that must be kept until the end of the notary's life, unless otherwise determined by law.

Protocols can be transferred from one notary to another due to death, end of term of office, personal request, incapacity for duty for more than three years, appointment as a state official, moving region, leave, or dishonorably discharged. Therefore, all protocols are submitted to a notary appointed by MPD. Receiving notaries consist of temporary and substitute notaries who are only temporarily required to receive leave protocols for a maximum of 5 years or protocols for 12 years of their term of office, even though in reality they are kept longer.

As per the provisions of the Law on the Position of Notaries (UUJN), both Law Number 30 of 2004 (UUJN of 2004) and its amendment, namely Law Number 2 of 2014 (UUJN of 2014), notaries apart from having the authority to make deeds, also have obligations. keep a notary protocol. 6 The notary protocol that is kept is a document that is usually made in written form. The obligation to keep a notary's protocol lasts until the end of his life, unless otherwise determined by the handover law of the Regional Supervisory Council.

Based on Article 64 paragraph ^[1] UUJN, the Notary receiving the protocol is appointed by the Regional Supervisory Council. The notary who receives the protocol has the authority to issue grosse deeds, copies of deeds, or extracts of deeds in accordance with Article 64 paragraph ^[2] UUJN. In addition, this notary is also responsible for keeping the protocol carefully. When a protocol change occurs, there is a possibility that lawsuits or problems will arise related to the deed in the notarial protocol. Therefore, legal protection for notaries who receive protocols is important.

Discussion

1. Legal protection given to notaries as recipients of protocols from previous notaries in carrying out their duties of storing and maintaining notarial protocols

Legal protection is an effort to fulfill each person's rights which are recognized and granted by law, so that these rights can be enjoyed. Legal protection aims to provide guarantees that everyone can enjoy their rights and freedoms appropriately in accordance with applicable legal provisions.

Efforts to fulfill rights are carried out through existing legal instruments and judicial mechanisms. Legal instruments can be in the form of laws, government regulations and regulations of related institutions. Meanwhile, the judicial mechanism allows everyone to exercise their right to complain about rights violations to the court. In this way, the principle of the rule of law can be realized in reality by providing guaranteed legal protection for every citizen's rights that have been regulated in the legal system

The notary as the recipient of the protocol is entitled to legal protection to the extent of carrying out his obligation to store the transferred protocol. He should not be held responsible for the contents and validity of the deed because he was not involved in its preparation. Imposing responsibility for legal acts that were not carried out will lead to injustice.

On the other hand, the notary giving the protocol is still responsible for the deed he made even though the deposit is handed over to the recipient. This is in accordance with the provisions of the 2014 UUJN which states that the notary maker remains responsible for the deed he made without time limit. This matter needs to be clearly regulated in statutory regulations to provide legal guarantees for both the giving and receiving notaries in carrying out their respective responsibilities fairly. Thus, the principle of justice can be realized in the notary protocol transition regulations.

Currently there are no legal protection arrangements for notaries receiving protocols. Forms of protection that can be taken include:

a. Limits the liability of the protocol recipient

The recipient notary is not required to be responsible for the implementation and other matters outside the storage of the protocol and there are several reasons why the limitation of responsibility of the notary receiving the protocol is related to the storage of the protocol and not the contents of the deed itself. The receiving notary is not involved and does not know the process of making the deed by the notary giving the protocol. He is only responsible for keeping the protocol. Storing the protocol is a written obligation in the UUJN, while the contents of the deed are outside of his responsibility. If he were to be held responsible for the contents of the deed, then this would be contrary to the principle of civil liability which requires an element of error. Imposing undue responsibility can give rise to injustice for the notary receiving the protocol.

The notary who made or gave the protocol should remain fully responsible for the deed he made, not transfer responsibility to the recipient who was not involved in making it.

The recipient notary is not held responsible for the implementation and other matters outside the storage of the protocol because he actually does not have a direct legal relationship with the deeds contained in the protocol

submitted to him. He was only assigned to keep the protocol in accordance with applicable regulations and was not involved in the process of making the previous deed. Therefore, it is legally unfair if he is held responsible for the implementation of the contents of the deed, for example if there is a legal defect in the deed, because this is completely beyond his control. As the recipient of the protocol, he also did not have access to sufficient information to know the implementation of the contents of the previous deed considering that he was not involved in the process of making it. Thus, the limitation of responsibility is only in accordance with its main task, namely storing protocols, not being responsible for the contents of deeds or implementation of other laws outside the authority of protocol storage.

b. imposes partial responsibility on the heirs of the protocol giver

Partial responsibility to the heirs of the protocol provider has a relevant legal basis. Here are some reasons why partial responsibility is assigned to the heirs of the protocol giver:

Continuity of Notarial Practice: The heir of the protocol provider is responsible for maintaining the continuity of notarial practice. By ensuring protocols are submitted correctly, they ensure that important documents related to authentic deeds remain accessible and usable by the public.

Document Accessibility: Heirs must ensure the accessibility of documents related to notary protocols. This includes ensuring that protocols are stored properly and accessible to interested parties, such as clients or authorities.

Document Security: Heirs have the responsibility to maintain the security of notary protocol documents. The notary protocol contains authentic deeds that have legal value and must be properly maintained so that they are not damaged or lost.

Legal Certainty: By ensuring that the notary's protocol is submitted correctly, the heirs who provide the protocol also contribute to legal certainty. Well-maintained notarial protocols ensure that authentic deeds can be used as evidence in legal proceedings

c. Limiting storage time

The notary receiving the protocol must limit the storage time of the protocol. This can help organize and ensure protocols are maintained properly.

d. Storing in electronic media

One form of protection is to store the protocol in electronic form. This allows for better accessibility and minimizes the risk of physical damage

e. As well as providing the right to refuse

The notary receiving the protocol should have the right to reject certain protocols if necessary. Repressively, legal protection needs to be given in the form of permission to attend from the Honorary Council of Notaries if there is a summons to court with limited attendance as a witness and the absence of sanctions related to cancellation of the deed by the judge.

2. Legal protection limits are implemented to provide protection to notaries in carrying out their role as recipients of protocols from previous notaries

Legal protection for notaries receiving protocols is important to ensure the continuity of their duties and functions. The following are the limits of legal protection implemented to provide protection to notaries in their role as recipients of protocols from previous notaries

a. Legal Arrangements

Legal systems usually provide a clear framework regarding the duties and responsibilities of notaries, including in terms of accepting protocols. This ensures that the notary has clear guidelines for managing the protocols he receives.

Legal regulations refer to a series of regulations, laws and policies that regulate the duties and responsibilities of notaries in carrying out their roles, including in terms of accepting protocols. This is a legal foundation that provides clear direction and guidance for notaries in their practice.

Legal systems usually set specific rules regarding what is expected of a notary when they receive a protocol from a previous notary. For example, in some jurisdictions, the law may establish requirements for how a notary must manage the protocols it receives, including procedures for recording, storing, and releasing legal documents.

b. Qualification Requirements

Notaries appointed as protocol recipients usually must meet strict qualification requirements, including education, experience, and certification examinations. This aims to ensure that the notary has the necessary knowledge and skills to administer the protocol correctly.

The definition of notary protocol in Article 1 point 13 of the Law on Notary Positions states that it is a collection of documents which are considered state archives which must be safeguarded and kept by a notary in accordance with the provisions of the law. As a state archive, these documents must be maintained and stored under any circumstances, even if the notary who owns the protocol is on leave or dies. Article 63 paragraph ^[5] of the Law on Notary Positions actually regulates the method of storing and maintaining notary protocols. This states that notary protocols that are 25 years old or more must be submitted to the Regional Supervisory Council (MPD).

c. Professional Standards

Notaries are expected to act according to certain standards of ethics and professionalism in carrying out their duties. This includes maintaining the confidentiality of documents, treating all parties fairly and neutrally, and avoiding conflicts of interest.

Professional Standards in the context of notary duties are a set of ethical rules and behavioral norms that regulate the way notaries interact with clients, related parties and legal documents. Below is a further explanation regarding this:

- **Document Confidentiality:** Notaries have a legal and ethical obligation to maintain the confidentiality of the documents they handle. This means that they must not disclose any information contained in legal documents to other parties without permission from the authorities. Openness to clients is important, but confidential information disclosed in documents must remain protected.

- **Fair and Neutral Treatment:** Notaries are expected to treat all parties fairly and neutrally in carrying out their duties. They must not take sides or favor one party over another in the process of creating legal documents. This ensures that notaries carry out their function as objective and independent intermediaries in legal transactions.

- **Prevention of Conflicts of Interest:** Notaries must avoid conflicts of interest that could affect their integrity and objectivity in carrying out their duties. This means that notaries must avoid situations where personal interests or the interests of other parties may influence their decisions or actions. If a conflict of interest arises, the notary must disclose it to all relevant parties and ensure that the actions taken remain in accordance with the law and professional ethics.

d. Professional Insurance

Notaries are often required to have professional insurance as an additional form of protection. This insurance can provide financial protection in cases of lawsuits arising from actions or negligence in carrying out notary duties. Professional insurance provides financial protection to notaries in the event of lawsuits that may arise as a result of actions or omissions in carrying out their duties. The legal fees and compensation required to pay claims can be very high, and this insurance helps protect notaries from significant financial losses.

e. Document Maintenance and Storage

Notaries are required to maintain and store documents safely and in accordance with applicable legal requirements. This includes organizing adequate storage systems and keeping documents secure from unauthorized access. Notaries have a legal obligation to maintain and store documents safely in accordance with the requirements established by applicable laws and regulations. This includes provisions on how long documents must be kept, where they must be kept, and how they must be handled. Notaries must organize adequate storage systems for the legal documents they handle. This can be physical storage in a notary's office in a locked filing cabinet or electronic storage in a secure, encrypted computer system.

f. Information Disclosure

Notaries may be required to disclose certain information to interested parties, such as clients or authorized parties, regarding related transactions or documents. Disclosure of information by a notary can also be a way to protect the interests of clients or parties involved in the transaction. This may include providing advice or information about the risks or consequences of certain actions, so that clients can make more informed decisions

Conclusion

Currently there are no legal protection arrangements for notaries receiving protocols. Forms of protection that can be taken include limiting the responsibility of the recipient of the protocol, imposing partial responsibility on the heirs of the protocol giver, limiting storage time, storing it in electronic media, and providing the right to refuse. Repressively, legal protection needs to be given in the form of permission to attend from the Honorary Council of

Notaries if there is a summons to court with limited attendance as a witness and the absence of sanctions related to cancellation of the deed by the judge. The limits of legal protection implemented to provide protection to notaries in carrying out their role as recipients of protocols from previous notaries are Information Disclosure

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