

Responsibilities of Notary Receiving Protocol from the Notary Who Died in Kendal Regency

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Abstract. *Notary Protocol is a collection of documents that are State archives that must be stored and maintained by a Notary in accordance with the provisions of laws and regulations. As an important document belonging to the State that functions as evidence, the Notary Protocol should be properly maintained. The storage of the Notary Protocol by the Notary holding the protocol is an effort to maintain the legal age of the Notary deed as perfect evidence for the parties or their heirs regarding everything contained in the deed. The position of the Protocol Recipient only includes those who have resigned, retired or died. Based on the results of this study, the responsibility of the Notary who receives the protocol from a Notary who has died in Kendal Regency. The Notary who receives the protocol in Kendal Regency is only responsible for storing and maintaining the Protocol he receives and for providing information related to the protocol in his possession, because this is one of the responsibilities of the recipient of the notary protocol, however, the notary who receives the protocol will still be called to ask for information if there is a problem.*

Keywords: Protocol; Responsibility; Notary.

1. Introduction

Legal profession practitioners must work professionally and functionally and have a high level of accuracy, caution, perseverance and dedication because they are responsible to themselves, fellow members of society and the creator. The legal profession has a special place in society. The legal profession starts from a process and then produces professional legal practitioners. In social life, a provision is needed that regulates the proof of a legal event. The legal profession that supports these needs is known as a Notary.¹

In carrying out his duties and office, a notary must be guided normatively by legal regulations relating to all actions to be taken to then be stated in a deed.⁶

¹ MuhammadZuhrifadli, https://kumparan.com/muhammad-fadli_1608800907521699516/the-importance-of-ethics-in-the-legal-profession-as-an-effort-to-enforce-the-law-1uqgrt5tun4/full, Kumparan.com, October 11, 2023, 20.00

Based on the provisions of Article 1 number (7) UUJN, it is explained that a Notarial Deed, hereinafter referred to as a deed, is an authentic deed made by or before a Notary according to the form and procedures stipulated in this Law. From this Article, it can be seen that basically there are two (2) types of deeds that are within the scope of Notarial legal products, namely the Deed of Relas and the Deed of Partij.²

Before the UUJN was enacted, the institution that carried out the supervisory function over Notaries was carried out by the local District Court (City or Regency) at the Notary's domicile, but since the UUJN was enacted, supervision over Notaries has been carried out by the Supervisory Board formed by the Minister of Law and Human Rights of the Republic of Indonesia which consists of the Regional Supervisory Board, the Regional Supervisory Board and the Central Supervisory Board which are hereinafter referred to as the MPD, MPW and MPP.³ Article 1 number (6) UUJN states that the Supervisory Board is a body that has the authority and obligation to carry out guidance and supervision of Notaries. The Notary Supervisory Board is the only agency that has the authority to supervise, examine and impose sanctions on Notaries and each level of the Supervisory Board has its own authority. Notaries and each level of the Supervisory Board have their own authority.

The Notary Protocol regulated in UUJN is a very important state archive, which must be maintained and guarded by a Notary because it is a valid and strong evidence when in the future there is a problem between the parties in a deed. The Notary Protocol is a collection of documents that are state archives that must be stored and maintained by a Notary.

In the event of a Notary's death, the Notary receiving the protocol is not responsible for any problems arising from the protocol submitted to him. The Notary receiving the protocol may only provide, show, or notify the contents of the deed, grosse deed, copy of the deed or extract of the deed to the interested party, unless otherwise determined by statutory regulations.

The submission of the protocol is carried out within a maximum of 30 (thirty) days by making a report on the submission of the Notary protocol which is signed by the person submitting and receiving the Notary Protocol as per Article 63 paragraph (1) of the UUJN. The Notary Protocol held by the deceased Notary is then handed over to the Acting Notary by the Notary's heirs.

²Article 68 of Law Number 2 of 2014 concerning the Position of Notary

³Article 68 of Law Number 2 of 2014 concerning the Position of Notary

2. Research Methods

The research approach method used in this thesis is the sociological legal research method. Sociological legal research emphasizes research that aims to obtain legal knowledge empirically by going directly to the object.⁴The specification of this research uses descriptive analysis, namely research that in addition to providing a description, writing and reporting an object or an event will also draw general conclusions from the problems discussed. Data sources come from primary data and secondary data. Data collection methods include interviews, Document Studies or Library Materials. The data analysis method used in analyzing the data is the interactive qualitative model analysis as proposed by Miles and Huberman.

3. Results and Discussion

Practice of Submission of Protocols of Deceased Notaries, which is a legal act to be able to transfer ownership and responsibility related to the protocols of the deceased Notary to the Notary receiving the Notary Protocol. With the submission of the Notary protocol to the Notary receiving the protocol, the Notary receiving the protocol has the responsibility to maintain and store the protocol and has the authority over the protocol in accordance with the provisions provided by the Law.

Notary Protocol is a collection of documents that are State archives that must be stored and maintained by a Notary in accordance with the provisions of laws and regulations. As an important document belonging to the State that functions as evidence, the Notary Protocol should be properly maintained. The storage of the Notary Protocol by the Notary holding the protocol is an effort to maintain the legal age of the Notary deed as perfect evidence for the parties or their heirs regarding everything contained in the deed. The Notary dies, but the Notary Deed will still exist which has a legal age exceeding the biological age of the Notary himself.⁵

Notary Dies or retires, resigns for certain reasons, not all protocols must be submitted to the Notary Recipient/Holder of the Protocol as described above. However, what was submitted was:

1. Deed Minutes Bundle

⁴Soejono Soekanto, 2005, Introduction to Legal Research, University of Indonesia Press, Jakarta, p. 88.

⁵Habib Adjie, 2008, Indonesian Notary Law – Thematic Interpretation of Law No. 30 of 2004 Concerning the Position of Notary, Refika Aditama, Bandung, p. 42.

2. List of Deeds (Repertorium) (Article 58 paragraph (1) UUJN)
3. Book of Registration of Legalization of Private Letters (Article 58 paragraph (1) UUJN)
4. Register Book for private letters that are recorded (Waarmerking) (Article 58 paragraph (1) UUJN)
5. Protest Register Book against non-payment or non-receipt of valuables (Article 16 paragraph (1) letter g UUJN)
6. Book of Wills and Testaments (Article 16 paragraph (1) letter h UUJN)
7. Klapper List for the facers
8. Klapper List for private letters that are legalized and signed before a notary (Legalization) (Article 59 paragraph (1) UUJN)
9. List of Klapper for private letters that are recorded (Waarmerking) (Article 59 paragraph (1) UUJN)
10. List of other letters required by UUJN (Article 58 paragraph (1) UUJN)

Notary as a position must have continuity. In the sense, when a Notary resigns for any reason or takes leave, he is obliged to submit his protocol to another Notary who has been agreed upon by the person concerned (the one who submits and the one who receives the protocol), or appointed by the MPD if the Notary who resigns or takes leave does not propose a Notary as the Protocol Holder or a Replacement Notary (for the Notary who is on leave). Specifically regarding the Notary referred to in Article 35 paragraph (1), the Notary who receives the protocol will be able to provide a copy (in accordance with the provisions of Article 54 UUJN-P).⁶he must first receive a Decree as a Notary Receiving Protocol from the Ministry of Law and Human Rights of the Republic of Indonesia. Without the Decree/Appointment (SK) in question, the Notary cannot issue a copy because the SK is the basis of authority for the Notary Receiving/Holder of the Protocol.

It is stated in Article 63 paragraph (1) of the UUJN that the submission of the Notary protocol must be carried out within a maximum of 30 (thirty) days by making a report on the submission of the Notary protocol which must be signed

⁶Dr. Habib Adjie, SH.M.Hum, Dr. Muhammad Hafid, SH., Mkn, 2023, Notary Protocol, PT REFIKA ADITAMA, Bandung, p. 29

by the heir who submitted the Notary protocol and the Notary who received the Notary protocol.

Article 1 number 8 of UUJN states that "Minutes of Deed are Original Notarial Deeds", Original Minutes of Deeds that include the signatures of the parties, witnesses, and Notary, and files stored as part of the Notarial Protocol can be lost, stored in the office itself or elsewhere or forgotten to store them and not bundled so they are lost. They can also be burned or eaten by termites and submerged in floods, swept away by floods, no longer in the notary's office.

Article 65 of UUJN-P states that "Notaries, Substitute Notaries, and Temporary Notary Officials are responsible for every deed they make even though the Notary Protocol has been submitted or transferred to the party keeping the Notary Protocol." The substance of the article is as if the Notary's responsibility during the performance of his duties is without a time limit, biologically until his last breath and physically (deed) until the end of the world. Notaries as a position should have a limit to their responsibility, namely when they are no longer in office and no longer have any authority over them.

The legal construction of Article 65 of the UUJN-P, if the Notary has died, then it is not the Notary Holding the Protocol who must face it because he does not know anything. Thus, if a Notary Holding the Protocol is sued (civil), he is only obliged to provide an answer as far as the holder of the protocol, in fact there is no need to be sued (whether the Notary has retired but has not died or has died and there is a Notary Holding the Protocol). This is because the Notarial deed is not the will of the Notary, but the will of the parties.⁷

According to the Author, that; "In reality, even though the notary who receives the protocol does not know anything about the deed from the protocol he received, the authorized party will still summon the notary who received the protocol to ask for information and the notary who received the protocol must face the summons. This means that even though the notary has stopped from his position and all deeds made by the notary have been submitted or transferred to the party keeping the notary protocol, the Notary who made the deed must remain responsible for the deeds he made. In other words, the Notary's position will continue to exist even though a Notary has retired from his position as a Notary, or with the resignation of the Notary, his position as a Notary also ceases."

Based on the analysis of the theory of responsibility, if it is associated with the Responsibility of the Notary who receives the Protocol from a Notary who has

⁷Dr. Habib Adjie, SH.M.Hum, Dr. Muhammad Hafid, SH., Mkn, 2023, Notary Protocol, PT REFIKA ADITAMA, Bandung, p. 29

passed away in Kendal Regency, it can be analyzed that responsibility is a person's legal obligation for certain actions. In this case, the Notary who receives the protocol in Kendal Regency is only responsible for storing and maintaining the Protocol he receives and for providing information related to the protocol in his possession, because this is one of the responsibilities of the recipient of the notary protocol. However, the notary who receives the protocol will still be called to be asked for information if there is a problem.

4. Conclusion

The notary receiving the protocol in Kendal Regency is only responsible for storing and maintaining the protocol he receives and for providing information related to the protocol in his control, because this is one of the responsibilities of the recipient of the notary protocol. The minutes of the notary protocol deed are lost/damaged, immediately make a report with the contents of the minutes of the lost/damaged deed, notified to the MPD (Regional Supervisory Council) and added photo and video evidence, if the notary protocol deed is disputed as the notary receiving the protocol, he is only responsible for helping to store it, not interfering in making the deed, if there is a police summons, it is sufficient to show the protocol. However, the notary receiving the protocol will still be summoned for information if there is a problem.

5. References

Habib Adjie, 2008, Indonesian Notary Law – Thematic Interpretation of Law No. 30 of 2004 Concerning the Position of Notary, Refika Aditama, Bandung,

-----Habib. Muhammad Hafid, SH., Mkn, 2023, Notary Protocol, PT REFIKA ADITAMA, Bandung

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