

Responsibility of the Substitute Notary for Deeds Made Before the Notary's Leave

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Abstract. *A notary is a public official authorized to create authentic deeds containing any legal actions, agreements, or provisions desired by the parties. In carrying out his/her duties, a notary has the right to take leave in accordance with statutory regulations. When taking leave, a notary must appoint a substitute notary to serve the public. The purpose of this study is to determine the status and authority of a substitute notary who receives a protocol from a notary taking leave and the form of legal responsibility of the substitute notary for the deeds he/she creates. The research method used in this study is normative law, which is conducted through the analysis of library materials or secondary data. This type of research is also known as research that focuses on the study of legal principles, legislation, and relevant legal literature. The research results show that a substitute notary has the same status and authority as a notary when carrying out his duties. The substitute notary also has full legal power over the deeds he makes, in accordance with applicable laws and regulations. Responsibility for notarial deeds occurs when the deed is signed and this falls under the authority of the official in office at the time of signing the deed. If the deed is made and signed before the notary's leave period, it will be the responsibility of the notary himself. Meanwhile, if the deed is signed after the notary has taken leave and the substitute notary has carried out his duties, it will be the responsibility of the substitute notary himself.*

Keywords: Accountability; Authentic; Notary; Responsibility.

1. Introduction

A notary is a public official who is exclusively authorized to make authentic deeds containing any legal actions, agreements, or provisions desired by the parties or required by statutory regulations to be set forth in the form of an authentic deed. A notary also has the obligation to guarantee the certainty of the date of the deed's creation, store the document, and provide a grosse, copy, and extract from

the deed, as long as such authority is not specifically granted or excluded to other officials or parties based on applicable legal provisions.¹

The position of a Notary as a public official in the community, and the legal force inherent in the authentic deeds they create, make the Notary position a position laden with trust. This trust, granted by both law and society, requires that every Notary carry out their duties professionally, responsibly, and always uphold legal ethics, dignity, and professional integrity. If this trust is violated, either intentionally or negligently in the creation of a deed, the Notary concerned is obliged to be accountable for his actions in accordance with applicable legal provisions.² Therefore, a notary has duties and obligations to serve the public without being limited by time and can work whenever the public needs his legal services.

In carrying out his/her duties, if a Notary is sick or temporarily unable to carry out his/her duties, then the Notary may take leave from carrying out his/her duties. Notaries have the right to take leave in accordance with the regulations stipulated in Article 11 Paragraph (1) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. This article explains that Notaries may take leave during their term of office after carrying out their duties for a minimum of two years. The right to take this leave may be exercised annually or cumulatively for several years, with the limitation that each leave taken may not exceed five years, including extensions. The total period of leave that may be taken by a Notary during their term of office may not exceed twelve years.³

A notary who is on leave must appoint a replacement notary so that the notary's functions and services continue to run smoothly.⁴ This is in accordance with the provisions of Article 25 paragraph 3 of the UUJN and if a notary will take his/her leave rights, then the notary is obliged to appoint a substitute notary to receive the notary's protocol. Article 1 paragraph (3) of the UUJN explains that a substitute notary is a person who is temporarily appointed as a notary to replace a notary who is on leave, sick, or temporarily unable to carry out his/her duties as a notary..

Referring to the above, it certainly raises the question of what the position of a Substitute Notary is, considering that the requirements for appointing a Substitute Notary are much lighter because they do not require a graduate of the Notary Masters Program, only a law degree with certain work experience in a Notary's office and what is the authority of a Substitute Notary in carrying out his/her position, to what extent he/she replaces a Notary who is on leave, whether only

¹Lamban Tobing, 1999, Regulations on the Position of Notary, Erlangga, Jakarta, p. 31

²Yoyon Mulyana Darusman, 2017, The Position of Notaries as Officials Making Authentic Deeds and as Officials Making Land Deeds, Jurnal Hukum, No. 1, Vol. 7, p. 46.

³Tsaniya Hafizha & Aminah, 2023, The Responsibility of a Substitute Notary for Errors Made in the Preparation of a Deed. Al-Manhaj, Journal of Islamic Law and Social Institutions, No. 2, Vol. 5, p. 2

⁴Habib Adjie, 2008, Indonesian Notary Law, PT. Refika Aditama, Bandung, p. 102

limited to carrying out some of the authority or completely taking over the authority of the Notary's position for a certain period of time. This question is important because it is directly related to who bears the responsibility if a dispute or loss arises in the future that stems from a deed made while the definitive notary is on leave.

Based on the above background, the author is interested in conducting further research on "The Responsibility of Substitute Notaries for Deeds Made Before the Notary's Leave of Absence." This research aims to determine the form of responsibility of substitute notaries for deeds made before the Notary's leave of absence.

2. Research methods

The approach method used by the author in this research is the *pendekatan Undang-Undang (status) te approach*, namely *pendekatan yang memfokuskan analisis scan on the tetat an-ke tetat an humym tertulist selike the basis of ufirst in peimplementation of PEne literature*. The research specifications in this study use peer-reviewed research. *nelitian humynormative m*, namely *pe ne research conducted meTheni analysis teagainst PU material staka or data semynde r* The types of data used in this research are primary data, secondary data and tertiary data. The data collection method used in this study is *one in to pustakaan, namely pengut teacher and hu material mym de just walk me read pe queen ran perundang-u invitation, jurnal, artikel-article l of internet, want pu n lite queen r-lite queen r other that e the relationship between the with pe the issues discussed*. This research basically uses a descriptive method. *my way altative de with me week wear pendekatan de two active, namely de with me explain the principles or concept p-concept pu your m, the one your dian diterap on pe special problems su s yang me become the focus s study pe ne literature*

3. Results and Discussion

3.1. Position and Authority of a Substitute Notary When the Notary is on Leave

Menurut Article 1 number 3 Undang-Undang Number 2 Tahun 2014 tentang Potato Peru Undang-Undang Number 30 Tahun 2004 tentang Notary Position (se continue asked dise ma'am t UUJN), which is meant d de with a notary replace is "se se the person who u that k se me between times lifted se as a Notary that to me replace the Notary who is dang cuti, sick, or be obstacle se me between me carry out his/her duties like a Notary." From ru your San Terse ma'am t, te get two au nsur pe The important thing that can be underlined is that that the position of notary public replace be nature of se me between, and that pe the appointment is intended dkan u that to me replace se me between fu the position of notary that is obstacle. De with thus, notary pe replace not me have to two two can pe mane n se pe notary de definitive. Statu snya only be behavior in period terte that which

is there just by the Minister of Law and Human Rights (HAM). When the time comes the replacement is ended or the notary he replaced goes back to active, then the automatic way of notary position is replaced by the end of the period.

To be a notary public replacement must have a basic understanding of the law and must know how to compress the law. Then in various provisions in the Law of Mutual Invitations is complete. Undang-Undang Number 30 Tahun 2004 tentang Notary Public Position (UUJN) must become your foothold because it emphasizes that the position of notary is by nature of public and must have a function that to be run separately by the state in the field of law must be clear, especially in the mother deed of deed not. Regulations regarding Notary Positions are also enforced with the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 19 of 2019 concerning the Requirements and Procedures for the Appointment, Leave, Transfer, Dismissal, and Extension of the Term of Office of Notaries, which mentions details regarding Notary Position.

See other than that, in the Provision of the Minister of Law and Human Rights Number 19 of the Year 2019 regarding Terms and Conditions for Registration appointment, Moving, Reappointment, and Extension of the Notary's Term of Office, it explains that the appointment of notary public replacement is done on the basis of the application from the notary to the Minister. The request must be accompanied by a statement that the notary replacement the one there to meet conditions so how is it meant in Article 3 and Article 33 UUJN. With this mechanism this administrative, the command of the Minister of Law and Human Rights can control the process of lifting so as not to become a misuse in the practice of notary, so that it is made sure that the notary replacement the one there to have a computerized and integrity suitable professional standards.⁵

To two notary change in system to Indonesian notary who are included in part from the mechanism of the law that to guarantee to be in line with the PU services back in the field to notary. This position is regulated in a way explicit in Undang-Undang Number 2 Tahun 2014 tentang Perubahan Atas Undang-Undang Number 30 Tahun 2004 tentang Notary Position (selanjutnya disebut UUJN).⁶ Based on that Article 33 UUJN, notary public replacement is lifted that sometimes if the notary is my obstacle carry out his/her duties because of cuti, sick, or other legitimate reasons. With thus, to be a notary public replacement it must be right now one to administrative policy without legal basis, the other must have

⁵I Gusti Putu Arya Lanang Karyasa & Putu Edgar Tanaya, 2025, "Legal Regulations for Notaries Appointed as Regional Heads" Journal of Notary Law, Vol. 10, No. 2, p. 6

⁶Indah. 2021, "Responsibility of Substitute Notaries for Deeds Made Before the Start of Their Term of Office." Indonesian Journal of Law and Notary Affairs, Vol. 8, No. 2, p. 8

legitimasi yuridis that iat curry on the day that k above pe command you ndang-undang and dite tap me Then i Surat Ke pu there San Menteri Hu mym and Human Rights sia (To me nku mham). The requirements for appointing a Substitute Notary are regulated in Article 33 paragraph (1) UUJN and Article 27 paragraph (3) Permenkumham No. 19 of 2019. Based on these articles, the requirements that must be met by prospective Substitute Notaries are explained, namely:

- a. Is an Indonesian citizen
- b. have a bachelor's degree in law (SH)
- c. have work experience as an employee at a notary's office for at least 24 (twenty four) consecutive months.

Article 25 paragraph (3) UUJN me yes ma'am state that "In the case of a notary take cu Ti, the notary is obliged to nunjuk notary pe replace what will me carry out his duties how long has it been ti." To te that this is me ne emphasize that pe appointment of notary public replace be lt is mandatory if the notary definitive cannot me run it the gas. This means, it cannot be h there is ke vacant positions in me run fungsi pe service to notary. Se continue ask, Pe nunju notary pe replace terse ma'am t harus me get perse there juan and penge share from Menteri Hu mym and HAM me Then i me canism administrative matters that behavior. This is me nunjukkan that ke two two notary pe replace be rather direct ng under pe supervision of pe pemerintah and bu right PE level replace the person who is being used njuk oleh notary definitive without legalitas ne because.⁷

In the content ks to two two administrative, Article 1 number 3 UUJN me nde complete the notary like "pe shake your hand your m that be rwe nang u that to me mother at the deed au tentik and me have to we other memories how is it meant d in undang-u this ndang." De finish this se implicit way of ju no me my ncakup notary pe replace, curry na se length of term of office, notary public replace me carry out fungsi to notary be based on we same memory de with a notary final. However n, se administrative way, segala action hu mym that is done right oleh notary pe replace me ru tanggu feed ng answer se yourself, ma'am can withstanding answered the notary he replaced. This is the road with Article 65 UUJN who me state that "Notary be rtanggung answer te rhadap se each deed made atnya me skipun notary protocol te here it is direct or moved to on the other side." Be based on te that In this case, it can be understood that the ng jawab hu mym me le Kat Se personal way on pe the handshake that me sign the deed, te masuk in this case the notary pe replace. From segi fungsi hu mym

⁷ Kurniawan, RA, 2020, "Legal Aspects of Appointing a Substitute Notary from the Perspective of the Notary Law." Lex Renaissance Journal of Legal Studies, Vol. 5, No. 1, p. 11

administration ne because of, to two two notary pe replace me ru feed manifest station of the principle of continuity *ity of public se service*, that is me keep from getting caught become to vacant position of PUBlik that can me hinder to pe community's needs. Ne because of me Then i Menteri Hu my m and HAM me mbe mandate to at the notary public replace u that to me carry out to we nangan pu back, which is notary meaning pe replace be act on behalf of ne because, ma'am in the name of the notary who dang cuti.⁸

See other than that, from side to side we remember ridis, Article 15 paragraph (1) U U J N me state that *"Notary berwe nangan me mother at the deed au te tick menge nai se your a pe thousand atan, pe agreement, and pe ne touched tap an scan ole h pe queen ran pe ru ndang-u invitation and/or that is he climb ole h that ber ke pe your ting an that k stated in the deed au te "Ntik."* To te that this an ju no be behavior for notaries replace se length of his term of office, se until the deed is made at me have to my atan pe mother the same ktian de with the deed made at ole h notary de final. However n de Thus, the limits to we nangan te tap be behavior in the period and area of office se how to set it r in Article 18 U U J N who me ne emphasize that notaries only be rwe nangan me carry out his/her duties in one area of office, namely fog paten or te city four to two two him. To two two notary pe replace not only me have dime s administrative nsi, te but ju no dimensi etis and profe national, se how to set it r in Code E Notary's Tick which is tested publish ole h Indonesian Notary Association sia (INI). Article 4 of the Code E Notary type me ne emphasize that se each notary, te rmasuk notary pe replace, mandatory carry out his/her duties with pe nu h tough ng answer, to ju ju ran, inde pen densi, and inte moral integrity. In the context this ks, notary pe replacement is required u that to me ncantu eat status s his position se how to do it welding in se each document me n re smi, te rmasuk kop su rat, stamp, and signature. This is confirmed gas up pu in Article 19 paragraph (3) U U J N who mengat ur that se every notarial deed must be your at name and te four to two two notary, right? the way complete, complete up to the status s *"Notary Public Pe replace"* emotion s dicantu eat so you don't get sick become pe yes satan information to in society. Etika profe the ju no mengat ur menge nai prohibition pe misuse position. Article 16 paragraph (1) hu ru fa and b U U J N me yes ma'am state that the notary (te rmasuk notary pe replace) must be act of ju jur, se equal, independent, and not r bagian, se rta memberikan pe se service su ai de just to te that an undang-undang. To te that this is meant dkan u that to me make sure that the notary pe replace not me make the most of his

⁸ Putri, Dwi Amalia., 2022, "Legal Analysis of the Responsibilities of Substitute Notaries in the Preparation of Authentic Deeds." Journal of Notary Law, Vol. 7, No. 3, p. 9

term of office that k to pe personal or be act in luar ke we nangan hu'mym that he has.⁹

3.2. The Substitute Notary's Responsibility for Deeds Made Before the Notary Underwent Leave

To be notary public replace me ru feed inte part gral from siste m to notary in Indonesia who is who rfungsi me guard to be rlangsu with pe PU services back in the field of law mym per data, khusus nya in pe mother deed of deed ntik. In practice to notary, the position of notary not only be individual traits al te but ju no me le Kat on ke we nangan pu the back that was bought Rikan Ole h ne because of you that to me create a tool ma'am kti ote ntik se how to set it r in Article 1 number 1 Undang-Undang Number 30 Tahun 2004 te Notary Public Position (U) UJN). Curry in its pu nature back, see every action and product k hu mym generated by h notary, te rmasu k akta, haru s me have a basic understanding mym that je welding and tu ndu k on ke te that an pe queen ran pe ru ndang-u invitation. In the case of a notary obstacle se me between, undang-undang me mbe rikan solu the de with me canism pe appointment of notary public replace the one that is set r in Article 33 U UJN serta dipe new i me Then i Undang-Undang Number 2 Tahun 2014 (U UJN). Tu ju an pengatu this ran is u that to me make sure not to what happened to vacant position or te the slowness of the pe hu service mym to in society.

See normative method, Article 33 paragraph (1) U UJN me state that if the notary be obstacle se me between curry na cuti, sick, or other reasons, then he can nu njuk notary pe replace the one lifted by h Menteri Hu mym and Human Rights sia over usul notary who be my sang Tan. Notary pe replace te rse ma'am t be rwe nang me do it gas notary office indu k se long time be obstacles, however in to we nangan te rse ma'am t be nature of se me between and te limited to re time span te rte that which is tested tap in su rat to pu there San Pe his appointment. In the content this ks, limit to we nangan te rse ma'am t me become a pen ting curry na se every action of hu mym that is done right ole h notary pe change in you ar his term of office or se be you m period pe his appointment was declared invalid and not valid have to my atan hu mym, se how to dite gas in Article 65 U UJN who me yes ma'am state that the notary be rtanggung answer for se each deed made at nya me skipu n notary protocol te here it is direct to on pe save the protocol. That is, the ng answer me le said to the notary who legitimate way me mother at the deed rse ma'am t. Problem to your your dian ncul to tika te got the deed made at se be you m notary indu to me live cu ti, but n deed te rse ma'am t dise le submit, sign, or dite publish ole h notary pe replace se te that's the date cu ti be behavior. In that place breast milk pe this means, mu ncul pe my

⁹ Santoso, R, 2021 "Legality of Deeds Made by Substitute Notaries According to Law Number 2 of 2014." Jurnal Yuridis, Vol. 9, No. 1, p. 13

question ngenai who bertanggung responsible for the deed rse ma'am t is the notary pe replace, curry on that deed dite publish in his time rtugas, or notary indu k, curry on the deed rse ma'am t te it is processed s se be you m cu here you are lai. Pe This problem is not uncommon nimbu fish se nge ta e tick want pu n hu my m curry na me my nyang t to validity of the deed ntik and kre professional disability the ke notary.¹⁰

See principle, tough ng answer te against the deed made at se be you m notary indu to me live cu you te tap be rather on the notary indu k se old deed rse ma'am t dibuat and signed se be you m be behavior it's time cu ti. This is se the road with the principle of PE personality of the notary's position ne emphasize that se each deed me ru product feed k hu my m pe personal from the notary who is rwe nang at the time of the deed dibuat. Namu n, if the new deed signed or dise le saikan se te the notary indu k re smile me live cu ti, then se how to my m tangle ng jawab be switch to at the notary public replace the one at that time se dang me me alley to we holding office. De with thus, to validity of the deed rgantung at the time pe the signature and who is the signatory the same handshake legitimate way to be rwe nang at that time.

In practice, te r dapat be be rapa pe te problem knis yang me yes the deed of you m can be signed se be you m notary indu to me live cu ti, se per ti ke te delays on the part of the facing, re data vision, or ve document verification me n that be you m le complete. There breast milk rse ma'am t, notary pe change usually me continue tkan prose s pe yes le the deed of the deed rse ma'am t. Be based on Pe queen ran Me nte ri Hu my m and HAM Number 19 of the Year n 2019 te Terms and Conditions for Registration appointment, Pe moving, Pe mberhentian, and Pe Extension of Notary's Term of Office, especially su In Article 25 to Article 28, it is stated r that the notary pe replace be rhak me run se you ru h to we the notary he replaced the length of his term of office behavior. That is, gala action hu my m that is done notary pe replacing him during his term of office is considered valid and have to my atan hu my m se long done right su ai prose two r. Ole h curry that's it, if the deed is rse ma'am t dise le say or signed by the notary replace te it is legitimate to be appointed, then wait ng jawab hu my m be switch se penu only to at the notary public replace, me skipu n prose s the beginning of the deed was carried out right ole h notary.¹¹

De with Thus, it can be concluded I think that pe rtanggu notary's answer replace te against the deed made at se be you m notary indu to me live cu ti be rgantung at the time and to we nangan hu my m when the deed is rse ma'am t signed. If the

¹⁰ Habib Adjie, 2018, Indonesian Notary Law: Regulations, Responsibilities, and Professional Ethics. Citra Aditya Bakti, Bandung, p. 7

¹¹ Sjaifurrachman and Habib Adjie, 2011, Aspects of Notary Accountability in the Preparation of Deeds. Mandar Maju, Bandung, p. 87

deed is made at and signed before you in masa cuti, then hold on to the answer to the tap rather on the notary induk. Second, on the other hand, if the signing was done right at its time, where you are in and during the term of office of the notary to replace, then the notary to replace is responsible for the answer in full above to validity and contents of the deed to be made. In the case of the violations, both administrative and criminal, notary replacement can be requested by the responsible party. The answer is that Article 65, Article 84, and Article 85 of the UUJN, see the norms set forth in Code of Notary's tick.

4. Conclusion

The position and authority of a Substitute Notary is regulated in Article 33 paragraph (2) of Law Number 2 of 2014 concerning the Position of Notary (UUJN) which explains that "The provisions applicable to Notaries as referred to in Article 15, Article 16, and Article 17 apply to Substitute Notaries, Special Substitute Notaries, and Temporary Notary Officials, unless this Law determines otherwise" which means that during his term of office, a Substitute Notary has the same competence, authority and professional responsibility as a Notary in carrying out his term of office and has full legal force regarding the deeds he makes and is obliged to carry out his duties in accordance with the principles of caution, independence, and the provisions of the notary profession's code of ethics. Meanwhile, the form of responsibility of a Substitute Notary for deeds made before the Notary goes on leave is determined at the time of signing the deed and becomes the authority of the official in office at the time of signing the deed. Article 65 of the Notary Law (UUJN) states that "Notaries, Substitute Notaries, Special Substitute Notaries, and Temporary Officials are responsible for the deeds made even if the Notary protocol is submitted or transferred to the party keeping the Notary protocol" meaning that the responsibility of a Notary or Substitute Notary in making deeds is absolute, even if his term of office ends or he is on leave, the Notary still has responsibility for the deeds he makes. Judging from the authority and responsibility of a Substitute Notary, it is advisable to make changes to the regulations regarding the requirements for appointing a substitute notary by increasing the qualification standards such as a special competency test for prospective substitute notaries before being appointed, considering that in the legislation a substitute notary can be appointed with a Bachelor of Law education, and 2 consecutive years of work experience which is considered insufficient. With these improvements, it is hoped that there will be a balance between the high burden of responsibility and the qualifications of the Substitute Notary, so that it can reduce errors in making deeds and increase legal certainty and public trust in notarial deeds.

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