



Authority Concerned by a Prospective Notary of Internship in Developing Assets Reviewed from Law Number 2 of 2014 Concerning Notary Positions

Maria Ulfah

Faculty of Law, Universitas Narotama Surabaya, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v8i6.2782>

Abstract

The type of research used in this research is normative legal research or what is said to be juridical normative. At this time Candidates for Notary Officers who will become trusted officials must be truly competent in their field, therefore a prospective notary public is obliged to carry out an internship at the notary's office. The apprenticeship process is very necessary for a prospective notary to know what work will be carried out by the notary who will serve him, this is in the interest of the prospective notary public himself. If you look at this, then the series and stages that must be carried out by a Nataris candidate in the apprenticeship process, of course, have obligations as stated in Law of the Republic of Indonesia Number 2 of 2014 concerning the Position of Notary Public (UUJN), where the obligation is enforced in Article 16A of the UUJN, in among others: (1) Notary candidates who are currently doing an apprenticeship are obliged to carry out the provisions referred to in Article 16 paragraph (1) letter a; (2) Apart from the obligations as referred to in paragraph (1), a prospective Notary Public is also obliged to keep confidential everything concerning the Deed that he has drawn up and all information obtained for making the deed. Notary as a public official in carrying out his profession is obliged to provide legal services to the public, which is useful for obtaining legal protection or protection and guarantees in order to achieve legal certainty. This means that the notary guarantees that the deed made before him is guaranteed the confidentiality in accordance with the oath of office as a notary, that I will keep the contents of the deed and the information obtained in the exercise of my office confidential, as in Article 54 paragraph (1) UUJN, namely that notaries can only provide, show, or convey the contents of the Deed, Grosse, Copy or Quote of the Deed, to a person with a direct interest in the Deed, heir, or someone who has the right, unless otherwise stipulated by statutory regulations.

Keywords: *Authority; Notary; Positions*

Introduction

At this time Candidates for Notary Officers who will become trusted officials must be truly competent in their field, therefore a prospective notary public is obliged to carry out an internship at the notary's office. The apprenticeship process is very necessary for a prospective notary to know what work will be carried out by the notary who will serve him, this is in the interest of the prospective notary public

himself. If you look at this, then the series and stages that must be carried out by a Nataris candidate in the apprenticeship process, of course, have obligations as stated in Law of the Republic of Indonesia Number 2 of 2014 concerning the Position of Notary Public (UUJN), where the obligation is enforced in Article 16A of the UUJN, in among others: (1) Notary candidates who are currently doing an apprenticeship are obliged to carry out the provisions referred to in Article 16 paragraph (1) letter a; (2) Apart from the obligations as referred to in paragraph (1), a prospective Notary Public is also obliged to keep confidential everything concerning the Deed that he has drawn up and all information obtained for making the deed.

If you look at the logical consequences of the formation of statutory regulations, especially in UUJN Article 16A, that there is a lack of clarity about the legal norms in question, resulting in multiple interpretations such as when what a prospective notary does in his apprenticeship at a certain notary office, as UUJN, of course must keep a secret the agreement deed when it is carried is attached to the apprenticeship, besides that it is also the obligation of the prospective notary in making the deed must also clearly state that matters that need to be kept secret are kept secret. From a theoretical view, the existence of cryptic norms is in itself a dilemma, if positive legal norms are rigidly formulated, it can cause decision makers to be unable to use their wisdom. In addition, the formulation of cryptic norms can also be caused by the limitations of the formulator in providing the meaning of the concepts used in the legal norms, so that these limitations force the formulation of legal norms to provide an unclear or unclear formula.

Based on the aforementioned viewpoint, the legal issue in this study can be emphasized that the responsibility of a prospective notary who is currently interning at a notary office is to maintain the confidentiality of the deed he has made. Applicatively, of course, there are a number of things for notaries who maintain the confidentiality of their clinicians to notary candidates who have apprenticed in their offices in the framework of making a notarial deed, because it is necessary to understand that the position and full authority (absolute) in accordance with UUJN have been assigned by the Notary, so Notary Candidates are only limited to facilitators in assisting administrative management in making notarial deeds.(1)

Research Method

The type of research used in this research is normative legal research or what is said to be juridical normative.(2)

Results and Discussion

Regulations on the Position of Notary Public Against Candidates for Apprenticeship Notary Public at the Notary Office

A prospective notary public is required to carry out an internship at the notary office. The apprenticeship process is indispensable for a prospective notary public, this is for the benefit of the prospective notary public.(3) By undergoing the apprenticeship process, a prospective notary will get a lot of knowledge and experience that isn't provided in theory when taking notary lectures.(4) Requirements for a notary candidate to be appointed or taken the oath of office as a notary official, it can be seen clearly that the UUJN is made for notary officials, while for a notary candidate who hasn't been appointed nor taken the oath of office as a Notary public clearly doesn't have the obligation to fulfill all the stipulated provisions in the UUJN.(5)

Based on the above view, legal certainty, seen from the basis of these rules, becomes a rule that must be obeyed, especially in this case the UUJN which regulates all the powers and obligations of notaries in carrying out their positions, so in this case it is related to Article 16A of the UUJN which regulates a prospective notary public in an apprenticeship, the legal certainty referred to is based on Juridical-Dogmatic teachings, means that a prospective notary public must obey the article without seeing that other rules that according to the UUJN are made to regulate the authority and obligations of notary officials, while the notary candidate hasn't explicitly become a notary official who has taken an oath of office as a Notary.(6)

The enactment of the UUJN aims and objectives can be seen in the consideration of the following section: that the Republic of Indonesia is a state based on Pancasila and the 1945 Constitution of the Republic of Indonesia which guarantees certainty, order and legal protection for all Indonesian citizens. The provisions in a preamble contain 2 (two) things, among which are the *first*, the rule of law and *second*, to guarantee legal certainty, order and legal protection for every citizen.(7)

The *Legislative Ratio* UUJN is located in Article 16A paragraph (2) UUJN P, regarding the obligation of a prospective notary to keep secret everything regarding the Deed he has made and all information obtained for making the Deed. Starting with the aim of a prospective notary to undergo an apprenticeship is to form a professional notary public, in accordance with the provisions of Article 16 paragraph (1) letter n of the UUJN, that in carrying out his /her position, notary public is obliged to accept apprenticeship for the notary candidate. It's further explained by the elucidation of Article 16 paragraph (1) letter n of the UUJN, that accepting apprenticeship for notary candidates means preparing prospective notaries to be able to become professional notaries. This means that the aim is none other than to improve the legal quality of prospective notaries, which is largely determined by moral quality, therefore law must be measured by moral norms.(8)

Juridical Implications the Authority of Notary Apprentice Candidates Does Not Carry Out Obligations in Making Deeds

The requirements for appointing prospective notary apprentices at the Notary's Office as referred to in the UUJN are: a. Indonesian citizens; b. fear God Almighty(9); c. be at least 27 (twenty seven) years old; d. physically and mentally healthy as stated by a health certificate from a doctor and psychiatrist; e. holds a law degree and has a bachelor's degree in notary; f. has undergone an internship or has actually worked as a Notary employee for at least 24 (twenty four) consecutive months at the Notary's office on his own initiative or on the recommendation of the Notary Organization after passing the strata two notary; g. not having the status of a civil servant, state official, advocate, or not currently holding another position which is prohibited by law to be concurrently held as a Notary; and h. has never been sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a criminal offense punishable by imprisonment of 5 (five) years or more.(10) "

The length of the apprenticeship requirement in the old Notary position law (UUJN) is 12 (twelve) months, while in the most recent UUJN this internship requirement has been extended to 24 (twenty four) months, and in the new UUJN there are additional articles regarding obligations(11) for a prospective notary who is currently apprenticing in a notary office as stipulated in Article 16A. In practice, prospective notaries who participate in the apprenticeship program as required by law experience many obstacles, including; the difficulty of finding an internship for a prospective Notary Public,(12) there is no curriculum or standard procedure for apprenticeship for a Notary Public, and the Notary for the internship doesn't fully provide knowledge on the grounds of confidentiality of office or business, and there are no criteria for a Notary who is capable or competent to provide knowledge of notary practice for an internship prospective Notary. Even so, it can affect the quality of legal services that will be provided

to the public when a prospective Notary Public has become a Notary Public. This ability will not increase if prospective Notaries are only armed with theories obtained from formal notary education or internships with limited time.(13)

Conclusion

Notary as a public official in carrying out his profession is obliged to provide legal services to the public, which is useful for obtaining legal protection or protection and guarantees in order to achieve legal certainty. This means that the notary guarantees that the deed made before him is guaranteed the confidentiality in accordance with the oath of office as a notary, that I will keep the contents of the deed and the information obtained in the exercise of my office confidential, as in Article 54 paragraph (1) UUJN, namely that notaries can only provide, show, or convey the contents of the Deed, Grosse, Copy or Quote of the Deed, to a person with a direct interest in the Deed, heir, or someone who has the right, unless otherwise stipulated by statutory regulations.

Thus, the legal consequences for prospective apprentice notaries who don't carry out their obligations as stipulated in Article 16A are to act trustworthy, honestly, thoroughly, independently and independently and safeguarding the interests of parties related to legal actions and keeping everything about the deed they have made and all information obtained in order to draw up the deed it will not result in sanctions as imposed on Notaries who violate Article 16 of the UUJN relating to Moral and Code of Ethics sanctions as well as Criminal and Civil sanctions.

References

1. Tanuwidjaja H. Aspek Yuridis Undang-Undang Jabatan Notaris Nomor 30 Tahun 2004 jo UU Nomor 2 Tahun 2014 terhadap Kinerja Notaris. *J Huk.* 2014;30(2).
2. Saragih TM. KONSEP PARTISIPASI MASYARAKAT DALAM PEMBENTUKAN PERATURAN DAERAH RENCANA DETAIL TATA RUANG DAN KAWASAN. SASI. 2011.
3. Jovanović S. Legal position of a notary public and specific features of his professional liability insurance. *Tok osiguranja.* 2020;36(4).
4. Harahap DA, Wahyuni WS. An Urgency for Extraordinary Member to Take Tests to Fulfil the Requirements to be Notary Public Official. *Budapest Int Res Critics Inst Humanit Soc Sci.* 2020;3(1).
5. Yuliani R. TANGGUNG JAWAB HUKUM CALON NOTARIS YANG SEDANG MAGANG TERHADAP KERAHASIAAN AKTA. *J Jatiswara.* 2018;33(2).
6. Ernst H, Josipović T. Notaries public and public registers. *Zb Pravnog Fak u Zagreb.* 2009;59(6).
7. Solaiman AA. Tanggungjawab Notaris atas Perlindungan Hak Peserta Magang Berdasarkan Undang-undang Ketenagakerjaan. *Notaire.* 2020;3(2).
8. Makiya MMA. Kepastian Hukum Magang Calon Notaris Pada Daerah Yang Menetapkan Pembatasan Sosial Berskala Besar. *J Indones Sos Sains.* 2021;2(1).
9. Michael T. Requirements for Death in Dismissal of Constitutional Justices. *Res Soc Dev.* 2020;9(10).

10. Suartha IDM. Criminal Policy Formulation on Regulation of Death Penalties for Criminal Actors. *J Moral Leg Cult.* 2020;1(1).
11. Kongres E. PERAN SHIPBROKER DALAM SALE AND PURCHASE Of SECOND HAND VESSEL. *DiH J Ilmu Huk.* 2019;15(2).
12. Umar NM, Noviekayati I, Saragih S. Efektivitas Personal Safety Skill terhadap Peningkatan Kemampuan Mencegah Kekerasan Seksual pada Anak Ditinjau dari Jenis Kelamin. *Indig J Ilm Psikol.* 2018;3(1).
13. Powlakić M. Competence of notaries public in Bosnia and Herzegovina. *Zb Pravnog Fak u Zagreb.* 2013;63(2):245–310.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).