

Management Strategy and Responsibilities of Substitute Notaries for Notary Protocols

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Abstract

The aim of this research is to analyze the management and responsibilities of a substitute Notary regarding notary protocols. And to eliminate obstacles to the management and responsibilities of substitute notaries in notary protocols. This research method uses a qualitative approach that describes the picture of what happened. Data collection techniques through interviews, observation and documentation studies. Results in the management and responsibilities of a substitute notary regarding notary protocols as a notary's professional responsibility relating to deeds, such as the notary's civil responsibility for the deeds he or she makes. Responsibility for material truth, unlawful acts, and criminal responsibility of the notary for the deed he made. Criminal acts committed by notaries in their capacity as public officials who have the authority to do deeds and the administrative responsibilities of notaries. Administrative sanctions are based on UUJN. There are administrative sanctions if a Notary violates them, namely: verbal warning, written warning, temporary dismissal, honorable dismissal, and dishonorable dismissal. Inhibiting factors in the management and responsibility of substitute notaries regarding notary protocols, namely. Lack of supervision in selecting a replacement notary, lack of strict rules and regulations, and code of ethics. Not yet on the aspects of problems and accountability of substitute notaries who violate the law. No institution supervises substitute notaries. Legal awareness is still low. There is no education for notaries.

Keywords: Management, Substitute Notary, Notary Protocol

1. Introduction

Notaries carry out state duties, therefore the deed they make is a state document so the deed must use the state symbol by the rules contained in Article 52 letter a of Law Number 24 of 2009 concerning the Flag, Language, and National Emblem, as well as the national anthem, namely "The State Emblem can be used as a seal or office letterhead" and can be used by notaries, then the provisions of Article 54 letter J of Law Number 24 of 2009. Notaries who hold office in the public interest have the following characteristics: Pancasila Spirit, Obedient to the law, oath notary position and code of ethics, good Indonesian language

In the scope of public life, notaries play a very important role, especially in making authentic deeds. Because every interest carried out requires a guarantee which is used as strong and perfect proof. At present the position of a deed made by a notary is very important because it influences on increasing development and the economy, both positive and negative, so to anticipate this increase, a notary is needed.

Every person who wishes to have a position as a Notary must first undertake and complete a period of Notarial education organized by the government. This education is related to everything in the field of notarial affairs. Law Number 2 of 2014 concerning Amendments

to Law Number 30 of 2004 concerning the Position of Notaries known as UUJN-P gives notaries the authority to make an authentic deed to create certainty and provide regulations regarding their position and to provide protection for many people.

Based on this information, it can be said that a Notary who carries out public duties carries a large responsibility in carrying it out. Where he can work professionally in the community without knowing the time. Therefore, notaries must be ready to work at any time when the public needs them. For this matter, a Notary carrying out his duties in making authentic deeds must be in a physically and mentally healthy condition. Because this affects the quality of a notary's work in making deeds, if he is in an unhealthy condition, it will certainly make him unfocused which will result in errors in the deed he makes.

Notary leave can be granted if a Notary has carried out his position for 2 years and if it is less than 2 years then the Notary cannot take his leave rights. The provisions regarding this leave right are that the notary can take it every year for several years with a time limit of only 5 (five) years for both applications and extensions. Applications for leave can be submitted one month before the leave date begins and the application depends on the length of leave for each Notary as stated in Article 27 paragraphs (1) and (2) of Law Number 30 of 2004 concerning Notary Positions, hereinafter abbreviated as UUJN, namely: The notary submits a written request for leave accompanied by a proposal for the appointment of a replacement notary. The application for leave as intended in paragraph (1) is submitted to the authorized official, namely: the Regional Supervisory Council (MPD) if the leave period is not more than 6 months. Regional Supervisory Council (MPW) if the leave period is more than 6 months to 1 year. Central Supervisory Council (MPP) if the leave period is more than 1 year.

So a Notary who is going to take leave is required to have a Substitute Notary. A Substitute Notary is needed because in carrying out his duties a Notary must educate everyone who comes to the office to express what the presenter desires in the form of a deed, therefore when a Notary wants to go on leave he must appoint a Substitute Notary to replace him. so that society can continue to carry out its legal actions. A Substitute Notary as stated in "Article 1 paragraph (3) UUJN-P 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 or her position as a Notary." These provisions already emphasize that a substitute Notary needs to be appointed, by "Article 33 paragraph (1) UUJN-P is an Indonesian citizen who has a law degree and has worked as an employee of a Notary's office for at least 2 (two) consecutive years.

The position of Substitute Notary is first appointed by the Ministry of Law and Human Rights, which is then represented by the Regional Office of each region. When a Substitute Notary carries out the duties of his/her position, he/she must comply with the rules governing the implementation of the office of a Notary, namely Law Number 2 of 2014, and still base his or her obligations on other laws related to his/her duties to avoid errors. Substitute Notaries in carrying out their duties sometimes experience obstacles because it is the first time they have met and handled various cases directly, as well as their lack of knowledge.

2. Research Methods

Qualitative research method that describes phenomena occurring at the research location through observation, to complement the data and information that has been obtained. Observing symptoms that occur in the social environment, at a predetermined time.

2.1. Data collection technique

- a. In-depth interviews with respondents, to obtain as much data as possible, then validated and verified according to the research focus

- b. Observation by observing phenomena and events in the actual environment, and describing them in narrative and written form
- c. Literature review of official records, judges' officials and notary advisory boards, in the form of law books to complement existing data.

2.2. Data analysis

From data that has been obtained through interviews, through observation, and through documents. Then, the intervention is then processed, validated, and classified according to the problem being researched, then the data is presented in the desired order. Based on this analysis, the researcher then added any deficiencies in the data by synchronizing the data with other data, then the researcher confirmed it with various legal theories obtained from experts.

3. Results and Discussion

3.1. Responsibilities of a Substitute Notary for Notary Protocols in Tangerang Regency

The authority of a Notary is very important to fulfill every interest of the community. So considering his position, every task and authority must be carried out as best as possible. However, the importance of the existence of a Notary does not rule out the possibility of needing leniency in carrying out his life. So the Notary needs a temporary leave from his obligations. The leave that will be taken or taken by a Notary must also be based on the provisions, where someone must replace his position temporarily until the leave period ends. This is because the authority to make deeds cannot simply be stopped. After all, the Notary is directly related to interests that have or have not been carried out. To transfer his duties, a replacement Notary is needed.

A substitute notary is a form of temporary transfer to someone to carry out the interests owned by the Notary. A replacement notary is someone who still has almost the same experience as the notary being replaced, so there is certainly legality regarding him. As someone who carries out temporary duties as a substitute Notary, he continues to exercise his authority based on the attribution which is the basis for accepting his duties. So that his existence remains recognized and his actions or legal actions are valid according to law.

A Substitute Notary has the same responsibilities as those carried out by a Notary. However, the responsibility of a substitute Notary can be seen in two forms, namely where the responsibility of a substitute Notary in terms of carrying out his authority in changing the position of Notary temporarily ends until the leave period of the Notary concerned, but the responsibility for every legal action he performs remains until the legal action is taken. can be resolved.

Based on the results of the author's interview with Syafrijon as Chair of the Indonesian Notary Association for the Riau Region and Chair of the Regional Notary Supervisory Council (MPDN) in Tangerang Regency, he stated that the conditions for applying for a substitute notary to get leave in Tangerang Regency are that Notary Leave can be granted if a Notary has carried out his position for 2 years and if it is less than 2 years then the Notary cannot take his leave rights. Requests for leave can be submitted one month before the leave date begins and the application depends on the length of leave for each Notary, as confirmed by Article 27 paragraphs (1) and (2) UUJN, namely: Notaries submit a written request for leave accompanied by a proposal for the appointment of a Substitute Notary. The leave application as intended in paragraph (1) is submitted to the authorized official, namely:

- a. Regional Supervisory Council if the leave period does not exceed 6 months.
- b. Regional Supervisory Council if the leave period is more than 6 months to 1 year.

c. d Central Supervisory Council if the leave period is more than 1 year."

3.2. Factors Inhibiting the Responsibilities of Substitute Notaries for Notary Protocols in Tangerang Regency

The development of laws and legislation has created a legal system and legal products that protect and provide a legal basis for community activities and development. Increasing legal awareness and the increasingly rapid pace of development require the formation of a national legal system and legal products that support and are based on Pancasila and the 1945 Constitution. Every legal development still needs to pay attention to increasing legal awareness, increasing the implementation of law enforcement consistently and consistently, increasing qualified and responsible legal officers, and the provision of adequate supporting facilities and infrastructure.

Law is tasked with ensuring legal certainty (*rechtszekerheid*) in human relations, where in this task two other tasks are concluded, namely ensuring justice and the law remaining useful. In these two tasks, the third task is also concluded, namely law to ensure that society does not take the law into its own hands (*eigenrichting*). Based on existing legal theory, the main aim of law is to create justice, benefit, legal certainty, order, and peace.

Every Notary who holds a position certainly has a big responsibility. Because the position he is carrying out is a form of duty and authority that has been handed over to him. So there is no reason to let go of this responsibility. Responsibility is not only limited to the implementation of an agreement with the parties but this responsibility is until a legal event ends by itself. Likewise, the responsibility of that Substitute Notary must be accepted. When carrying out his duties, he must also uphold a high sense of responsibility for carrying out the tasks entrusted to him.

Based on the results of the author's interview with Syafrijon as Chair of the Indonesian Notary Association for the Riau Region and Chair of the Regional Supervisory Council of Notaries (MPDN) in Tangerang Regency, he stated that the inhibiting factor in the responsibility of a substitute notary for notary protocols in Tangerang Regency is that the responsibility handed over to him is the same as responsibility of the Notary who provided the protocol, where to store and maintain it. However, the obstacle is that the length of time the authority delegated to him does not have clear limits.

Then the author's interview with Annisa Octiarizky as Substitute Notary for Yunizar stated that the factors inhibiting the responsibility of a substitute notary for notary protocols in Tangerang Regency are the lack of vigilance and supervision in selecting a substitute notary, the lack of quality of statutory regulations and a code of ethics which is not yet able to cover all aspects of the problem. regarding the responsibility of a substitute notary who makes a mistake regarding the deed he or she has made. No institution can control and supervise every action taken by a substitute notary.

Legal awareness is still low for substitute notaries due to the low quality of educational resources for prospective substitute notaries. , as well as low legal mastery, namely mastery of the law on notary positions and the notary code of ethics where substitute notaries are required to master the law both in theory and its implementation in a professional manner.

4. Conclusion and Suggestions

4.1. Conclusion

Based on the results of observations, interviews, documentation studies, and discussions, researchers can draw conclusions that include the following:

a. A. In management and responsibilities as a substitute Notary with the Notary Protocol

as a professional responsibility as a substitute Notary relating to making authentic deeds, including the strategy and responsibilities of the maker of authentic deeds. In terms of management strategies and notary responsibilities regarding the truth of material deeds. Acts against the law, as a notary crime for a deed that has been made. As a criminal act committed by a Notary in his position as an official who has the authority to make deeds, as a manager and must take administrative responsibility and sanctions for the deeds he has made. These sanctions are in accordance with the UUJN which consists of administrative sanctions, given if a Notary commits a violation, namely: sanctions in the form of a verbal warning, written warning, temporary dismissal sanction, and honorable dismissal sanction, and finally dishonorable dismissal sanction.

- b. Factors inhibiting the responsibility of substitute notaries regarding notary protocols in Tangerang Regency are the lack of vigilance and supervision in selecting substitute notaries, the lack of quality of legislation and codes of ethics which have not been able to cover all aspects of the problem regarding the responsibility of substitute notaries who commit unlawful acts regarding the deeds they have made. , The absence of an institution that can control and supervise every action carried out by a substitute notary, Legal awareness is still low for substitute notaries due to the low quality of education of the resources of prospective substitute notaries, as well as low legal mastery, namely mastery of the notary position law and code notary ethics in which a substitute notary is required to master the law both in theory and in its implementation in a professional manner.

4.2. Suggestion

Based on the results and discussion summarized above, researchers can provide recommendations in the form of suggestions as follows:

- a. Substitute Notaries should be careful in carrying out the act of making a deed requested by them, so that when the management and responsibilities as a Substitute Notary end, it does not cause any problems in the future.
- b. For a substitute Notary, it is best if you make a mistake, it is appropriate, that you must be able to accept all the consequences of what you have done and be held accountable before the law.
- c. For regional consideration boards to provide understanding to substitute notaries so that they pay attention to the regulations and ethics of substitute notaries

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