

Implementation of Supervision and Guidance of Notaries Who Do Not Carry Out Their Positions by the Regional Supervisory Council

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The objectives of this research are 1. To examine the factors that prevent Notaries from carrying out their positions after being appointed and taking the oath. 2. To find out the implementation of supervision and guidance of Notaries by the Regional Supervisory Council. 3. To find out the legal consequences given by the Regional Supervisory Council. Research method. This research method uses a juridical legal approach to analyze regulations and legislation related to problems. Empirical to analyze law in society. Techniques for collecting data through Documentation Studies as legal research, which includes legal materials, namely primary legal materials, secondary legal materials and tertiary legal materials. Conclusion The factors that cause Notaries to not carry out their positions after being appointed and sworn in are due to a lack of honesty and discipline of the Notary. Implementation of supervision and guidance to Notaries by the Tangerang City Regional Supervisory Council. At this time it has been done quite well and is optimal. The authority of the Regional Supervisory Council can carry out inspections, guidance, supervision, and summons to Notaries who commit violations.

Keywords: Supervision, Development, Notary, Supervisory Board

1. Introduction

An important role as a Notary in creating legal certainty for the community. In the form of preventing legal problems from arising, by issuing authentic deeds relating to legal status, rights and legal obligations, and which function as evidence. Andri Pranata, 2021. Strength in complete evidence, without requiring other evidence. That an authentic deed has the power of proof in formal law and material law, including: (1). The evidentiary power of a deed which has the power of being an authentic deed because its existence is determined by regulations and legislation (2). The strength of the formal proof stated in the deed is because it is true (3). The strength of material evidence, which can provide legal certainty as stated in the deed.

Notaries in providing services must maintain the noble ideals of the profession by the demands of their obligations of conscience. Husna Iffah Afrida, 2022. Notaries in carrying out their official duties are obliged to be normatively guided by legal rules and related to all actions that will be taken which will then be stated in the deed. Legal subjects who come before a Notary are based on their own needs and desires. It is also impossible for a Notary to carry out work or make a deed without a request from the court. Every authority given by a position must have legal regulations. Thus, if an official (Notary) acts as the specified authority, it can be categorized as an

unlawful act. A notary is an independent public official who has the right to determine the office, both in terms of the location and shape of the building and the number of employees and salaries, without depending on other officials or institutions.

Public officials as notaries who have been appointed to immediately carry out functions as notaries work for the benefit of the general public. Notaries aim to provide services to the community. [Irfan Iryadi, 2018](#). That the position of a Notary is as an official who serves the general public, by making various kinds of authentic deeds in accordance with civil law to which he or she is delegated authority. to other officials who are requested because it is necessary for legal order which has been stated in the form of an authentic deed, in accordance with the law.

Based on research, the Tangerang City Notary Supervisory Council. And the Ministry of Law and Human Rights, in the realization of Article 7 paragraph (1) letter a UUJN. Because there are still Notaries who have not carried out their notarial duties in their duties after being appointed. [Dinnie Angraeni, 2018](#). That the Notary has been appointed and appointed but is not yet operational, and there is no adequate office equipment. and there are those who have an office but after searching the Notary there is no one in the office. In-depth interviews with respondents by conducting repeated questions and answers at the research location.

2. Research Methods

This research approach uses juridical law and empirical law in accordance with sociolegal research. [Dinnie, Angraeni., 2018](#). This approach can be used to analyze regulations and legislation related to the problems to be discussed. Meanwhile, the empirical legal approach can be used to analyze realistic laws that occur in society

2.1. Data source

- a. Primary Data Primary Data is data obtained directly from the field through interviews, namely by first preparing the main questions as a guide and variations to the situation during the interview.
- b. Secondary data The source of secondary data in this research is mainly legal materials consisting of Primary Legal Materials, namely legal materials that have binding legal force which includes applicable legislation that is related to the above problems,
- c. Tertiary Legal Materials, namely legal materials that provide instructions and explanations for primary legal materials and secondary legal materials such as internet media, encyclopedias, legal dictionaries, and others.

2.2. Data collection technique

The data collection techniques used are as follows:

- a. Document Study Document study for legal research includes legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The steps taken to carry out the document study in question start from a document study of primary materials, then secondary and tertiary legal materials. Each material must be re-checked for validation and reliability because this determines the research results.
- b. In-depth Interview, namely conducting repeated question and answer questions or interviews with importers at the research location, namely the Regional Supervisory Council and Notaries who fall under the criteria of not carrying out their positions after being appointed and sworn in.

2.3. Data analysis

From the data material obtained, both primary data and secondary data, not all of which are

contained in research related to the problem being studied and will be selected first, which is then expressed in a systematic and structured form. [Bahder Johan Nasution, 2017](#). In analyzing the data that has been obtained, it is then analyzed qualitatively and interpreted to produce valid data based on regulations and legislation, and also in accordance with expert opinion..

3. Results and Discussion

3.1. Factors that cause Notaries not to carry out their positions after being appointed and sworn in

Based on data obtained from the Regional Supervisory Council of Tangerang City, the number of Notaries in Tangerang City is currently 156 (one hundred and fifty-six) people who are active in carrying out their positions apart from the number of Notaries who have retired and resigned. [Aris Yulia, 2020](#). The procedure for becoming a Notary in Tangerang City is of course by the rules contained in Article 3 UUJN as follows:

- a. Indonesian citizen
- b. Have faith in God Almighty
- c. Be at least 27 (twenty-seven) years old
- d. Physically and mentally healthy as stated by a health certificate from a doctor or psychiatrist;
- e. He holds a law degree and has a second degree in notarial law
- f. Not having the status of a civil servant, state official, advocate, or not currently holding another position which is prohibited by law from holding the position of Notary Public.

Based on Article 67 UUJN Notaries in carrying out their authority and obligations are supervised by the Minister then the Minister forms a Supervisory Council of 9 (nine) people consisting of the government as many as 3 (three) people, Notary organizations as many as 3 (three) people and academics as many as 3 (three)) person. [Hatta Isnaini Wahyu, 2020](#). Based on Article 69 UUJN Regional Supervisory Councils (MPD) are formed at the district and city levels.

- a. Carry out guidance and supervision of Notaries within the working area of the Tangerang City MPD. One form of implementation and guidance of Notaries by the MPD by Article 70 letter b UUJN states "The Regional Supervisory Council has the authority to carry out inspections of Notary Protocols periodically 1 (one) time in 80 1 (one) years or at any time deemed necessary". [Ivandi, Setiawan., and Rasji., 2018](#). Based on the UUJN mandate above, inspection of Notaries is carried out 1 (once) time in 1 (once) a year including all Notaries registered in the Tangerang City Regional Supervisory Council (MPD) database except for other information, for example: leave, retirement, resignation, and other information that is required. has been reported to the Tangerang City Regional Supervisory Council. However, in carrying out routine annual inspections carried out by the Regional Supervisory Council (MPD) of Tangerang City, due to time and budget limitations, the Regional Supervisory Council (MPD) of Tangerang City has not been optimal in carrying out supervision of Notaries.
- b. Respond maximally to public complaints regarding Notaries who are suspected of committing violations. Reports submitted to the Tangerang City Regional Supervisory Council (MPD) can be made by anyone (the party who feels disadvantaged). Submission of reports by the public is regulated based on the provisions contained in Article 21 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004 concerning Procedures for Appointing Members, Dismissing Members, [Moh Dahlan, 2020](#). Organizational Structure, Work Procedures, and Procedures for Examination of the Notary Supervisory Board as follows: (1) A report can be submitted by a party who feels disadvantaged. (2) The report must be submitted in writing in Indonesian accompanied by reliable evidence. (3) Reports regarding alleged violations of the Notary's Code of Ethics or violations of the performance of the Notary's

office are submitted to the Regional Supervisory Council. (4) Public reports other than those referred to in paragraph (3) are submitted to the Regional Supervisory Council. (5) If the report as intended in paragraph (3) is submitted to the Regional Supervisory Council, the Regional Supervisory Council shall forward it to the competent Regional Supervisory Council. (6) If the report as intended in paragraph (3) is submitted to the Central Supervisory Council, the Central Supervisory Council shall forward it to the authorized Regional Supervisory Council.

3.2. Factors that cause Notaries to not carry out their positions in real terms after being appointed and sworn in.

Notaries in carrying out their duties are required to always be guided by the laws and regulations applicable in Indonesia and Notaries are also obliged to carry out their duties by the ethics that have been mutually agreed upon in the form of a Code of Ethics. [Jonaedi Efendi et al, 2020](#). The existence of the Notary Code of Ethics is regulated by the Notary professional organization, in this case, the Indonesian Notary Association, as the sole forum where Indonesian Notaries gather.

Based on the provisions of Article 7 paragraph (1) letter a of the UUJN which states. [Elisabeth, N. Butarbutar., 2018](#). Within a period of no later than 60 (sixty) days from the date of taking the oath/promise to the office of the Notary concerned, he/she must: a. carry out his office." The real terminology in Article 7 paragraph (1) letter a UUJN includes offices, office inventory (equipment), employees, and archival procedures.

- a. Office One of the first attractions that Notary clients see is the atmosphere of the Notary's office itself. The condition of the office should pay attention to the following things:
 - 1) The Notary's office should have a Notary's workspace, an employee room, a meeting room, and a protocol and archive storage room.
 - 2) Every room must have good light or lighting. Having good lighting will improve work results, reduce errors and fatigue to increase the prestige of the office.
 - 3) The aesthetic value of the office and the choice of room colors can also influence work morale and make a deep impression on everyone who visits the Notary's office.
 - 4) If there are sufficient funds, then in the office space it is also necessary to install air temperature control (air conditioning, fans and the like) which can increase productivity, [Elita Rahmi, 2016](#). Higher quality work, employee satisfaction, increased work morale and a pleasant impression for the staff. visitor.
 - 5) Every room must be neat and clean.
- b. Office Inventory (Equipment) Speed and comfort of work can be realized if at least in a Notary's office there is the following inventory/equipment:
 - 1) Computer and printer
 - 2) Internet access
 - 3) Typewriter
 - 4) Tables and chairs
 - 5) Storage cupboard
 - 6) Photocopy machine
- c. Employees: For the continuity of a Notary's office, the Notary needs employees who can help, both in the preparation and completion of deeds and in the administration of deeds/letters/documents, and even Notary employees can be witnesses in Notarial deeds. Because the deeds made by and before a Notary Public are State documents (archives) that must be safeguarded as well as possible and many provisions must be implemented by a Notary in his professional position, employees at the Notary's office must know and understand correctly what is required. must be done, related to what can be done and what should be avoided. Notary office employees should meet the following criteria:
 - 1) Be thorough

- 2) Honest and highly dedicated
- d. Documentation/Archive Procedures Archives can be defined as a way of arranging and storing documents in an orderly manner so that whenever they are needed they can be easily and quickly found again. In this way, good filing procedures will become a source of information and documentation as well as a source of memory for the Notary and his employees in carrying out their duties. This documentation/filing system is an important part of Notary office administration. Every deed made by a Notary must be arranged carefully, neatly, and not haphazardly because these deeds are included in the Notary's protocol which is a State Archive that must be kept and maintained by the Notary with full responsibility.

3.3. Implementation of supervision and guidance of Notaries by the Regional Supervisory Council (MPD) for Notaries in Tangerang City.

Based on the article above, it is the responsibility of the Supervisory Council to carry out the task of supervising Notaries after the enactment of the Notary Position Law. [Suci, Ananda, Badu, 2017](#). Supervision of Notaries leads to the enforcement of legal rules that limit the scope of the Notary's office. Supervision of Notaries aims to ensure that Notaries fulfill as much as possible the requirements set by the UUJN and the Notary's code of ethics in the interests of the general public they serve. The supervisory mechanism for the Notary profession is ideally regulated in statutory regulations and is an inseparable part of the social reality of the legal community which is directly related to this profession.

Supervision is one aspect of law enforcement that must always be considered and implemented in a law enforcement environment, including supervision of Notaries. Law enforcement always involves humans in it, thus it will involve human behavior as well. Therefore, it can only be implemented effectively if it is followed by strong supervision or control mechanisms from parties appointed based on statutory regulations. In this way, the legal profession that is carried out remains in the corridor of professional ethics and accordance with the implementation of the position, so that public trust as users of Notary services will be maintained.

The supervision in question is an activity that is preventive and repressive. [Suci, Ananda, Badu, 2017](#). Being preventive means a coaching process, for example by carrying out routine outreach to Notaries. Meanwhile, repressive has the means of imposing sanctions on a Notary in the performance of his/her office if he or she is proven to have violated the UUJN, for example by giving a warning letter (SP).

- a. The Examining Council as intended in paragraph (1) in carrying out the examination is assisted by 1 (one) secretary.
- b. The Examining Council as intended in paragraph (1) carries out its duties and authority by statutory regulations.

Several Notary documents are routinely checked by the Regional Supervisory Council (MPD), [Suci, A, Badu, 2017](#). namely as follows:

- a. Original Deed Minutes of the Notary's deed where the minutes of this deed consist of (attached) the personal data of the parties and other documents required to make the deed. Every month the deed minutes must always be bound into one book containing no more than 50 (50) deeds. On the cover of each book, the number of minutes of the deed, and the month and year of its creation are recorded.
- b. A book registering private deeds whose signing is carried out in the presence of a Notary or registered private deeds and other documents deemed important,
- c. The book registering names of presenters or Klapper Notaries are required to make a Klapper list which is arranged alphabetically and done every month, where the names of all persons/parties appearing, the nature and number of the deed are included.

3.4. Legal consequences are given by the Regional Supervisory Council (MPD) of Tangerang City to Notaries who do not carry out their positions in real terms after being appointed and sworn in.

Before a Notary candidate assumes the position of Notary, he must first take an oath/promise as regulated in Article 4 UUJN according to the Notary's respective religion in front of the Minister or appointed official. [Ketut, O. Setiawan, 2020](#). The pronouncement of this promise/oath is carried out within a maximum period of 2 (two) months or 60 (sixty) days from the date of the decision to appoint as Notary.

Notaries who do not carry out their office after being appointed and sworn in violate the provisions of Article 7 paragraph (1) letter a UUJN, [Irma, M. Fitri., 2019](#). The provisions for sanctions that can be imposed are contained in Article 85 UUJN. Based on the provisions of article 7 paragraph (1) letter a UUJN that Notaries must carry out their positions in real terms. The meaning of a Notary in carrying out his position is understood as follows:

- a. There is a Notary's office
- b. There is an inventory of office equipment
- c. There are Notary employees
- d. There is an archival system

The parameters mentioned above are not met as a newly [Rijal Khalis, 2021](#). Sworn, inaugurated Notary for the following reasons:

- a. Expensive office rent
- b. Not yet able to pay employees
- c. Personal reasons (health, family, and others)
- d. No client-facing
- e. Lack of honesty and discipline of Notaries in carrying out their positions

4. Conclusions and Suggestions

4.1. Conclusion

Based on the results of the research and discussion, several conclusions can be drawn, including the following:

- a. The factor that causes Notaries to not carry out their positions in real terms after being appointed and sworn in is the Notary's lack of honesty and discipline in carrying out his office. For example, a Notary has other activities, such as a female Notary who is busy taking care of her family, has just given birth, or a Notary who has another business, which makes it difficult for the Notary to divide her time and thoughts, making the Notary not focused on carrying out her position, the Notary in question is not in the office at the same time. working hours are in progress. Lack of understanding of the regulations and the Notary Code of Ethics, namely the mandate of Article 7 paragraph (1) letter a UUJN within a period of no later than 60 (sixty) days from the date of taking the oath/pledge of office of the Notary concerned.
- b. The implementation of supervision and guidance of Notaries by the Regional Supervisory Council (MPD) of Tangerang City is quite good and optimal given the current condition of the Regional Supervisory Council (MPD) of Tangerang City. Good cooperation is needed between the Regional Supervisory Council (MPD) of Tangerang City and the Notaries in Tangerang City. Forms of implementation of supervision and guidance include supervisory (repressive) actions that function to stop violations from occurring. The supervision carried out by the Tangerang City MPD is directly through annual routine Notary protocol checks at the relevant Notary's office. Indirect inspection through the Notary's monthly report. Actions taken by the Tangerang City Regional Supervisory

- Council against Notaries who violate Article 7 paragraph (1) letter a UUJN by forming an Examination Council to prove whether the Notary's actions constitute a violation or not.
- c. The authority of the Regional Supervisory Council is limited to carrying out inspections, coaching, supervision, and summoning Notaries who commit violations and providing reports in the form of minutes of reports which will be given to the Regional Supervisory Council regarding violations committed by Notaries that are contrary to statutory provisions. The Central Supervisory Council has the authority to propose sanctions to the Central Supervisory Council (MPP) in the form of temporary dismissal for 3 (three) months to 6 (six) months and dishonorable dismissal. The imposition of sanctions by the Regional Supervisory Council (MPW) as a form of follow-up to the Regional Supervisory Council (MPD) report is guided by Article 5 paragraph (1) letter a paragraph (2), paragraph (3), paragraph (4) and paragraph (5) Republic of Indonesia Minister of Law and Human Rights Regulation Number 61 of 2016 concerning Procedures for Imposing Administrative Sanctions.

4.2. Suggestion

Based on the discussion and conclusions outlined above, suggestions can be made as follows:

- a. The Regional Supervisory Council (MPD) is given the right to impose sanctions on Notaries who commit violations. There is a need for stricter sanctions other than verbal/written warnings against Notaries who do not carry out their position after being appointed and sworn in so that Notaries carry out the mandate of their position by 117 UUJN rules, the Notary Code of Ethics, Regulations of the Minister of Law and Human Rights of the Republic of Indonesia and other related regulations. This is because the Regional Supervisory Council knows directly about the Notary's situation. The Regional Supervisory Council (MPD) can be given the right to decide on Notary cases.
- b. The government can provide a budget for the Tangerang City Regional Supervisory Council (MPD) to be used for office facilities and infrastructure. Such as providing a separate secretariat office for the Regional Supervisory Council (MPD), operational vehicles, and a special budget allocation for the Regional Supervisory Council to carry out its work obligations.
- c. Notaries, in carrying out their duties and positions, must always adhere to the applicable laws and regulations and comply with the mutually agreed code of ethics. It is hoped that there will be good cooperation between the Supervisory Council, Notaries, and the community in enforcing the law, besides that, facilities and community culture are also needed where the law is enforced to achieve legal effectiveness.

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