

CHAPTER 1

General Provisions

§ 1

Scope of application

- (1) This Act regulates the status of the office of notary and of the Chamber of Notaries.
 - (2) The procedure for notarial attestation, the disciplinary liability of notaries and the rates of notaries' fees are regulated by other Acts.
 - (3) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.
- (19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

CHAPTER 2

Office of Notary

§ 2

Status of notary

- (1) A notary is a holder of office in public law who is empowered by the state to attest, at the request of persons, facts and events which have legal meaning and perform other notarial acts in order to ensure legal certainty.
- (2) A notary shall be independent in the performance of notarial acts.
- (3) An undertaking or a state official shall not be a notary. A notary executes his or her office as a liberal profession in his or her own name and at his or her own responsibility.
- (4) A notary shall maintain impartiality and loyalty towards all persons whose interests or rights are affected by the notarial acts performed by the notary.
- (5) A notary shall be guided by the oath of office and shall also act in a dignified manner outside of his or her professional activities.

§ 3

Duty to maintain confidentiality

- (1) A notary is required to maintain the confidentiality of information which he or she receives through professional activities. The duty of a notary to maintain confidentiality remains also after he or she resigns from office, and extends to the employees of a notary's office, translators and interpreters and other persons who have access to such information.

(2) A notary shall disclose information concerning notarial acts performed by the notary only to persons at whose request or concerning whom the notarial acts are performed, or to the representatives of such persons. At the request of a court, a notary shall disclose information to the court concerning notarial acts performed in a criminal, civil or administrative matters pending before the court. On the basis of a court order, a notary shall disclose information concerning notarial acts performed by the notary to investigative bodies.

(3) A notary may disclose information concerning the existence and the content of a will only after the death of the testator.

(4) A person at whose request a notary performed a notarial act or the legal successor or representative of the person may release a notary from the duty to maintain the confidentiality of the notarial act by submitting written consent to this effect. If the person is deceased and has no legal successors or if it is not possible to establish contact with the person, a court may release a notary from the duty to maintain confidentiality. At the request of the notary, a court may also release a notary from the duty to maintain the confidentiality of a notarial act with other good reason.

(5) The duty to maintain the confidentiality of notarial acts also extends to credit institutions, courts, archives and other legal persons and agencies, and to the employees thereof who possess documents containing the information specified in subsection (1) of this section or who have access to such documents, unless otherwise provided by law. Credit institutions, courts, archives and other legal persons and agencies who possess documents containing notarial acts or information pertaining thereto shall disclose the information analogously with the procedure provided for in subsection (2) of this section, unless otherwise provided by law.

§ 4

Right to use image of national coat of arms

(1) A notary shall have a seal with the image of the national coat of arms of Estonia and the notary's name and address of the notary's office.

(2) A notary has the right to use the image of the national coat of arms of Estonia on documents and on signs.

(3) A notary may have up to two coloured, embossing or other type of seals with the image of the national coat of arms.

(4) If a notary resigns from office or is transferred to another territorial jurisdiction, the notary shall submit his or her seal to the Ministry of Justice for destruction. If a notary dies, the seal shall be submitted by a representative of the Chamber of Notaries (subsection 16 (2)).

§ 5. Supervision of professional activities

(1) The Minister of Justice shall supervise the professional activities of notaries through officials authorised by the Minister of Justice.

(2) The Minister of Justice may involve the Chamber of Notaries in the supervision activities. The Minister of Justice may delegate the supervision of individual matters to the Chamber of Notaries and issue instructions for the supervision activities. The Minister of Justice may amend the resolutions adopted by the Chamber of Notaries concerning such matters.

(3) The objective of supervision is to monitor the professional activities of notaries according to the requirements, including the organisation of work of notaries' offices, keeping of books concerning professional activities, preservation of documents, electronic processing of personal data in notaries' offices and the existence of prescribed connection to the registers through computer networks, performance of notarial acts specified in § 33 of this Act, representation of parties pursuant to subsection 30 (2) of this Act and the existence of required professional liability insurance. Supervision shall not extend to the content of notarial acts.

(4) Supervision means periodical inspection over professional activities of notaries. Additional inspection is allowed only in justified cases where there is information referring to the need of

inspection. In the case of a new notary, the first inspection shall be conducted within the notary's second year of office.

(5) A notary is required to present the books concerning his or her professional activities and other materials which are necessary for the supervision activities.

(6) This section also applies to the inspection of the professional activities of substitute notaries.

§ 6. Requirements for becoming notary

(1) An Estonian citizen with active legal capacity who has completed candidate service and passed the notary examination, has academic higher education in law and oral and written proficiency of Estonian, is honest and acts in compliance with high moral standards may become a notary.

(2) The following shall not be appointed as a notary:

1) a person who has been punished pursuant to criminal procedure for an intentionally committed criminal offence;

2) a person who has been removed from the office of judge or notary;

3) a person who has been expelled from the Estonian Bar Association;

4) a person who has been released from public service for a disciplinary offence;

5) a person who is bankrupt.

(3) A person who is a suspect, an accused or accused at trial in a criminal matter shall not be appointed as a notary during the time of the criminal proceedings.

§ 7

Filling of office on basis of competition

An office of notary shall be filled on the basis of competition. The conditions and procedure for the competition shall be determined by the Minister of Justice after hearing the opinion of the Chamber of Notaries.

§ 8

Number of offices and appointment to office

(1) The number of notaries' offices and their corresponding territorial jurisdiction shall be determined by the Minister of Justice on the basis of the estimated number of notarial acts to be performed.

(2) A notary shall be appointed to office by the Minister of Justice.

(3) A notary shall be appointed to a specified territorial jurisdiction and a professional certificate shall be issued to the notary.

(4) A notary shall be appointed to office for life. At the request of a notary, the Minister of Justice may permit the notary to remain in office after attaining pensionable age if this is necessary to satisfy the need for notarial acts to be performed, but for no longer than ten years.

§ 9

Oath of office

(1) Prior to assumption of office, a person appointed to the office of notary shall take the following oath of office before the Minister of Justice: "I swear by my honour and my knowledge to be faithful to the Republic of Estonia, to observe its Constitution and to be subject only to the law. As a notary, I swear that I shall execute my office in an honest, dignified and impartial manner."

(2) The oath of office of a notary shall be deposited in the Ministry of Justice.

§ 10
Assumption of office

- (1) A notary shall assume office within four months after appointment to office.
- (2) Before assumption of office, a notary shall present a specimen of the impression of his or her official seal, specimen signature and professional liability insurance certificate to the Minister of Justice.

§ 11
Notary's office

- (1) A notary's place of work is his or her office.
- (2) A notary is permitted to open only one office. At the request of a notary, the Minister of Justice may permit the notary to open several offices within the territorial jurisdiction of the notary.
- (3) Two or more notaries appointed to the same territorial jurisdiction may operate a common office with the consent of the Board of the Chamber of Notaries. The rights and obligations of notaries in operating a common office shall be specified in a contract entered into between them. In operating a common office, each notary shall perform notarial acts in his or her own name and shall be personally liable for his or her professional activities.
- (4) A notary is prohibited from practising in common office premises with representatives of other professions, except certified interpreters and translators.
- (5) A notary's office shall be open on working days for at least five hours a day. If a notary opens several offices in his or her territorial jurisdiction, the specified requirement shall be valid only for one office. The notary shall determine the business hours of the other offices according to the need.
- (6) A notary, being a holder of an office in public law and representative of a free profession, shall perform in person the duties imposed on him or her by law. Persons requesting the performance of notarial acts and parties entering into transactions to be notarially attested shall always have the possibility to directly address a notary in connection with the notarial act.

§ 12
Restrictions related to office

- (1) A notary shall not hold other paid offices besides the office of notary or perform any other paid work except teaching or research.
- (2) Also, a notary shall not engage in enterprise, or:
 - 1) participate in a company or be a member of the management or supervisory board or a liquidator or procurator of a company;
 - 2) be the director of a branch of a foreign company;
 - 3) be a trustee in bankruptcy, member of a bankruptcy committee or compulsory administrator.
- (3) A notary may acquire securities which are publicly issued, including shares and convertible bonds.
- (4) A notary shall not be a member of the leadership of a political party or belong to foreign political organisations.
- (5) A notary and the employees of his or her office are prohibited from acting as intermediaries between parties entering into transactions unless otherwise provided by law.
- (6) A notary is prohibited from advertising himself or herself or his or her professional activities. The communication of the name of a notary and of the office hours, address and telecommunication numbers of a notary's office to the public is not deemed to be advertising.

§ 13
Notaries' fees and taxation

- (1) Fees are charged for the performance of notarial acts.
- (2) The rates for notary's fees shall be established by an Act.
- (3) Notaries are prohibited to enter into agreements concerning changing rates of fees.
- (4) Each notarised document shall indicate the amount of fee charged by the notary.
- (5) Notaries are taxed pursuant to the procedure for the taxation of sole proprietors. A notary shall pay value added tax.
- (6) A notary's income from his or her professional activities is the amount which remains with the notary after payment of the maintenance costs of the notary's office, taxes provided by law and other compulsory payments related to the professional activities of the notary out of the amount received as fees of the notary.

§ 14
Liability

- (1) A notary shall be liable for damage arising from wrongful violation of his or her official duties.
- (2) A notary shall be liable for damage caused by persons who are parties to transactions or by third persons to the extent not compensated for by the persons who caused the damage.
- (3) The requirement arising from subsection (1) of this section shall expire within three years after the time when the victim became aware of the damage and of the person liable to compensate for the damage, but not later than within ten years after the damage was caused.
- (4) The state shall not be liable for damage caused by a notary.

§ 15
Professional liability insurance

- (1) In order to ensure compensation for the damage specified in § 14 of this Act, a notary is required to enter into a professional liability insurance contract which shall meet the following conditions:
 - 1) the insurer shall be a company which has permission to engage in insurance activities in Estonia;
 - 2) the contract shall fully cover the liability arising from § 14 of this Act and also include the names of persons to whom the notary has professional liability;
 - 3) the minimum amount of insurance coverage for one insured event shall be not less than one million kroons and the maximum amount of insurance indemnities payable during an insured year shall be not less than three million kroons.
- (2) Liability for intentional violation of duties need not be insured.
- (3) The Chamber of Notaries shall enter into insurance contracts to ensure compensation for damage caused by notary candidates and persons specified in subsection 20 (4) of this Act, and may enter into additional insurance contracts to secure the compensation for damage specified in § 14 of this Act.

§ 16
Preservation of documents

(1) For the purpose of this Act, documents of a notary are notarial documents which are preserved by the notary on the basis of the Attestation Act, the source documents of notarial documents and books concerning the professional activities of a notary. Corresponding documents of a substitute notary are also deemed to be documents of a notary. The documents of a notary belong to the state.

(2) If a notary resigns from office or is transferred to another territorial jurisdiction, the notary shall transfer his or her documents to the state archive of his or her territorial jurisdiction. Upon the death or serious illness of a notary, a representative of the Chamber of Notaries shall transfer the documents. Documents may be transferred during the period of holding office.

(3) At the order of the Ministry of Justice, a substitute notary appointed to the office of a notary which is temporarily vacant may be required to receive the documents of a notary. At the order of the Ministry of Justice, another notary who holds office within the same territorial jurisdiction may be required to receive the documents of a notary which are necessary for the conclusion of commenced acts.

(4) Wills, testamentary contracts and testamentary files which are subject to preservation by the succession register of Tallinn City Court shall not be transferred to the archive.

(5) The procedure for preservation and transfer of a notary's documents shall be established by the Minister of Justice.

§ 17

Release and removal from office

(1) A notary shall be released from office by the Minister of Justice on the following bases:

- 1) at the notary's initiative;
- 2) due to the state of health of the notary which does not allow him or her to practise as a notary;
- 3) upon attaining the age limit specified in subsection 8 (4) of this Act.

(2) The Minister of Justice shall remove a notary from office on the following bases:

- 1) if a conviction of a court for an intentionally committed criminal offence has entered into force in respect of the notary, and also if any other conviction of a court has entered into force in respect of the notary by which a criminal punishment is imposed on the notary which makes it impossible for the notary to act as a notary;
- 2) in the case of serious violation related to office;
- 3) if the notary does not assume office within the term specified in subsection 10 (1) of this Act;
- 4) if other circumstances become evident which make it impossible for a person to practise as a notary.

(3) Before the release or removal of a notary from office, the Minister of Justice shall hear the explanation of the notary and the opinion of the Chamber of Notaries, except in the case specified in clause (2) 1) of this section.

§ 18

Suspension of period of office

(1) The Minister of Justice may suspend the period of office of a notary at the request of the notary if the notary wishes to engage in individual professional development, or if the notary commences employment in the service of the Chamber of Notaries or other association of notaries, or for other good reason.

(2) The Minister of Justice may suspend the period of office of a notary in the following circumstances:

- 1) in the case provided for in clause 17 (1) 2) of this Act, until the release from office of the notary is decided;

- 2) in the case of the commencement of disciplinary proceedings against the notary, until the termination of the disciplinary proceedings;
- 3) in the case charges are brought against the notary pursuant to criminal procedure, from the date on which the charges are brought until the proceedings are terminated or the notary is acquitted, or until the Minister of Justice decides to terminate the suspension of the period of office of the notary.
- (3) A notary whose period of office is suspended is prohibited from performing notarial acts.
- (4) For the period during which the right of a notary to execute office is suspended, a substitute notary shall be appointed pursuant to the procedure provided for in subsection 20 (1) of this Act.

§ 19

Absence from performance of professional duties

A notary is required to notify the Chamber of Notaries of an absence from the performance of professional duties for more than two days. Permission of the Minister of Justice is required for a notary's absence from the performance of professional duties of more than one month, except in the case of illness, pregnancy or childbirth.

CHAPTER 3

Substitution of Notary

§ 20

Substitution of notary

- (1) At the request of a notary, the Chamber of Notaries shall appoint a substitute for the notary in the case of the notary's absence from the performance of professional duties of more than five days.
- (2) At the request of a notary and with the approval of the Chamber of Notaries, the Minister of Justice may appoint a permanent substitute for the notary for a calendar year, and specify the cases when the substitute is required to assume office.
- (3) A notary who is substituted for is prohibited from performing notarial acts.
- (4) On the proposal of the Board of the Chamber of Notaries, the Minister of Justice may appoint a substitute notary for up to one year, if the office of a notary is temporarily vacant.

§ 21

Substitute notary

- (1) A substitute notary may be another notary, a former notary or a notary candidate who has sufficient practical experience.
- (2) At the request of a notary, another Estonian citizen who complies with the requirements for notaries (except the requirement for completion of candidate service and passing of the notary examination) and who has passed the examination of a substitute notary may also be appointed as a substitute notary. The membership and rules of procedure of the examination board shall be approved by the Minister of Justice.
- (3) A person who is appointed as a substitute notary shall take the notary's oath of office before the Minister of Justice before assumption of office if he or she has not done so previously.
- (4) The duties and rights related to office of a substitute notary shall commence from his or her appointment to substitute office and terminate on the date of his or her release from substitute office.

(5) The provisions concerning notaries also apply to substitute notaries.

§ 22

Remuneration of substitute notary

(1) A substitute notary appointed pursuant to the provisions of subsection 20 (4) of this Act shall receive remuneration from the Chamber of Notaries in the amount specified by the Chamber of Notaries. The fees received for notarial acts performed by a substitute notary shall be transferred to the Chamber of Notaries; the Chamber of Notaries shall also bear the maintenance costs of the notary's office.

(2) A substitute notary appointed pursuant to the provisions of subsections 20 (1) and (2) of this Act shall receive remuneration from the notary for whom he or she substitutes. The amount of remuneration shall be determined by the notary and the minimum remuneration shall be determined by the Chamber of Notaries.

§ 23

Liability of substitute notary

(1) A substitute notary is held liable on the same bases as a notary.

(2) A notary and his or her substitute shall be solidarily liable for proprietary damage caused by the activity of the substitute notary appointed at the request of the notary (subsections 20 (1) and (2)).

(3) The Chamber of Notaries and a substitute notary shall be solidarily liable for proprietary damage caused by the activity of the substitute notary appointed at the request of the Chamber of Notaries (subsection 20 (4)).

CHAPTER 4

Notary Candidate

§ 24

Notary candidate

(1) Any Estonian citizen concerning whom no facts are known due to which he or she could be presumed to be unsuitable to practice as a notary may become notary candidate.

(2) The Chamber of Notaries shall organise competitions for applicants for notary candidate. The conditions of and procedure for the competitions shall be determined by the Minister of Justice after hearing the proposals of the Chamber of Notaries.

(3) Applicants for notary candidate shall be appointed to candidate service by the Minister of Justice.

§ 25

Candidate service

(1) Candidate service is training held on the basis of a programme approved by the Chamber of Notaries and performance of duties assigned by the Chamber of Notaries. The number of notary candidates in candidate service shall be determined by the Minister of Justice. The Chamber of Notaries shall be liable for the activities of notary candidates related to service. A notary shall

ensure a notary candidate who is referred to service with the notary by the Chamber of Notaries with activities which correspond to the objective of the training.

(2) The training of a notary candidate shall last for two years and end with the notary examination. On the proposal of the Chamber of Notaries, the Minister of Justice may change the duration of the training.

(3) After passing the notary examination, a notary candidate shall continue candidate service and perform duties assigned to him or her by the Chamber of Notaries. A notary candidate does not have the right to perform notarial acts in his or her name, except if he or she is appointed as a substitute notary.

§ 26

Remuneration of notary candidate

During candidate service, a notary candidate shall receive monthly remuneration from the Chamber of Notaries in an amount equal to at least four times the minimum monthly wage established by the Government of the Republic. The Chamber of Notaries may increase the amount of remuneration.

(19.06.2002 entered into force 29.07.2002 - RT I 2002, 64, 390)

§ 27

Notary examination

(1) A notary candidate who has successfully completed the training programme shall perform the notary examination. The membership and rules of procedure of the examination board shall be approved by the Minister of Justice.

(2) Before the notary examination, a notary candidate shall submit to the Chamber of Notaries a report concerning his or her training.

(3) Before the notary examination, the notary instructing a notary candidate shall submit to the Chamber of Notaries his or her opinion on the suitability of the notary candidate to practice as a notary.

§ 28

Termination of candidate service

(1) Candidate service shall be terminated by the Minister of Justice on the proposal of the Chamber of Notaries.

(2) Candidate service is terminated on the following bases:

1) at the notary candidate's initiative;

2) if the notary candidate is determined to be unsuitable to practice as notary;

3) if, after passing the notary examination and without good reason, a notary candidate fails to apply for an office of notary being filled by competition;

4) if the termination of candidate service is imposed on a notary candidate as disciplinary punishment.

(3) Candidate service ends with appointment of a notary candidate as a notary.

CHAPTER 5

Professional Activity of Notaries

§ 29
Notarial acts

- (1) Notaries shall perform the following notarial acts at the request of persons pursuant to the procedure provided by the Attestation Act:
- 1) attest transactions and declarations of intention, authenticity of signatures and copies, correctness of translations of documents and authenticity of signatures of translators;
 - 2) attest other facts and events which have a legal meaning, including voting or ballot results and results of drawing of lots, and sea protests;
 - 3) receive deposits of and transfer money, securities and valuables;
 - 4) issue certificates concerning data entered in registries and printouts from registries;
 - 5) prepare lists of assets;
 - 6) forward petitions and notices;
 - 7) organise and attest auctions.
- (2) Notaries shall settle succession matters in the cases and pursuant to the procedure provided for in the Law of Succession Act.
- (3) Notaries shall preserve notarial documents and issue copies thereof pursuant to the procedure established by law.
- (4) Notaries shall record the notarial deeds prepared by them in digital notarial archives (§ 44¹) and shall certify the compliance of the recorded data with the data on the original document. Notaries shall record documents with notarial notations in digital notarial archives if the notaries preserve the original documents of the documents with notarial notations pursuant to subsection 46 (3) of the Attestation Act and it is technically possible.
- (14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

§ 30
Legal assistance and representation

- (1) Notaries have the duty to provide legal assistance to the parties to notarial acts and to prepare corresponding draft documents.
- (2) Notaries may represent parties in judicial and administrative agencies without specific authorisation, including the forwarding and reclamation of documents and submission of objections, unless otherwise prescribed by law.
- (3) At the request of a notary, judicial and administrative agencies shall submit documents necessary for the performance of notarial acts and copies thereof to notaries, unless otherwise prescribed by law.

§ 31
Certificates concerning data entered in registries and printouts from registries

- (1) On the basis of data received from the commercial registry and the non-profit associations and foundations register, notaries shall issue certificates concerning the existence, address and persons with right of representation of legal persons, and concerning other legal facts. Such certificates can be used as proof on equal grounds with certificates and copies issued by the registration departments of courts.
- (2) A notary shall issue a certificate concerning data entered in registries only after having verified the data received from the register which is the basis for the issue of the certificate, or after having examined the copy of the registry card. The notary shall make an entry in the

certificate concerning the date on which he or she examined the data from the register or issued the copy.

(3) If registers are maintained electronically pursuant to Chapter 10¹ of the Land Register Act (RT I 1993, 65, 922; 1999, 44, 511; 2001, 21, 113; 31, 171; 56, 336; 93, 565) or Chapter 9 of the Commercial Code (RT I 1995, 26-28, 355; 1998, 91-93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 34, 185; 56, 332 and 336; 89, 532; 93, 565 ; 2002, 3, 6; 35, 214; 53, 336; 61, 375; 63, 387; 388), a notary's office shall be connected to the registers through computer networks. Notaries shall issue certified printouts of computerised registers at respective request.

§ 32

Taking person's oath

A notary may take a person's oath and attest a written statement given under oath only if this is necessary for the establishment of a person's rights in a foreign state pursuant to the law of the foreign state or the requirements of the public authorities of the foreign state, or in any other manner.

§ 33

Deposit

(1) Notaries may deposit money, securities, valuables and documents if depositing is connected with transactions certified by the notaries and the persons applying for deposit have legitimate interest arising from the transactions to ensure performance of the transactions by deposit. Notaries shall not deposit other things or cash. Other cases of deposit may also be prescribed by law.

(2) A notarised application of a person applying for deposit is the basis for deposit unless the application is already included in the notarial deed prepared concerning the securable transaction.

(3) Disposal of deposited property is permitted only for delivery of the deposited property to an entitled person or a third person designated thereby or for returning the deposited property to the depositor.

(4) Notaries shall refuse to dispose of deposited property if disposal violates the rights of persons who have entered into a securable transaction or the rights of third persons.

(14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

§ 34

Auction

(1) A notary is competent to conduct and attest auctions of immovables and registered ships.

(2) A notary may conduct and attest auctions of movables only if this is connected to auctions of immovables and registered ships or the distribution of assets attested by a notary.

§ 35

Jurisdiction and location of performance of notarial acts

(1) A notarial act may be performed by any notary at the request of a person, except if law provides that a certain type of notarial act may be performed only by a notary of a certain territorial jurisdiction.

- (2) A notary shall perform notarial acts in his or her office.
- (3) At the request of a person requesting a notarial act, a notary shall, in justified cases, perform the notarial act at any other location in his or her territorial jurisdiction specified by the person.

§ 36

Term of performance of notarial acts

A notary shall perform a notarial act after all necessary documents have been collected and all prescribed payments have been made.

§ 37

Postponement and suspension of notarial act

- (1) A notarial act shall be postponed:
 - 1) in the case of collection of supplementary information or documents, until receipt thereof;
 - 2) in the case of performance of expert analysis, until receipt of the expert opinion;
 - 3) at the request of an interested person who wishes to contest a fact or right concerning the content of the notarial act in a court, for up to ten days.
- (2) The performance of a notarial act shall be suspended on the basis of a court notice to this effect until settlement of the legal dispute in court.
- (3) Upon the postponement or suspension of a notarial act, a notary shall not issue documents prepared pursuant to the Attestation Act, original copies or copies thereof within the scope of the notarial act.

§ 38

Restrictions on right to perform notarial acts

- (1) In the performance of notarial acts, a notary shall comply with the provisions of §§ 3, 4, 7 and 8 of the Attestation Act.
- (2) If, upon the application of restrictions specified in subsection (1) of this section to a notarial act, a situation arises where no notary of a territorial jurisdiction has the right to perform an act which can be performed only by a notary of the particular territorial jurisdiction, the Minister of Justice shall appoint a notary who shall have the right to perform the act.

§ 39

Registration of notarial acts and reporting

- (1) All notarial acts shall be registered in a register of notarial acts.
- (2) The Minister of Justice shall establish the types and format of and procedure for the keeping of registries of notarial acts.
- (3) If necessary, an extract from a register of notarial acts shall be issued to a person, at whose request or concerning whom a notarial act was performed, on the basis of a written application of the person.
- (4) A notary shall submit a quarterly statistical report of the notary's professional activities to the Minister of Justice. The Minister of Justice shall determine a list of data necessary for the reporting and the manner of submission of the report.

§ 40

Refusal to perform notarial act

- (1) A notary shall refuse to perform a notarial act only for reasons provided by law.
- (2) At the request of a person who was refused the performance of a notarial act, a notary shall issue a document setting out the reasons for refusal to the person not later than within three working days after the day of refusal.
- (3) A notary is required to explain to the person who was refused the performance of a notarial act the procedure for appeal against a refusal, including the right to request the document specified in subsection (2) of this section.
- (4) A person who was refused the performance of a notarial act by a notary may request the performance of the notarial act by way of administrative court procedure.

§ 41

Performance of notarial acts for aliens

Citizens of other states and stateless persons may, in person or through their representatives, request the performance of notarial acts pursuant to the same procedure as Estonian citizens.

§ 42. (Repealed - 14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

CHAPTER 6

Chamber of Notaries

§ 43

Legal status of Chamber of Notaries

- (1) The Chamber of Notaries is a legal person in public law; all notaries are members of the Chamber of Notaries.
 - (2) The Chamber of Notaries shall operate pursuant to this Act and its statutes which shall be adopted by the meeting of the Chamber of Notaries and approved by the Minister of Justice.
 - (3) The statutes of the Chamber of Notaries shall provide for the organisation of work of the bodies of the Chamber of Notaries, legal relationship between the bodies and the notaries, the procedure for administration and management of the Chamber of Notaries and regulate other issues within the competence of the Chamber of Notaries.
 - (4) The legality of the activities of the Chamber of Notaries shall be supervised by the Minister of Justice who has the right to require the submission of documents necessary for supervision activities from the Board of the Chamber of Notaries and file protests with administrative courts against legal acts of and measures taken by the bodies of the Chamber of Notaries.
 - (5) The Chamber of Notaries shall submit a report to the Minister of Justice, at a time determined by the latter, concerning the activities of the Chamber of Notaries, of notaries and notary candidates during the preceding year, and a work schedule for the performance of the principal duties of the Chamber of Notaries during the following year.
 - (6) The Minister of Justice shall hear the opinion and proposals of the Chamber of Notaries before deciding on issues within his or her competence concerning notaries.
 - (7) The Chamber of Notaries shall be registered in the state register of state and local government agencies pursuant to the procedure provided for in the statutes of the register.
- (12.06.2002 entered into force 01.08.2002 - RT I 2002, 57, 357)

§ 44
Activities of Chamber of Notaries

(1) The objective of the Chamber of Notaries is to:

- 1) monitor that notaries execute their professional activities in a conscientious and correct manner, comply with professional ethics and act in a dignified manner;
- 2) harmonise professional activities of notaries;
- 3) organise training of notaries and employees of notaries' offices;
- 4) organise candidate service;
- 5) provide assistance to the Minister of Justice in the supervision activities specified in § 5 of this Act;
- 6) manage and administer digital notarial archives.

(14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

(2) For the fulfilment of its objectives, the Chamber of Notaries:

- 1) represents notaries before administrative agencies and other domestic and foreign institutions;
- 2) prepares recommendations for the harmonising of the practice of notaries related to office;
- 3) requires written explanations from notaries concerning complaints filed with regard to the notaries and where necessary and submits proposals for the commencement of disciplinary proceedings to the Minister of Justice;
- 4) establishes compulsory contributions by notaries to the Chamber of Notaries;
- 5) establishes salaried offices within the Chamber of Notaries;
- 6) allocates funds from its budget to notaries whose income is insufficient to hold an office of a notary due to circumstances independent of the notary but whose holding the office is material for the service of the needs of the residents of the corresponding territorial jurisdiction;
- 7) allocates subsidies to retired notaries and their family members, where necessary;
- 8) may acquire and dispose of real and movable property necessary for the performance of the duties specified in this Act;
- 9) uses other methods of activity which are in compliance with law and its statutes.

(3) The Chamber of Notaries has the right to issue specifying instructions which are binding on notaries in accordance with this Act and other legislation:

- 1) in order to ensure compliance with the provisions of subsections 2 (3) and (4), subsection 11 (6) and § 12;
- 2) in order to ensure the proprietary interests of parties to notarial acts and of third persons;
- 3) concerning the operating of common offices and use of common office space;
- 4) concerning public appearances by notaries and the format of the signs of notaries' offices;
- 5) concerning the workload of employees of notaries' offices and organisation of training for the employees;
- 6) concerning the volume of professional in-service training for notaries and participation of notaries in the training;
- 7) concerning the performance of notarial acts outside of notaries' offices or territorial jurisdiction of notaries;
- 8) concerning training provided for notary candidates at notaries' offices;
- 9) concerning duties of office upon communication with other notaries, courts, administrative agencies, advocates and persons involved in attestation procedure.

§ 44¹
Digital notarial archives

(1) Data recorded by notaries pursuant to subsection 29 (4) of this Act shall be preserved in digital notarial archives.

(2) The duty to maintain confidentiality provided for in § 3 of this Act also extends to data preserved in digital notarial archives. The Chamber of Notaries and notaries shall ensure the data

protection of digital notarial archives. Data processing by third persons is permitted only if the obligation to maintain confidentiality and compliance with the requirements of data protection are ensured.

(3) Only notaries and their substitutes have the right to access digital notarial archives. Notaries shall have access to the data recorded by them. Access to other data is permitted only with the permission of a person at whose request or regarding whom a notarial act is performed, or by his or her representative. Notaries may also verify data recorded by other notaries if notarial deeds prepared or notarial notations made by the other notaries are submitted to them as bases for acts of attestation.

(4) If, pursuant to law, notaries are required or entitled to submit documents to land registries or registration departments of courts, the notaries shall forward also data recorded in digital notarial archives in addition to the documents on paper.

(5) The Chamber of Notaries shall establish instructions for the maintenance of digital notarial archives, including instructions concerning adding of data in books concerning the professional activities of a notary, recording of data, certification of the compliance of recorded data with the data on original documents, the technical conditions for access to data, the duty to maintain confidentiality and ensurance of data protection.

(6) The Minister of Justice shall establish the conditions and procedure for forwarding data specified in subsection (4) of this section.

(14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

§ 45

Right of Chamber of Notaries to use national coat of arms

(1) The Chamber of Notaries shall have a seal with the image of the national coat of arms of Estonia.

(2) The Chamber of Notaries has the right to use the image of the national coat of arms of Estonia on its documents and on signs.

§ 46

Web-site of Chamber of Notaries

At the web-site of the Chamber of Notaries, the Chamber of Notaries shall make available information concerning notaries which is necessary to the public; above all, the addresses, office hours and telecommunication numbers of notaries' offices shall be indicated.

§ 47

Calling meeting of Chamber of Notaries and adoption of resolutions

(1) Regular meetings of the Chamber of Notaries shall be held once a year.

(2) Extraordinary meetings shall be called:

1) on the initiative of the Board of the Chamber of Notaries;

2) on the proposal of the Minister of Justice;

3) at the request of at least 1/5 of the members of the Chamber of Notaries.

(3) A meeting shall be called by the Board of the Chamber of Notaries by giving notice to the members of the Chamber of Notaries of the time, place and agenda of the meeting at least two weeks in advance.

(4) The Minister of Justice shall call a meeting of the Chamber of Notaries (clause (2) 2) of this section) if issues concerning notaries which allow no postponement need to be resolved. The Minister of Justice shall also determine the agenda of the meeting. If the Chamber of Notaries

has not been able to fulfil its duties to a material extent, the Minister of Justice may make a proposal for the election of a new Board upon calling an extraordinary meeting.

(5) Members of the Board of Notaries shall participate in meetings personally or through a representative. Notaries may represent one another on the basis of authorisation documents.

(6) A meeting has a quorum if at least two-thirds of the total number of members of the Chamber of Notaries are represented at the meeting. The resolutions of meetings shall be made by a simple majority vote.

§ 48

Competence of meeting of Chamber of Notaries

(1) The meeting of the Chamber of Notaries may enter on its agenda and adopt resolutions concerning any issue within the competence of the Chamber of Notaries.

(2) Only the meeting is competent to decide on the following issues:

1) approval of statutes;

2) issue of the instructions specified in subsection 44 (3) of this Act;

3) election of the Board;

4) approval of annual budget;

5) establishment of amount of compulsory contributions by notaries to the Chamber of Notaries;

6) approval of annual reports;

7) election of the audit committee;

8) election of court of honour;

9) appointment of auditor.

(3) The meeting may grant the Board the right to make, with good reason, amendments to the budget of the Chamber of Notaries which shall be submitted for approval to the next meeting.

§ 49

Membership and sessions of Board of Chamber of Notaries

(1) The meeting of the Chamber of Notaries shall elect the Board of the Chamber of Notaries which is comprised of the chairman and deputy chairman of the Chamber of Notaries and three members of the Board.

(2) The Board is elected by secret ballot for a term of three years.

(3) Sessions of the Board are generally held once a month and convened by the chairman of the Chamber of Notaries.

§ 50

Competence of Board and chairman of Chamber of Notaries and duty to maintain confidentiality

(1) During the time between the meetings of the Chamber of Notaries, the Board of the Chamber of Notaries shall perform all duties of the Chamber of Notaries which do not fall within the competence of the audit committee, court of honour or exclusively within the competence of the Chamber of Notaries. The Board shall ensure compliance with the statutes of the Chamber of Notaries and implementation of the resolutions of meetings of the Chamber of Notaries.

(2) The chairman of the Chamber of Notaries shall represent the Chamber of Notaries in all legal acts.

(3) Notaries who are members of the Board of the Chamber of Notaries, audit committee or court of honour and the employees of the Chamber of Notaries shall not disclose information

concerning the content of notarial acts which have become known to them through their activities. They are allowed to disclose such information only in court if they have respective permission of the Board. The duty to maintain the confidentiality of information shall continue also after resignation from a body of the Chamber of Notaries or the service of the Chamber of Notaries.

§ 51 Audit committee

- (1) The audit committee of the Chamber of Notaries shall audit the economic activities and management of the Chamber of Notaries on the initiative of the committee or at the request of at least 1/5 of the notaries.
- (2) Before the Board submits an annual report of the Chamber of Notaries to the meeting of the Chamber of Notaries for approval, the audit committee shall express its opinion concerning the report.
- (3) The audit committee shall be elected with at least three members for up to three years. A member of the audit committee shall not be a member of the Board or the court of honour.
- (4) The audit committee adopts resolutions by a majority of the votes of the members in favour.

§ 52 Court of honour

- (1) The court of honour of the Chamber of Notaries shall, on the initiative of notaries, the Board or the audit committee, hear complaints filed against the execution of professional activities by notaries, the professional ethics and conduct of notaries. The court of honour shall act as a court of arbitration in matters of honour among notaries at the request of the parties to a dispute.
- (2) Upon the hearing of a matter, the court of honour has the right to require explanations from the persons concerned. The persons concerned have the right to be present at the hearing of the matter.
- (3) The opinions of the court of honour concerning heard matters shall be communicated to all notaries. The court of honour has the right to admonish a notary in error. Where necessary, the court of honour makes a proposal to the Minister of Justice to commence disciplinary proceedings.
- (4) The court of honour shall be elected with at least three members for up to three years. An appropriate number of alternative members shall be elected together with the members and a procedure for substitution shall be determined.
- (5) The court of honour adopts resolutions by a majority of the votes of the members in favour. If a member of the court of honour cannot be impartial in a matter under hearing, the member shall remove himself or herself from the hearing. A removed member shall be substituted by an alternative member.
- (6) A member of the court of honour shall not be a member of the Board or the audit committee.

CHAPTER 7

§ 53

Persons and agencies with right of attestation

The following officials and administrative agencies have the right to perform acts of attestation instead of a notary:

- 1) consular officers and honorary consuls, on the conditions provided for in the Consular Act (RT I 1998, 113/114, 1874; 2001, 23, 126; 93, 565; 2002, 53, 336; 61, 375);
- 2) rural municipality and city secretaries, in the certification of copies and transcripts of documents and the authenticity of signatures, attestation of authorisation documents for the use of vehicles, and attestation of authorisation documents for the receipt of pensions, support payments and benefits;
- 3) public archives, in the certification of the authenticity of copies and transcripts of records and of record notices;
- 4) judges, assistant judges, heads of court offices, court archivists and land registry and registry secretaries, upon the certification of the authenticity of copies and transcripts of documents which are preserved in a court;
- 5) sworn land surveyors, upon the certification of the authenticity of signatures on boundary reports, and on statements of consent for the alteration of boundaries of immovables;
- 6) certified interpreters and translators, upon the certification of the correctness of translations of documents, and of the authenticity of the copies of such translations;
- 7) directors of prisons, upon the certification of the authenticity of prisoners' signatures, and at the request of a prisoner, upon the certification of the authenticity of copies and transcripts of documents.

§ 54

Attestation of notaries

- (1) Notaries who are appointed or will be appointed to office before 1 January 2002 are subject to attestation. Notaries shall be attested from 1 January until 31 December 2003.
- (2) Upon attestation, suitability to the office of the expertise and professional skills of a notary are assessed. The attestation shall be carried out in the form of an examination; the content of the examination and examination schedule shall be approved by the Minister of Justice.
- (3) Attestation is carried out by the attestation committee (hereinafter committee). The committee consists of two officials of the Ministry of Justice appointed by the Minister of Justice, two notaries appointed by the Chamber of Notaries, two judges appointed by the Chief Justice of the Supreme Court and two persons who have academic higher education in law appointed by the Minister of Justice. The rules of procedure and membership of the committee shall be approved by the Minister of Justice.
- (4) A notary is deemed to be suitable or unsuitable for office by a decision adopted by the committee.
- (5) If a notary is deemed to be unsuitable for office or fails to appear for attestation without good reason, the committee shall set a term for the notary subject to attestation after which the notary shall be re-attested. The term specified in the second sentence of subsection (1) of this section does not apply to re-attestation.
- (6) If upon re-attestation, a notary is determined to be unsuitable for office or if a notary fails to appear for re-attestation without good reason, the Minister of Justice shall release the notary from office.
- (7) A notary has the right to file an action with a court against his or her release within one month after the date on which he or she was notified of the release.

§ 55

Specifications of candidate service

(1) Until 31 December 2002, the employees of notaries offices of at least two years of experience who have academic higher education in law may take the notary examination without entering candidate service and participate in competitions for the filling of offices of notaries. After appointment to office as notaries, such persons are subject to attestation pursuant to § 54 of this Act.

(2) Until 31 December 2003, the Minister of Justice has the right to shorten the period of candidate service for up to six months on the basis of the need for notarial acts to be performed.

§ 56

Repeal of existing Notaries Act

(1) The Notaries Act (RT I 1993, 45, 640; 1994, 5, 49; 93, 1571; 1995, 61, 1028; 1996, 23, 456; 38, 752; 80, 1435; 1998, 30, 411) is repealed.

(2) The requirement of academic higher education in law does not apply to notaries who were appointed to office on 1 November 1993.

§ 57

Implementing regulations

The Minister of Justice shall issue regulations:

- 1) in formatting and technical issues relating to notarial acts, including the use of official seal of notary;
- 2) concerning the organisation of the notary examination;
- 3) concerning the procedure for substitution of notary;
- 4) for the organisation of supervision of notaries and the Chamber of Notaries;
- 5) concerning the preparation and submission of statistical reports by notaries and the Chamber of Notaries;
- 6) concerning the procedure for the performance of the notarial acts specified in § 33 of this Act;
- 7) concerning the term for the introduction of digital notarial archives on the proposal of the Chamber of Notaries.

(14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

§ 58

Entry into force of Act

This Act enters into force concurrently with the Attestation Act.

¹ RT = *Riigi Teataja* = *State Gazette*