

## The Implementation of Notary's Responsibility Association in the Online Administration System

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**Abstract.** *This study aims to analyze procedure for registering associations is through the online Legal Entity Administration System. The role and responsibilities of a notary in carrying out the registration of associations through the online Legal Entity Administration System. The approach method in this research is a sociological juridical approach. The data used are primary data and secondary data obtained through interviews and literature study, data analysis was carried out in a descriptive analytical manner. The conclusion show the association registration procedure through the online Legal Entity Administration System is uncomplicated. The procedure begins with an application for ordering the name of the association through SABH [www.ahu.go.id](http://www.ahu.go.id), then the application for legalization of the association's legal entity must be submitted by a notary with supporting documents submitted electronically. Supporting documents in the form of an electronic statement from the applicant. A statement letter containing the completeness of the association's establishment documents from the applicant. The Ministerial Decree concerning the legalization of the legal entity association is issued no later than 14 days. The period of time is calculated from the date of the statement of no objection from the Minister. The fee for ordering the name of the association is IDR 100,000, -, while for the ratification of the establishment of the association of IDR 250.000,-. The role of the notary in carrying out the registration of associations through the online legal entity administration system is to order names and register the ratification of the association to the minister through the SABH.*

**Keywords:** Notary; Online; Registration.

## 1. Introduction

Notaries are given a position by the state to provide legal certainty to the community, in their authority to carry out their positions, the notary is tasked with making authentic deeds, authentic deeds are also legal evidence of all actions, statements of the parties committed.<sup>1</sup> Notaries in carrying out their duties are based on laws and regulations which are often called the Notary Position Act (UUJN) Number 2 of 2014 Jo. Act No. 30 of 2004. From the provisions of the legislation, it can be concluded that the main task of a notary is to make authentic deeds. The location of the importance of the notary profession, namely that notaries are authorized by law to create absolute evidence, in the sense that what is stated in the authentic deed is considered true. This is very important for the parties which requires evidence for a purpose, either for personal interest or for the benefit of a business, namely business activities.<sup>2</sup>

The deed made by a notary has an important role in creating legal certainty in every legal relationship, because the notarial deed is authentic, and is the strongest and most complete evidence in every case related to the notary<sup>3</sup> deed. In various kinds of business relationships, such as activities in the fields of banking, land, social activities, and others, both in the local, regional and national scope, the need for authentic deeds as evidence is increasing.<sup>4</sup>

One of the needs for an authentic deed in the business field is the deed of establishment. There are several forms of business (business) in Indonesia today, the fields of business that are legal entities include Limited Liability Companies (PT), Firms, Cooperatives, Maatshap, and Foundations. The Foundation sometimes also engages in social, religious, and humanitarian activities. In the field of social, religious, and humanitarian activities, there is another name called the Association. In the lower classes of society, many associations are formed to realize certain common goals. Apart from the relatively low cost of establishing

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<sup>1</sup>Budiono. Herlien. Arah Pengaturan Undang-Undang No. 40 Tahun 2007 tentang Perseroan Terbatas dalam Menghadapi Era Global. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*. Vol. 1 No. 2, 2012. p. 187

<sup>2</sup>Notodisoerjo. Soegondo. (1982). *Hukum Notariat di Indonesia Suatu Penjelasan*. Jakarta: Rajawali. p.8.

<sup>3</sup> Deen, Thaufiq., Ong Argo Victoria & Sumain. (2018). *Public Notary Services In Malaysia*. *JURNAL AKTA*: Vol. 5, No. 4, 1017-1026. Retrieved from <http://jurnal.unissula.ac.id/index.php/akta/article/view/4135>

<sup>4</sup>Sjaifurrachman and Adjie. (2011). Habib. *Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta*. Bandung: Mandar Maju. p.7

the Association, the association also does not require many administrators in its establishment<sup>5</sup>.

In Indonesia, until now there is no law that specifically regulates associations, but as a guide so far, it uses Staatsblad 1870 Number 64 concerning associations. Then in its development the government issued several laws and regulations including Act No. 17 of 2013 concerning Social Organizations, Minister of Law and Human Rights Regulation Number 6 of 2014 concerning Legal Entity Associations, Regulation of the Minister of Law and Human Rights Number 3 of 2014 2016 concerning Procedures for Filing Applications for Legal Entity and Approval of Amendments to the Association's Articles of Association.

The definition of association in Article 1 Paragraph 1 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 of 2016 concerning Procedures for Filing Applications for Legal Entity and Approval of Amendments to the Articles of Association in the social, religious, and humanitarian fields and does not distribute profits to its members. With this understanding, the association is an organization consisting of people who are social in nature and are not intended to seek profit.

In fact what happens in the field, associations can be legal entities and not legal entities. An association that is a legal entity is carried out by applying for the legalization of a legal entity association through the Legal Entity Administration System (SABH), the association must authorize a Notary as an applicant appointed in Permenkumham Number 3 of 2016. Ratification and establishment of a legal entity Association is applied for through a Notary in the AHU Online System. Here it can be understood that the deed made and the documents stored involve the role of a Notary who has a soul, not an electronic device that is regulated through a computer system.<sup>6</sup>

Notary as enforcer Lawyers as well as officials in general should have the responsibility to examine, create, provide counseling, and have wisdom regarding the legal practice they face, so that the process of establishing the Association is also in accordance with the laws and regulations according to the Notary who is responsible for the Association concerned. The role of the Notary in the process of establishing the Association through the Online Legal Entity Administration System, among others, makes a deed of Association

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<sup>5</sup> Ong Argo Victoria, Ade Riusma Ariyana, Devina Arifani. (2020). *Code of Ethics and Position of Notary in Indonesia*. Sultan Agung Notary Law Review 2 (4), 397-407, <http://lppm-unissula.com/jurnal.unissula.ac.id/index.php/SANLaR/article/view/13536>

<sup>6</sup>Jonathan Septian. Mohamad Fajri Mekka Putra. Widodo Suryandono. Tanggung Jawab Notaris Terhadap Pembuatan Akta Perkumpulan yang Menggunakan Nama Instansi Pemerintah (Studi Kasus Perkumpulan Tagar 2019 Prabowo Presiden). *Jurnal Hukum*. Universitas Indonesia. p. 4

Establishment and registers it with the Ministry of Law and Human Rights. Because the making of the deed is an act of a Notary in holding office, he must obey and be subject to the Notary Code of Ethics.

## **2. Research Methods**

The approach method that will be used in this research is a sociological juridical approach, namely: legal research that uses secondary data as initial data, which is then followed by primary data or field data, in the form of interviews with PPAT to find relationships (correlation) between various symptoms or variables as a data collection tool consisting of document studies, observations and interviews.<sup>7</sup> The specifications of the research conducted by the author are classified as analytical descriptive research. Methods of data collection using library research and interview techniques. The method of data analysis is descriptive qualitative analytical.

## **3. Results and Discussion**

### **3.1. Association Registration Procedure Through the Online Legal Entity Administration System (SABH)**

Association registration can be done through the online SABH which is located at <http://www.ahu.go.id>. The process of establishing an association can only be carried out by a notary through the SABH. The stages that must be carried out are the stage of submitting the name, then the stage of ratification of the association. The procedure for registering associations through the Online Legal Entity Administration System (SABH), namely:

#### **1. Submission / Ordering Stage Association Name**

As stipulated in Article 2 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 of 2016 in conjunction with the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2019 concerning Procedures for Submitting Applications for Legal Entities and Approval of Amendments to the Association's Articles of Association, requests for legalization of entities the law of the Association must be preceded by the submission of the name of the Association. The name of the association to be used is submitted to the Minister through the online AHU system. As

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<sup>7</sup>Bambang Sunggono. (2006). *Metode Penelitian Hukum*. Jakarta: Rajawali pers. p.75

regulated in Article 3, the name of the association must contain the identity of the applicant and the name of the association ordered.

Submission of the name of the association can be done alone (general name message) or submitted by a notary. Based on Government Regulation Number 28 of 2019 concerning Types and Tariffs of Non-Tax State Revenues Applicable to the Ministry of Law and Human Rights, the fee for approval of association names is IDR 100,000 per approval. The name of the association that has been approved by the Minister is given approval for the use of the name electronically, which at least includes the name order number, the name of the association that can be used, the date of the order, the expiration date and the payment code. The name of the Association that has obtained the approval of the Minister is valid for a maximum period of 60 (sixty) days. Furthermore.<sup>8</sup>

## 2. Stages of Establishment

Regulation in Article 1 point 3 of the Minister of Law and Human Rights Number 3 of 2016 in conjunction with the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2019 concerning Procedures for Submitting Applications for Legal Entity and Approval of Amendments to the Association's Articles of Association, the applicant is a Notary who is authorized to submit an application ratification of the association's legal entity. An application for legalization of an association legal entity is submitted by the applicant to the Minister through AHU Online.

Based on Government Regulation Number 28 of 2019 concerning Types and Tariffs of Non-Tax State Revenue Applicable to the Ministry of Law and Human Rights, the fee for legalizing the establishment of an association is IDR 250,000, per application. The establishment of the Association is carried out by a Notary, with the following stages:

- a. Login first as a notary. If you have previously ordered the name of the association, then select the Association menu → Establishment.
- b. Then the Voucher Number Ordering page appears for Association Establishment
- c. Check the disclaimer and click the button. Then the "Proof of Ordering Voucher Number Validation of the Association's Deed of Establishment" page appears
- d. Click the "list voucher" button to display the Voucher List page and find out the voucher payment status.
- e. After that, pay the bill for the voucher number booking on the YAP!
- f. If you have already paid the voucher number booking bill, then the payment status changes to "already paid"

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<sup>8</sup> <https://www.Hukumonline.com>. accessed on April 3, 2022. at 19.00 WIB

- g. Click "continue transaction", then the Association Data Filling page appears with the voucher number for the Authorization of the Association Establishment Deed that has been filled out.
- h. Check the disclaimer and click the "submit" button. Then the attention popup appears.
- i. Check the statement then click the "continue" button. Then the system will display the Association Establishment Form page.
  - 1) Data Association, on the form there are several fields that must be filled.
  - 2) Notarial Deed. Click the "add data" button. Then a new Notary Deed field will appear. In the form there are several fields that must be filled in
  - 3) Association position, on this form there are several fields that must be selected, namely select a province, select a district.
  - 4) Domicile of the Association
  - 5) Association Management, on the Association Management form there are several types of data that must be filled in, including member meetings, management, supervisors.
  - 6) Purpose and objectives
  - 7) Beneficial owner
  - 8) Substitute notary
  - 9) Document requirements
    - a) Document requirements that must be owned:
      - (1) A copy of the association's deed of establishment
      - (2) Photocopy of NNPWP that has been legalized by a Notary
      - (3) Domicile requirements letter
      - (4) Proof of deposit or bank statement in the name of the association
      - (5) Statement letter that is not in a management dispute or in a court case
      - (6) Proof of depositing PNBP fees, fees for ratifying foundations and associations, announcement fees for association BNTBN.
    - b) Check the available check boxes
    - c) If 3 or more columns are checked, a warning popup will appear
    - d) Click the "I understand" button, then return to the document requirements, click the "continue" button if all the establishment data have been filled in.
    - e) After that the page will display a disclaimer popup
    - f) Check all the requirements and click the "agree" button. Then the Data Collection Preview page will appear.
    - g) If it is appropriate click the "continue" button
  - 10) Upload Deed
    - a) Then the Association Transaction List page appears.
    - b) Click the "preview" button, a deed upload form will appear.
    - c) Click the "upload deed" button, then the deed upload page appears.
      - (1) Check all the statements above.

- (2) Click the "choose files" button then find the deed file to be uploaded.
- (3) Click the "upload" button, a pop up preview will appear
- (4) Click the "continue" button.
- (5) After clicking the "I am sure the preview is correct and print the SK/SP.
- (6) Click the "I understand" button, then the Association Transaction List page appears
- (7) After completing the Association Establishment, then the Notary must wait for the Association Data Verification Process.

The Ministerial Decree regarding the ratification of the legal entity of the association is issued no later than 14 days. The period of time is calculated from the date of the statement of no objection from the Minister. The Minister will submit the approval decision to the applicant electronically. Then the Notary can directly print his own decision on the legalization of the association's legal entity.

It is hoped that the change from a manual system to an electronic or online system will make the registration or ratification process run more efficiently and more effectively. Not different from the previous provisions, in this new provision in its implementation it still requires the role of a notary. In the implementation of online SABH, it is possible that there will be a problem that can become an obstacle, especially related to the role of a notary. Constraints that can occur include lack of knowledge and understanding of SABH, lack of skill in operating computers and the internet as the main means of online SABH, and other shortcomings.<sup>9</sup>

### **3.2. The Roles and Responsibilities of Notaries in the Implementation of Association Registration Through the Online Legal Entity Administration System**

The role of the notary in implementing the registration of associations through the online legal entity administration system is to order names and register the ratification of the association to the minister through the SABH. Notaries have an important role in the administration of the Association's legal entities. People who need the legal entity ratification of the Association cannot access the SABH directly but must go through a Notary who has been registered in the SABH. This

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<sup>9</sup> Yaya Kareng, Ong Argo Victoria, R. Juli Moertiyono. (2019). How Notary's Service in Thailand. *Sultan Agung Notary Law Review*, 1 (1), 46-56, <http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/4435>

is because notaries play a role in carrying out statutory orders so that the interests of the parties do not violate the law.

SABH is a Legal Entity Administration System in the application for settlement of legal entities which is carried out electronically using the Internet media online. A procedure is the key to an applicable legal system, without proper procedures and in accordance with applicable laws and regulations, the entire system will be lame, so procedures play an important role in the sustainability of a system.<sup>10</sup> Likewise in the legalization system for the establishment of a legal entity association, where the role of a notary is a link in the entire procedure.

The role of the Notary is very preventive in listening to legal problems that occur in the community, therefore by making an authentic deed which has legal certainty, he hopes to provide the best legal services for the community. With this the community will also return with other legal certainty needs.<sup>11</sup> Legal certainty is one of the goals of law as stated by Gustav Radbruch, the law aims at justice, usefulness and certainty.<sup>12</sup> With the existence of legal certainty, the purpose of the law, namely justice, will be achieved. The main thing about the value of legal certainty is the existence of the regulation itself. Regarding whether the regulation must be fair and useful for the community, it is beyond prioritizing the value of legal certainty. According to Radbruch, there are 4 (four) things related to the meaning of legal certainty, namely:

- a. The law is positive, meaning that positive law is a statutory regulation.
- b. The law is based on facts or the established law is certain, meaning that it is based on reality and the judge does not use his own judgment, such as through the general clauses of decency and good will.
- c. The facts (facts) must be formulated in a clear way so as to avoid mistakes in meaning, in addition to being easy to implement.
- d. Positive law should not change easily.

Gustav Radbruch's opinion above is based on his view that legal certainty is certainty about the law itself. Legal certainty is a product of law or more specifically from legislation. The role of a notary in Act No. 2 of 2014 concerning the Position of a Notary is closely related to the legal certainty of the authentic

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<sup>10</sup>Dedy Ahmad Wiryadi. Peranan Dan Tanggung Jawab Notaris Dalam Kepastian Proses Pengesahan Badan Hukum. *Tesis Hukum*. Universitas Sumatera Utara. Medan, 2015. p.1

<sup>11</sup>Anak Agung Istri Intan Argyanti Nariswari. Putu Tuni Cakabawa Landra. Peran Notaris Dalam Hal Perolehan Pengakuan Badan Hukum Perseroan Terbatas Melalui Sistem Administrasi Badan Hukum (SABH). *Jurnal Hukum Kenotariatan*. Vol. 5 No. 3 Desember 2020. p.604

<sup>12</sup>H.Chaerudin. (1999). *Filsafat Suatu Ikhtisar*. Cianjur: FH UNSUR. p. 19.



deed he made. The authentic deed clearly determines the rights and obligations of each party related to the deed, provides legal certainty and with the existence of the authentic deed is expected to avoid problems or disputes between the parties in the future. However, if problems still arise, the existence of an authentic deed as evidence will be able to provide a real role in resolving disputes between the parties.

The position of a notary as a public official is an honorable position given by the state attributively through law to someone who is trusted. As a public official, a notary is appointed by the minister, based on Article 2 of the UUN, with the appointment of a notary, he can carry out his duties freely, without being influenced by the executive body and other bodies and can act neutrally and independently. The duty of a notary is to carry out some of the public functions of the state and to work for the service of the public interest, especially in the field of civil law, even though a notary is not a civil servant who receives a salary from the state.<sup>13</sup>

The authority of a notary is also closely related to its responsibility. The notary is fully responsible for the process of ratifying the legal entity of the association. Notaries are deemed to understand and understand and agree to the provisions set by AHU regarding the terms and conditions in the process of establishing and ratifying the association. The notary is fully responsible for the data entered and the notary is ready to accept all forms of sanctions if it is proven that the notary violates the provisions of the law. The notary's accountability can be requested if in carrying out his position it causes harm to the rights of interested parties. Before ordering names and submitting an application for legalization of the association's legal entity in SABH, the notary must ensure that the association is an organization that is engaged in a positive field, and does not violate the law.

Next punishment for those who violate Article 16 Paragraph 1 as stipulated in Article 16 Paragraph 11, namely:

- a. Written warning
- b. Temporary stop
- c. Respectful stop
- d. Disrespectful dismissal.

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<sup>13</sup>Rizki Nurmayanti. Akhmad Khisni. Peran Dan Tanggung Jawab Notaris Dalam Pelaksanaan Pembuatan Akta Koperasi. *Jurnal Akta*. Vol. 4 No. 4 Desember 2017. p.611

A Notary can be said to have neglected his duties and position if the Notary does not properly carry out an obligation that the law imposes on him as a Notary, a Notary cannot be said to have neglected his duties and obligations, if the Notary does not properly carry out tasks that are outside of his/her duties assigned to him by law.

The legal responsibilities of a Notary in carrying out his profession are classified as follows:<sup>14</sup>

- a. Administrative responsibilities and code of ethics for the position of a Notary.
- b. Civil Law liability is if a Notary makes a mistake due to breaking a promise as specified in the provisions of Article 1234 of the Civil Code or violating the law as specified in the provisions of Article 1365 of the Civil Code. The error has caused losses to the client or other parties.
- c. Criminal Law Liability when a Notary has committed a legal act prohibited by law or committed an error/act against the law either intentionally or negligently which caused the loss of another party.

The imposition of a criminal sentence against a Notary does not automatically become null and void by law. A thing that is not legally correct if there is a criminal court decision with a verdict cancel deed of Notary Public, on the grounds that the Notary is proven to have committed a crime of forgery. Thus, what must be done by those who will or wish to place a Notary as a convict, for a deed made by or before the Notary concerned, then the legal action that must be taken is to cancel the deed in question through a civil lawsuit.

#### **4. Conclusion**

The association registration procedure through the online Legal Entity Administration System is not complicated. The procedure begins with a request to order the name of the association through the SABH [www.ahu.go.id](http://www.ahu.go.id). Furthermore, the application for legalization of the association's legal entity must be submitted by a Notary with supporting documents submitted electronically. The supporting documents are in the form of an electronic statement letter from the applicant. The statement letter contains the completeness of the documents for the establishment of the association from the applicant. The Ministerial Decree regarding the ratification of the legal entity of the association is issued no later than 14 days. The period of time is calculated from the date of the

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<sup>14</sup>Ibid., p.44

statement of no objection from the Minister. The role of the notary in implementing the registration of associations through the online legal entity administration system is to order names and register the ratification of the association to the minister through the SABH.

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Act No. 2 of 2014 Jo. Act No. 30 of 2004. Notary Position Act (UUJN)

Act No. 5 of 1960 concerning Basic Regulations on Agrarian Principles

Civil Code (KUHperdata)

Government Regulation Number 24 of 1997 concerning Land Registration