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# COLLECTION OF LAWS OF THE SLOVAK REPUBLIC

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**ACT**  
**of the Slovak National Council**  
of 06 May 1992  
**on notaries and notaries' activities (Notary Rules)**

The Slovak National Council has adopted the following Act:

### Article I

#### **PART ONE** **BASIC PROVISIONS**

#### **Section 1**

This Act shall govern

- a) the status and activities of notaries;
- b) the self-regulation of notaries.

#### **Section 2**

- (1) A notary is a person commissioned by the state to pursue the notarial activities and the other activities provided for in this Act.
- (2) The status and activities of a notary are intended to ensure order and certainty in legal matters to prevent disputes.
- (3) The office of a notary embeds a set of powers and authorities granted to a notary as a natural person to perform the notarial activities and the other activities provided for in this Act, which permanently attach to the seat for which the notary is commissioned.

#### **Section 3**

- (1) The activities of a notary shall include the following:

- a) Drawing up and issuing notarial instruments on legal acts (Sections 46 to 54);
- b) Attesting matters of legal relevance (Sections 56 to 64);
- c) Administering notarial escrows (Sections 65 to 68);
- d) Handling matters concerned with Notarial Central Registers (Sections 73a to 73k);
  
- e) Operation as an official certifier.<sup>1)</sup>

(2) A notary shall perform other activities to the extent provided for in this Act or a specific law.<sup>1a)</sup>

(3) Unless this Act or a specific law provides otherwise, a notary may perform as a special activity the function of a mediator<sup>1aa)</sup> and of an arbitrator.<sup>1b)</sup>

(4) Instruments and certification statements (Section 56 (2)) drawn up within the framework of the activities of a notary (hereinafter “notarial instrument”) and authenticated copies of notarial instruments, certificates, excerpts from notarial central registers and instruments drawn up in connection with the activities referred to in paragraph (2) shall constitute authentic instruments.

#### Section 4

(1) The notarial activities and other activities of a notary referred to in Section 3 (2) hereof (hereinafter “activities of a notary”) shall be performed only by a notary.

(2) A notary shall perform the activities of a notary in an impartial and independent manner. A notary shall be bound by the Constitution, constitutional laws and other laws of the Slovak Republic.

(3) When performing the activities of a notary, a notary shall have the status of a public officer.<sup>1c)</sup>

(4) The performance of the activities of a notary shall constitute the exercise of public authority.

#### Section 5

A notary may provide the following services to natural persons and legal entities (hereinafter “parties”) in connection with the activities of a notary:

- a) Legal advice;
- b) Drawing up other instruments;
- c) Asset management and representation in connection with such asset management, unless the Act provides otherwise;
- d) Representation in proceedings before cadastral administration authorities.

#### Section 6

(1) The performance of activities of a notary shall be incompatible with any work as a civil servant or any similar work, business activity, membership of a statutory body or a control body of any legal

entity pursuing business, and with any other earning activity except activities referred to in paragraph (2) hereof.

(2) The performance of activities of a notary shall be compatible with the management of assets of the notary and of the notary's close persons<sup>1d</sup>), scientific activity, pedagogical activity, publishing activity, artistic activity, sworn expert's activity, interpretation activity, translation activity and sports activity, and the exercise of the office of a member of a municipal council or a higher territorial unit council. A notary must not perform the activity of a sworn expert in matters in which it exercises the authority of a judicial commissioner.

### **Section 7**

(1) A notary may employ employees (Sections 20 to 28).

(2) The notary shall be liable for any acts of the notary's employees performed under a commission from the notary.

### **Section 8**

The notaries' self-regulating body is the Chamber of Notaries of the Slovak Republic (hereinafter "Bar") (Sections 29 to 35).

### **Section 9**

The Minister of Justice of the Slovak Republic (hereinafter "Minister") shall

- a) commission a notary for a notarial office and withdraw such commission;
- b) determine the quotas for notarial offices (numbers of notaries) to serve each court of first instance and any changes in those numbers;
- c) establish and dissolve a notarial office;
- d) transfer a notary, based on the Bar's proposal and subject to the notary's consent, to a notarial office within the jurisdiction of a different court of first instance; any such transfer must be made no earlier than three years after the date the notary was commissioned for the notarial office.

## **PART TWO**

### **NOTARY**

#### **DIVISION ONE**

#### **NOTARY AND NOTARIAL OFFICE**

### **Section 10**

(1) A notary shall be commissioned by the Minister on the basis of candidate selection results; a notary shall normally be commissioned for the district of jurisdiction of a particular court of first instance (Section 15 (1)).

(2) The call for candidates for all notarial offices where the exercise of the notarial office has been terminated under Section 14 (1) sub-paragraphs (a) to (d) as of the call announcement date shall be initiated by the Bar normally no later than 31 January of each calendar year.

(3) The candidate selection process initiated as referred to in paragraph (2) shall be conducted by the Bar and completed normally by 30 June of the calendar year. The candidate selection process shall be concluded by the publication of its result.

(4) The candidate selection process may be entered by any citizen of a Member State of the European Union or another state party to the Agreement on the European Economic Area who satisfies the conditions laid down in Section 11 (1).

(5) All participants in the candidate selection process shall have an equal status. The candidate selection process shall be conducted in conformity with the principle of equal treatment laid down in a specific law.<sup>1e)</sup>

### Section 11

(1) To be eligible for commissioning as a notary, a person must be a citizen of a Member State of the European Union or another state party to the Agreement on the European Economic Area and

a) have the full legal capacity;

b) hold a secondary-level university degree in the field of law obtained from a faculty of law of a university in the Slovak Republic<sup>2)</sup>, or a recognised certificate of a secondary-level university degree in the field of law issued by a foreign university; where the candidate has first obtained a primary-level degree and then a secondary-level degree, both such degrees must be obtained in the field of law;

c) be of a good repute;

d) have five years' professional experience in the field of law, including at least two years' professional experience of the notarial practice;

e) have successfully passed the notary examination;

f) be not subject to a disciplinary measure of withdrawal of the commission as a notary under Section 91 (2) (d);

g) be not subject to a disciplinary measure of exclusion from the list of attorneys or the list of commercial lawyers, or of withdrawal of the commission as a court bailiff, or removal from the office as a public prosecutor or as a judge, under specific laws.<sup>2a)</sup>

(2) For the purposes of the professional experience requirement, notarial practice is to be understood as including the practice of a notary, trainee notary or candidate notary within the meaning of this Act, or of a notary employed as a civil servant or a notary candidate within the meaning of the former legislation. The Bar shall recognise as part of the professional experience the years of service as a judge, attorney, commercial lawyer or prosecutor; the Bar may also recognise other service in a legal profession.

(3) The reference to notarial examination shall be understood as including both the notarial examination provided for in this Act and the notarial examination provided for in the former

legislation. The Bar shall consider a judicial examination, a prosecutor's examination, an attorney's examination and a commercial lawyer's professional examination to be a notarial examination for the purposes of this Act.

(4) A person shall be deemed to be not of a good repute if such person has been lawfully convicted of an intentional criminal offence or, in case of a particularly grievous crime or of a criminal offence of misusing power as a public officer, or an offence of taking a bribe or of giving a bribe or of indirect bribery, if such person's conviction has been spent or if such person is treated as if never convicted of the offence under a specific law.<sup>2b)</sup>

(5) Good repute shall be demonstrated by producing a transcript of records from the criminal register<sup>2c)</sup>; a citizen of a Member State of the European Union or of another state party to the Agreement on the European Economic Area shall be required to provide all data needed for such transcript to be obtained<sup>2ca)</sup>. The Bar shall without undue delay forward the data referred to in the first sentence in an electronic form by electronic means to the Prosecutor-General's Office of the Slovak Republic to issue the transcript of records from the criminal register for the person concerned.

## Section 12

(1) To be authorised to perform the activities of a notary, a notary must have

- a) taken the oath (Section 13);
- b) taken out professional liability insurance for the notarial profession,
- c) deposited in the Bar's account a monetary bond, in such amount as determined by the Presidium of the Bar, for the connection of the notary's notarial office with the Bar's central information system.

(2) A notary shall use in its activities a notarial stamp indicating the following:

- a) The notary's name and surname and academic title, if any;
- b) The "Notary" designation;
- c) The notary's seat;
- d) The state coat-of-arms of the Slovak Republic. A specimen notarial stamp is set out in Annex 1.

(3) A notary must possess all the hardware and software equipment necessary for interfacing the notarial office for which the notary is commissioned with the Bar's Central Information System.

## Section 13

A notary shall take the oath before the Minister and the text of the oath shall be as follows:

"I promise on my honour and conscience that I will respect and follow the Constitution and the other statutes and laws of general application and apply the same to my best knowledge and conscience in all my activities as a notary and as the court's commissioner, and act in the pursuit of the same independently, impartially and justly, and keep in confidence any and all matters as may come to my knowledge in connection with my activities as a notary."

## Section 14

(1) The exercise of a notarial office shall be terminated:

- a) Upon death of the notary;
- b) Upon declaration of the notary dead;
- c) Upon removal of the notary from the office by the Minister;
- d) As of 31 December of the calendar year in which the notary has reached the age of 67 years;
- e) Upon transfer of the notary, in which case the exercise of the notarial office from which the notary is transferred shall be terminated.

(2) The Minister shall remove a notary from the office:

- a) At the notary's request;
- b) If the notary has lost the citizenship of a Member State of the European Union or another state party to the Agreement on the European Economic Area;
- c) If the notary is subject to the deprivation or restriction of legal capacity by virtue of a final court order.
- d) If a judgement has become final convicting the notary of an intentional criminal offence, or a criminal offence concerned with his or her activity as a notary;
- e) In result of a disciplinary measure of withdrawal of the commission as a notary;
- f) If the notary's professional liability policy expired or was terminated and the notary has failed to renew the policy upon the Bar's demand within the time limit determined by the Bar;
- g) If the notary has failed to establish an office and commence the activities as a notary in his or her designated seat within three months from the taking of the oath without serious reasons;
- h) If, based on a medical statement, the notary's health condition does not allow him or her to continuously pursue the activities as a notary and a court order to that effect has been issued at the Bar's petition.

(3) If a notary has submitted an application for removal from the office or has been commissioned as a notary for a different court of first instance in result of a candidate selection process, the notary shall continue to exercise his or her current notarial office until the notary is effectively removed from the office by the Minister.

(4) Where the notary was removed from the office under Section 2 (a) and the disciplinary action against the notary has been interrupted under Section 93 (4) and the eligibility conditions laid down in Section 11 (1) are fulfilled, the notary may be re-commissioned by the Minister no earlier than three years after the date of removal.

(5) If the Bar reasonably believes that a notary is permanently incapacitated for the notarial office because of his or her impaired health, the Bar shall send the notary a demand to resign. If the notary does not file a resignation application within one month of such demand, the Bar shall petition a court to determine the matter.

## Section 15

(1) The seat of a notary shall be the seat of the notarial office for which the notary is commissioned; such seat shall normally be the seat of the court of first instance for whose district of jurisdiction the

notary has been commissioned. The establishment of a different seat within such district shall be subject to the Bar's approval.

(2) Subject to the Bar's approval, a notary may designate office days for carrying out the activities as a notary outside the notary's seat in the district of jurisdiction of the court of first instance for which the notary has been commissioned.

### **Section 16**

(1) A notary shall carry out his or her activities in his or her own name and responsibility.

(2) A notary shall carry out his or her activities in the notary's office, which shall be designated as set out in Annex 2. Any office outside the notary's seat where the notary carries out the activities as a notary (Section 15 (2)) must also be designated in the same manner.

(3) If a notary executes an act involving any third party in addition to the requesting party, no later than when commencing the execution of the notarial act, the notary must comprehensibly make all such third parties aware of the notary's presence; the foregoing shall not apply if the requesting party or another party has comprehensibly made all such third parties aware of the notary's presence at least at the time of commencement of the notarial act.

(4) If more than one notary is commissioned for the district of jurisdiction of the same court of first instance, such notaries (hereinafter "associates") may exercise their notarial offices in a single, shared office room based on a written agreement. Unless such agreement stipulates otherwise, the associates' shall have equal shares in the assets, revenues and liabilities.

(5) The associates shall be authorised to substitute each other in their notarial offices. The foregoing shall not apply in respect of any associate whose exercise of the notarial office has been suspended or interrupted or who has been removed from the notarial office.

(6) When acting as a substitute, the notary shall endorse deeds by attaching thereto his own name and surname and stamp, and indicating the name and surname of the notary being substituted.

### **Section 16a**

(1) The exercise of the notarial office shall be interrupted as of the date when the notary has undertaken a public office compatible with the notarial office, other than the office as a member of a municipal council or a higher territorial unit council. The notary shall notify the interruption of the exercise of the notarial office to the Bar and the Ministry of Justice of the Slovak Republic (hereinafter "Ministry") without undue delay.

(2) The notification referred to in paragraph (1) shall indicate the reason for and the foreseen length of the interruption of the exercise of the notarial office. The notification shall be accompanied by documents proving the undertaking of the public office by the notary.

(3) A notary who has interrupted the exercise of the notarial office may resume the exercise of the notarial office only after the expiry of the term of the public office. The notary shall notify the Bar and the Ministry of the fact that the notary is able to resume the exercise of the notarial office at least 30 days before the end of the exercise of the public office. Where this is impossible with regard to the circumstances of the termination of the public office, the notary shall notify his or her ability to resume the exercise of the notarial office to the Bar and to the Ministry without undue delay.

(4) During the interruption of the exercise of the notarial office, the notary shall be substituted by a deputy notary, as provided for in Section 17.

(5) The interruption of the exercise of the notarial office shall not constitute a ground for not commencing or discontinuing any disciplinary action due against the notary.

## **DIVISION TWO SUBSTITUTION OF A NOTARY**

### **Deputy notary**

#### **Section 17**

(1) Where notary does not exercise, or is not able to exercise, the notarial office for the reason of sickness, holiday or other serious reason for a time exceeding 30 days and the notary is not substituted by an associate (Section 16 (4) to (6)) or a candidate notary (Section 25), the Bar shall appoint a deputy for the notary and the amount of the deputy's share of the substituted notary's fees.

(2) The notary shall notify the reason referred to in paragraph (1) and submit a proposal for the appointment of a deputy to the Bar without undue delay.

(3) The Bar shall appoint the deputy for the notary without undue delay as soon as the Bar learns of the reason necessitating the substitution, as referred to in paragraph (1), and determine the estimated beginning and end of the substitution term.

(4) The Bar shall also appoint a deputy for any notary whose exercise of the notarial office has been suspended or interrupted.

(5) The substituted notary shall not be entitled to fees if his exercise of the notarial office has been interrupted on the grounds of exercising a public office, or suspended.

(6) The Bar shall point a different deputy for the notary if the appointed deputy or the notary has applied for release of the deputy from the office.

(7) The substituted notary shall not be allowed to carry out the activities of a notary during the term of substitution.

(8) As soon as the reasons for substitution cease to exist, the substituted notary shall notify the Bar accordingly.

(9) The substitution shall be terminated

a) on such date as the Bar determines upon notification referred to in paragraph (8);

b) upon death, or declaration of death, of the notary.

(10) The Bar shall choose the deputy from the notaries commissioned for the district of jurisdiction of the same court of first instance.

#### **Section 18**

(1) The deputy notary shall execute acts that do not brook any delay.

(2) The deputy notary shall endorse notarial instruments by attaching thereto his own name and surname and indicating the name and surname of the notary being substituted.



(3) The deputy notary shall use his or her own notarial stamp when endorsing instruments as a substitute.

### **Section 19**

#### **Substitute notary**

(1) Upon termination of the exercise of the notarial office, the Bar shall appoint a substitute for the notary. Such substitute shall be a notary.

(2) The substitute notary shall carry out the steps associated with the termination of the notarial office. The substitute notary shall, in particular, ensure that all files be properly closed, assets held in escrow released and notarial registers, files and stamps deposited in the notarial archive (Section 86).

(3) The substitute notary shall endorse notarial instruments by attaching thereto his own name and surname and indicating the name and surname of the notary whose notarial office has been terminated.

(4) The substitute notary shall receive a fee for carrying out the steps associated with the termination of the notarial office; the amount of the fee shall be determined by the Bar. The fee shall be disbursed from the Bar's funds.

## **DIVISION THREE**

### **EMPLOYEES OF A NOTARY**

#### **Trainee notary**

### **Section 20**

(1) A trainee notary is a person employed with a notary and entered in the Register of Trainee Notaries.

(2) The Register of Trainee Notaries shall be maintained by the Bar.

### **Section 21**

(1) To be eligible for entry in the Register of Trainee Notaries, a person must be a citizen of a Member State of the European Union or another state party to the Agreement on the European Economic Area and

a) have the full legal capacity;

b) hold a secondary-level university degree in the field of law obtained from a faculty of law of a university in the Slovak Republic<sup>2</sup>), or a recognised certificate of a secondary-level university degree in the field of law issued by a foreign university; where the candidate has first obtained a

primary-level degree and then a secondary-level degree, both such degrees must be obtained in the field of law;

c) be of a good repute;

d) be employed with a notary.

(2) The Bar shall make the entry in the Register referred to in paragraph (1) within two months from the receipt of the application. The Bar shall notify the entry in the Register to the trainee notary and the notary with whom the trainee notary is employed.

(3) A person who has not been entered in the Register within the said time limit shall have the right to seek entering in the Register through a court petition.

## **Section 22**

A notary may grant the trainee notary a written commission for the execution of the various acts constituting the subject matter of activities of a notary, except drawing up and signing notarial deeds and issuing and signing national and European Certificates of Succession, and the activities referred to in Section 5.

## **Section 23**

(1) The Bars shall delete a trainee notary from the Register of Trainee Notaries

a) upon death, or declaration of death, of the trainee notary;

b) if the trainee notary has lost the citizenship of a Member State of the European Union or another state party to the Agreement on the European Economic Area;

c) if the trainee notary is subject to the deprivation or restriction of legal capacity;

d) if a judgement has become final convicting the trainee notary of an intentional criminal offence or a criminal offence concerned with the activities of a notary;

e) upon the trainee notary's written request submitted to the Bar;

d) upon termination of the trainee notary's employment with the notary;

g) upon entry of the trainee notary in the Register of Candidate Notaries.

(2) The Bar shall notify the deletion from the Register to the trainee notary and the notary with whom the trainee notary is or was employed.

(3) A trainee notary deleted from the Register of Trainee Notaries shall have the right to seek remedy through a court petition.

## **Candidate notary**

### **Section 24**

(1) Upon written application of a notary, the Bar shall enter a person in the Register of Candidate Notaries (hereinafter "candidate notary") within two months from the receipt of the application if such person

d) has three years' professional experience in the field of law, including at least two years' professional experience of the notarial practice;

e) has successfully passed the notary examination;

c) agrees with the entry in the Register of Candidate Notaries;

d) meets the conditions laid down in Section 21 (1).

(2) Anyone who meets the conditions laid down in paragraph (1) sub-paragraph (a) and Section 21 (1) shall be admitted to the notarial examination. The notarial examination may be repeated twice with at least one year's lapse between the two notarial examinations. Details of the notarial examination process shall be determined by the Bar in its internal regulation.

(3) The Bar shall make the entry in the Register referred to in paragraph (1) and notify the date of entry to the candidate notary and the notary with whom the candidate notary is employed.

(4) A person who has not been entered in the Register of Candidate Notaries within the said time limit shall have the right to seeking entering in the Register of Candidate Notaries through a court petition.

### **Section 25**

(1) A notary may grant a candidate notary a written commission for the execution of all acts constituting the subject matter of the activities of a notary, including the activities referred to in Section 5.

(2) The candidate notary shall endorse notarial instruments by attaching thereto his own name and surname and indicating the name and surname of the notary by whom the candidate notary is commissioned. The notary shall be liable for any acts of the candidate notary performed under the commission from the notary.

### **Section 26**

(1) The Bar may delete a candidate notary from the Register of Candidate Notaries on grounds of the reasons listed in Section 23 (1) sub-paragraphs (a) to (f).

(2) The Bar shall notify the deletion from the Register of Candidate Notaries to the candidate notary and the notary with whom the candidate notary is or was employed.

(3) A candidate notary deleted from the Register of Candidates shall have the right to seek remedy through a court petition.

### **Other employees of a notary**

#### **Section 27**

(1) A notary may employ other employees.

(2) The notary may grant his or her other employees a written commission for the execution of the various acts constituting the subject matter of the activities of a notary, except drawing up and

signing notarial deeds and deeds of escrow and issuing and signing national and European Certificates of Succession, and the activities referred to in Section 5.

### **Section 28**

Acts executed under a commission from the notary shall be endorsed by the notary's employee by attaching his or her name and the notary's official stamp to the act.

## **PART THREE SELF-REGULATION OF NOTARIES**

### **Section 29**

#### **Chamber of Notaries of the Slovak Republic**

(1) The Chamber of Notaries of the Slovak Republic (hereinafter "Bar") shall be established by this Act (Section 8) and its seat shall be in Bratislava. The Bar shall be a legal entity.

(2) The Bar shall be a self-regulating professional association of all notaries and the Bar shall keep a register of those notaries. A notary shall become a member of the Bar as of the date of his or her commission as a notary. The membership of the Bar shall be terminated upon removal, death or declaration of death of the notary.

(3) The mission of the Bar and its bodies is to protect the interests of the notarial profession, supervise the notaries' activities and manage the other matters falling within the Bar's authority by virtue of this Act.

(4) The Bar shall operate the Central Information System and bear responsibility for its smooth and safe operation. The Central Information System shall comprise the software and hardware equipment serving the electronic collection, processing, storage, retrieval and transmission of data related to the notaries' activities. The Central Information System shall also embed the central registers which the Bar is required to keep by virtue of this Act or a specific law<sup>2d</sup>), and other notarial registers. The Central Information System shall be accessible to every notary and to such other persons as designated in a specific law. In consideration of access to the Central Information System, the Bar shall be entitled to a fee and to reimbursement of out-of-pocket expenses. The maximum amount of the fee shall be determined in a law of general application to be adopted by the Ministry.

(5) The Bar shall be a public certification authority.

(6) The income of the Bar shall comprise membership fees, donations and other receipts. Notaries shall be obligated to pay membership fees in the prescribed amount.

(7) The Bar's bodies shall include the following:

- a) Conference of Notaries;
- b) Presidium of the Bar;
- c) Revision Committee;
- d) Disciplinary Committee;
- e) Education Committee.

(8) The members of the Bar's bodies shall hold their offices for three-year terms.

(9) The offices in the Bar's bodies shall be held on the honorary basis. Notaries holding such offices shall be entitled only to reimbursements for the time spent carrying out the office and for out-of-pocket expenses.

(10) The Bar shall process personal data to such extent as is necessary for the purposes of this Act within the meaning of a specific law<sup>2da</sup>). The Bar may disclose personal data to such extent as is necessary for the purposes of the exercise of the notarial office or of the training of a candidate notary or a trainee notary.

(11) The Bar shall be authorised to gather and process personal data without the data subject's consent by copying, scanning or otherwise recording official documents on a data storage medium to the extent necessary for the purposes of this Act.

### **Section 30**

#### **Conference of Notaries**

(1) The Conference of Notaries shall be the Bar's supreme body which shall be composed of the notaries entered in the Register of Notaries. The Conference of Notaries shall elect the other Bar's bodies.

(2) The Conference of Notaries shall be summoned by the Presidium of the Bar normally once a year, but no less than once every three years. If at least one third of the notaries or the Revision Commission so requests, the Presidium of the Bar shall summon the Conference of Notaries within two months from the receipt of such request.

(3) The Conference of Notaries shall have a quorum if a majority of the notaries entered in the Register of Notaries is present. For a resolution of the Conference of Notaries to be valid, it must be passed by a majority of the notaries present at the Conference of Notaries.

(4) The Conference of Notaries shall, in particular:

- a) Elect and remove the members of the Presidium of the Bar and of the other Bar's bodies;
- b) Approve the organisational, election and disciplinary action rules, the Notary's Code of Ethics, and the list of rates and out-of-pocket reimbursements payable for access to the Central Information System;
- c) Revoke or amend the decisions of the Presidium of the Bar;
- d) Approve the annual members' contributions to the operation of the Bar;
- e) Establish dedicated funds and approve the rules for the creation and use of such funds;
- f) Approve the amount of reimbursements for the time spent carrying out offices in the Bar's bodies;
- g) Discuss and approve a report on the activities of the Bar's other bodies;
- h) Determine the number of the Bar's employees and their remuneration;
- i) Adopt resolutions on such other matters as the Conference of Notaries reserves.

#### **Presidium of the Bar**

### **Section 31**

(1) The Presidium of the Bar shall manage the Bar's operation between the Conference of Notaries' sessions, including in particular:

- a) Representing the Bar in relations with the ministries and other general government bodies, institutions, legal entities and natural persons, and with international entities;
- b) Representing, protecting and promoting notaries' interests;
- c) Presenting proposals to the Ministry in the relevant areas, as provided in this Act;
- d) Conducting the candidate selection process, as provided in this Act;
- e) Keeping, and making entries in, the registers of notaries and candidate notaries and trainee notaries;
- f) Supervising the activities of notaries, deputy notaries and substitute notaries;
- g) Carrying out the intermediation function in disputes between notaries;
- h) Presenting draft Notarial Office Rules to the Minister;
- i) Managing the Bar's assets;
- j) Concluding and terminating employment contracts with the Bar's employees;
- k) Approving the Notarial Examination Rules and the Rules for Keeping Notarial Registers;
- l) Submitting opinions on legislation bills relating to the status and activities of notaries;
- m) Determining the amount of the bond provided for in Section 12 (1) (c);
- n) Carrying out the other activities provided for in this Act.

(2) The Presidium of the Bar shall have 11 members inclusive of the President.

(3) The Presidium of the Bar shall elect out of its members, and remove, the President and the Vice-President of the Bar. The President shall represent the Bar in relations with third parties and act on behalf of the Bar in all matters. The President shall also make urgent resolutions and manage the Bar's personnel during the periods of time between the sessions of the Presidium of the Bar. The Vice-President shall substitute the President to the extent provided for in the Organisational Rules.

(4) The sessions of the Presidium of the Bar shall be summoned by the President normally once a month, but no less than once every three months.

(5) An office in the Presidium of the Bar shall be incompatible with an office in the Revision Committee or the Disciplinary Committee.

### **Section 32**

The Presidium of the Bar shall delete a notary from the Register of Notaries

- a) upon death, or declaration of death, of the trainee notary;
- b) upon removal of the notary from the notarial office by the Minister;
- c) as of 31 December of the calendar year in which the notary reached the age of 67 years.

### **Section 33**

### **Revision Committee**

- (1) The Revision Committee shall have five members.
- (2) The members of the Revision Committee shall elect one of the members as the Chair of the Revision Committee.
- (3) The Revision Committee shall
  - a) review the Bar's financial management and present a report on the Bar's financial affairs to the Conference of Notaries;
  - b) present its opinion on the draft budget of the Bar;
  - c) approve the Bar's annual closing account.

### **Section 34**

#### **Disciplinary Committee**

- (1) The Disciplinary Committee shall have five members.
- (2) The members of the Disciplinary Committee shall elect one of the members as the Chair of the Disciplinary Committee.
- (3) The Disciplinary Committee shall act and make decisions through panels of three members. The Disciplinary Committee's mode of action and decision-making shall be governed by the Disciplinary Action Rules.

### **Section 35**

#### **Education Committee**

- (1) The Education Committee shall have five members.
- (2) The members of the EC shall elect one of the members as the Chair of the Education Committee.
- (3) The Education Committee shall organise the
  - a) professional training of notaries and candidate notaries and trainee notaries, and administer the publishing, educational, documentation and information activities;
  - b) notarial examinations, as provided for in the Notarial Examination Rules.

## **PART FOUR ACTIVITIES OF A NOTARY**

### **DIVISION ONE GENERAL PROVISIONS**

#### **Section 36**

(1) A notary shall carry out his or her activities with due professional care. A notary must refuse to execute the act sought insofar as it is obvious that the act contravenes or circumvents law or is in conflict with good morals or if the power to execute such act pertains to a different public authority by virtue of law <sup>2e</sup>). If so requested, the notary shall issue a written explanation of the reasons for such refusal to the requesting party.

(2) A notary may refuse to execute the act sought until the requesting party pays an advance for the notary's fee and reimbursement of out-of-pocket expenses in a reasonable amount.

(3) A notary may refuse to draw up a notarial deed if a party to the deed or the representative thereof refuses to provide necessary assistance required for the execution of the notarial act.

(4) Where the notarial deed concerns a legal act subject to consideration, the notary shall inform the parties to the deed of the payment terms agreed in the deed and include in the notarial deed a statement of the parties that they are aware of those terms. The notary shall also inform the parties to the deed of the amount of the notary's professional liability insurance coverage applicable to the execution of the notarial deed.

(5) A notary shall process the personal data of his or her clients and other natural persons to such extent only as is necessary for the exercise of the notarial office within the meaning of the specific law.<sup>2da)</sup>

(6) The Notary shall be authorised to gather and process personal data without the data subject's consent by copying, scanning or otherwise recording official documents on a data storage medium to the extent necessary for the purposes of exercising the notarial office.

### **Section 37**

A notary shall not be allowed to draw up and issue authentic instruments concerning any matters to which the notary or his or her close person is a party<sup>1d</sup>). The foregoing shall equally apply to any matters where the act could bring a benefit to the notary or his or her close person. Any instrument drawn up by a notary that does not conform to this provision shall not constitute an authentic instrument.

### **Section 38**

(1) Except the cases referred to in Sections 36 and 37, a notary shall not refuse a request for the execution of a notarial act.

(2) The requesting party whose request for the notarial act has been refused may file a complaint with the Presidium of the Bar. The Presidium of the Bar shall decide on the matter within 30 days from the receipt of the complaint. Upon request of the Presidium of the Bar, the notary shall inform the Presidium of the Bar in writing of the reasons for the refusal of the execution of the act.

### **Section 39**

(1) A notary and his or her employees shall maintain confidence of any matters coming to their knowledge in connection with their activities as notaries, except where this Act provides otherwise. The notary shall ensure that his or her employees also comply with the obligation of confidentiality.



(2) A notary may be released from the obligation of confidentiality by

- a) a party to the deed or the legal successors thereof by means of a written declaration; or
- b) the Minister in respect of matters referred to in Section 3 (1) sub-paragraphs (a) through (d);
- c) the chair of the district court in whose district of jurisdiction the notary has his or her seat in respect of matters involving the action of the notary as a court commissioner in probate proceedings for the purposes of criminal proceedings.

(3) The release of a notary from the obligation of confidentiality shall equally apply to all employees of the notary. Where the notary has been released from the obligation of confidentiality, the notary shall communicate the release to all his or her employees.

(4) The provision to an authorised entity (Section 82) of general information on whether or not a particular act was executed shall be exempt from the obligation of confidentiality to the extent such provision of information is mandatory by virtue of law or is necessary in order to avoid a criminal offence, or constitutes giving an explanation or a statement in disciplinary action, as referred to in Section 91.

(5) The obligation of confidentiality laid down in paragraph (1) shall last after any termination of the exercise of the notarial office or termination of the employee's employment with the notary. The possibility to release a notary from the obligation of confidentiality shall last after any termination of the exercise of the notarial office.

(6) The provisions of paragraphs (1) to (5) shall also apply, *mutatis mutandis*, to the activity of a notary as a holder of an office in the Bar's bodies.

#### **Section 40**

(1) A notary shall be liable for any damage caused by the notary or any of his or her employees in connection with activities covered by this Act, unless a specific law<sup>3a)</sup> provides otherwise.

(2) Associates shall have the joint and several liability for any damage caused by their employees.

(3) Unless this Act provides otherwise, a notary shall be released from the liability referred to in paragraph (1) if the notary demonstrates that he or she was not in the capacity to prevent the damage despite exerting all efforts that may reasonably be expected of the notary.

(4) A notary shall be released from the liability referred to in paragraph (1) if the notary demonstrates that the aggrieved party was aware of the matter by which the damage was caused.

#### **Section 41**

Notarial instruments shall be drawn up in the state language.<sup>4)</sup> Where the instrument is being drawn up with a party that does not have a command of that language, the provisions of Section 53 shall apply.

#### **Section 42**

(1) No abbreviations shall be used in notarial instruments that are not generally known or known to the particular parties.

(2) The date of the notarial instrument and any numbers in the notarial instrument referring to time limits or monetary amounts shall be written in words.

#### **Section 43**

(1) The text of a notarial instrument must not be additionally altered.

(2) If an error in writing or counting or any other obvious mistake is identified in the instrument after it was drawn up, the error or mistake shall be corrected by way of a statement attached at the end of the text of the instrument, subject to the parties' approval. The statement shall indicate the error or mistake, the correct text and the date of correction, and be endorsed by the signature and official stamp of the notary making the correction and the parties' signatures.

(3) Corrections of notarial instruments executed by a notary whose notarial office was withdrawn or terminated shall be made by a notary designated by the Presidium of the Bar, or by a substitute notary (Section 19).

#### **Section 44**

(1) A notarial instrument must contain a clear indication of the page number on each page, and where the instrument is intended for registration in a register, it must also contain a file reference.

(2) The parties and witnesses shall attach their signatures below the text of the instrument and above the notary's signature. The notary shall affix the notary's official stamp to his or her signature.

(3) Where the notarial instrument comprises more than one sheet, the sheets must be tied with a string and the free ends of the string must be sealed by means of an adhesive label bearing the official stamp. All appendices of the instrument, if any, shall be tied to the main instrument in the same manner.

(4) Unless provided otherwise, the original of an instrument shall be retained and archived by the notary who drew up the instrument. The parties to the deed shall receive authenticated copies. The parties shall receive the original of any instrument drawn up according to Section 5.

#### **Section 45**

(1) A notary shall be authorised to lend the original of an instrument only to a court and to the Presidium of the Bar at a written request thereof.

(2) The notary shall substitute the original so lent with a copy thereof authenticated by the same notary, and the written request for lending shall be enclosed with such authenticated copy.

(3) During the lending period, the notary shall be authorised to issue authenticated copies of the authenticated copy kept on file, unless such issuance has been suspended by a court.

**DIVISION TWO**  
**NOTARIAL DEEDS OF LEGAL ACTS**

**Section 46**

Notaries shall draw up notarial deeds of agreements, testaments and other legal acts based on declarations of the parties concerned. A notarial deed may be continued by the notary who initially drew up the notarial deed, or another notary having his or her seat in the territory of the Slovak Republic. The continuation of the notarial deed shall constitute an integral part thereof.

**Section 47**

(1) A notarial deed must contain the following particulars:

- a) The place where, and the date, month and year when, the notarial deed was drawn up;
- b) The notary's name, surname and registered office;
- c) The name, surname, date of birth, personal ID, if any, and permanent address of each party to the deed being a natural person, and the registered name or business name, registration number, if any, and registered address of each party to the deed being a legal entity, and the same details of each party's representative, witness, fiduciary and person having a command of the party's language;
- d) The parties' declarations that they have legal capacity;
- e) A indication of how the parties' and witnesses' identities were verified, particularly the type and number of their valid identification documents;
- f) Where the party is a legal entity, an indication of how its existence and the authority to act on its behalf were established;
- g) The subject matter of the legal act;
- h) A statement that the parties have read and approved the notarial deed;
- i) The signatures of the parties and of their representatives, witnesses, fiduciaries and persons having a command of a party's language, if any; where a natural person authorised to act on behalf of a party being a legal entity is signing the notarial deed for that party, such person shall attach only his or her signature;
- j) The notary's official stamp and signature.

(2) Where the notarial deed is drawn up with a party represented by an attorney-in-fact on the basis of a power of attorney, the principal's signature therein must be officially authenticated, unless the attorney-in-fact is at the same time an attorney at law. The power of attorney shall be enclosed with the notarial deed.

**Section 48**

(1) Where the notary does not know the parties to the deed and the witnesses, fiduciaries or person(s) having a command of a party's language, such persons must prove their identity either by producing a valid official identification document or by statements of at least two witnesses of identity.

(2) Where the notary is to draw up a notarial deed and, despite having followed the procedures in paragraph (1), the notary is not assured of the identity of the parties to the deed, the notary shall perform further inquiries, including without limitation asking the parties and their representatives to produce instruments from a register of identification documents, asking the relevant municipality to provide a statement, and making further checks based on other documentary evidence. If the notary fails to ascertain the true identity of the parties and does not refuse to execute the notarial deed, the notary shall not be relieved from liability for any damage caused by identity misuse by a party, unless it is established that the aggrieved party was aware of the fact being the cause of the damage.

(3) The witnesses of identity shall attach their signatures either after the end of the notarial deed or after the identity certification clause.

#### **Section 49**

Where the notary public is drawing up a notarial deed with a party not able to read and/or write, the notary shall call in two witnesses to the act. Such witnesses must be present at the time when the party expresses its intent as to the subject matter and contents of the notarial deed and when the notarial deed is read and when it is approved by the party in whose interest the witnesses have been called in. The said circumstances must be recorded in the notarial deed.

#### **Section 50**

The witnesses of identity and the witnesses to the deed must not be persons without full legal capacity or persons whose mental or physical condition makes them unable to witness or persons unable to read and/or write. Also, the witnesses must be persons other than close persons<sup>1d</sup>) of the parties or persons being involved in the matter concerned or the notary's employee drawing up the notarial deed or an associate of the notary.

#### **Section 51**

(1) If a party to the deed is deaf or mute but is able to read and write, such person must read the notarial deed by himself or herself and attach to it an acknowledgement written by his or her own hand that he or she has read and approves the deed.

(2) If a party to the deed cannot read and/or write, such party must be accompanied by a fiduciary with whom they can make each other understand. The notary shall use the fiduciary to establish whether or not the party to the deed is deaf and/or mute and whether or not he or she approves the deed.

(3) The fiduciary must meet the essential requirements for a credible witness, while the fiduciary may be a close person of the party to the deed.

#### **Section 52**

(1) Where witnesses are required for the drawing up of the notarial deed, a declaration of the witnesses shall be attached at the end of the notarial deed stating that the witnesses have witnessed

the expression of the intent of the party to the deed as to the subject matter and content of the notarial deed, and the reading of the notarial deed and its approval by the party concerned.

(2) Where the party to the deed is deaf and/or mute and unable to read and/or write, a similar declaration of such party's fiduciary shall be attached at the end of the notarial deed stating that the party concerned has been informed of, and approved, the contents of the notarial deed.

(3) Details of the reason for which the witnesses/fiduciary were called in for the drawing up of the notarial deed shall be stated in the introductory part of the notarial deed.

### **Section 53**

(1) Where the party or witness to the deed or the fiduciary does not have a command of the language in which the notarial deed is drawn up (Section 41), the notary shall call in a person having a command of the language spoken by the party or witness or fiduciary concerned, as applicable. Such person must meet the essential requirements for a credible witness (Section 50).

(2) If the notary or an employee of the notary has a command of the language spoken by the party or witness to the deed or fiduciary, the calling-in of a person referred to in paragraph (1) may be omitted.

(3) The notary shall attach a statement at the end of the notarial deed confirming that the contents of the notarial deed were interpreted for, and are approved by, the party concerned. The person having a command of the language spoken by the party concerned shall attach his or her signature to the notarial deed.

(4) The fee and the reimbursement of out-of-pocket expenses of a person called in as referred to in paragraph (1) shall be paid by the party to the deed.

### **Section 54**

When the notary has drawn up a notarial deed of a testament or a disinheritance instrument or a declaration of election of law under a specific law<sup>4a</sup>), or of withdrawal of any of the foregoing (hereinafter "testament"), the notary shall thereafter without undue delay ensure the registration of the deed in the Notarial Central Register of Testaments. The notary shall also forward to the Notarial Central Register of Testaments such accompanying details as the type of the instrument, date when it was signed, and the name, surname, surname at birth, date of birth and permanent address of the party to the deed.

## **DIVISION THREE**

### **Section 56**

#### **Attestation of matters of legal relevance**

(1) A notary shall attest at the request of a party matters that might provide a basis for the enforcement of rights or have legal consequences. A notary shall, in particular, issue certificates attesting

- a) the accuracy of a transcript or photocopy (hereinafter “copy”) of a document (copy authentication);
- b) the authenticity of a signature (authentication of a signature);
- c) the fact and date (and time, where appropriate) of presentation of a document;
- d) a protest of a bill of exchange or promissory note;
- e) the proceedings of general meetings and sessions of legal entities;
- f) the fact that a person is alive;
- g) a declaration of prescription;
- h) the satisfaction of conditions required by a specific law;
- i) other matters.

(2) When attesting the matters referred to in paragraph (1) sub-paragraphs (a), (b) and (c), the notary shall affix a certification statement either directly to the presented document or in form of a separate instrument firmly attached to the presented document.

(3) The other matters shall be attested in form of a notarial deed the execution of which shall be subject, *mutatis mutandis*, to the provisions in Sections 46 to 54 concerning notarial deeds on legal acts. Authenticated copies may be made of such notarial deeds subject to, *mutatis mutandis*, the provisions in Sections 74 to 79.

## Section 57

### Copy authentication

(1) A notary shall attest the accuracy of a copy of an instrument if the notary is able to reliably assess the contents of the instrument in the language in which it is made. If the notary does not have a command of that language, the notary shall ask the requesting party to obtain a translation of the document in the state language. Such translation shall be firmly attached to the instrument.

(2) The accuracy of a copy of an instrument shall be attested by a notary or a notary’s employee commissioned by the notary. Any instruments intended for use abroad must be attested by either a notary or a candidate notary. The accuracy of a copy shall be attested in form of a certification statement attached to the copy and containing the following particulars:

- a) Whether or not the copy is true to the original instrument of which it is made and whether that instrument is an original or an authenticated copy and the number of sheets it comprises;
- b) The number of sheets comprising the copy;
- c) An indication of whether the copy is full or partial;
- d) An indication of whether or not the presented instrument contains any alterations, additions, insertions or deletions able to impair the credibility of the instrument;
- e) An indication of whether or not any corrections were made in the copy to bring it in conformity with the presented instrument;
- f) The place and date of issue;
- g) A signature of the certifying notary or the notary’s commissioned employee, and the notary’s official stamp.

(3) The authentication shall not constitute the attestation as true of any facts contained in the instrument by the notary.

(4) Where the authenticated copy comprises more than one sheet, the provisions of Section 44 (3) shall apply.

## **Section 58**

### **Signature authentication**

(1) By authenticating a signature the notary attests that the signatory has either signed the instrument before the notary or confirmed to the notary that the signature attached to the instrument is the signatory's own signature. The signatory's identity shall be established in accordance with Section 48.

(2) The authenticity of a signature shall be attested in form of a certification statement attached to the instrument which bears the signature and containing the following particulars:

- a) The ordinal number of the entry in the signature authentication register (Authentication Register);
- b) The signatory's name, surname, date of birth, personal ID (if any) and permanent address;
- c) An indication on how the signatory's identity was established, particularly the type and number of his or her valid identification document;
- d) A statement that the signatory has either signed the instrument before the notary, or confirmed to the notary that the signature attached to the instrument is the signatory's own signature;
- e) The place and date of authentication;
- f) The notary's signature and official stamp.

(3) Where the instrument bearing the signature being authenticated comprises more than one sheet, the provisions of Section 44 (3) shall apply.

(4) The authentication shall not constitute the attestation as true of any facts contained in the instrument by the notary.

(5) Signatures attached to any instruments intended for use abroad must be authenticated by either a notary or a candidate notary.

## **Section 59**

### **Attestation of the date and time of presentation of an instrument**

(1) The attestation of the date, and of the time, where applicable, when an instrument was presented to the notary shall be executed in form of a certification statement attached to the instrument, stating the date, month and year, and the hour, where applicable, of presentation. If so requested, the notary shall also add an attestation of the identity of the person presenting the instrument; the presenter's identity shall be established in accordance with Section 48.

(2) Where the instrument comprises more than one sheet or has any appendices, the provisions of Section 44 (3) shall apply.

## **Section 60**

### **Attestation of protest of a bill of exchange or promissory note or cheque**

The drawing up of protests of bills of exchange, promissory notes or cheques shall be governed by a specific law.<sup>5)</sup>

### **Section 61**

#### **Attestation of proceedings of general meetings and sessions of legal entities**

(1) The attestation by a notary of the proceedings of a general meeting of a joint stock company or another business company or society and of another session of a legal entity shall be made in form of a notarial deed indicating the place and time of the meeting or session, details of the resolutions adopted, and any other important matters observed and inputs presented during the meeting or session to the extent relevant to the judgement whether or not the mandatory course of procedure was respected.

(2) In addition to the notary, the notarial deed referred to in paragraph (1) shall also be signed by the chair of the meeting or session, or by two members of the general meeting, as applicable. The notarial deed may also attest the identity of the chair or any other persons attending the meeting or session, subject to the requirements laid down in Section 48. If no such attestation is included, the notary public shall not be held liable for the identity of the persons mentioned in the notarial deed.

### **Section 62**

#### **Attestation of the fact that a person is alive**

A notary shall issue the certificate of a person being alive only if the person concerned is personally known to the notary, or if the person's identity has been established in accordance with Section 48. A notarial deed attesting the fact that a person is alive shall contain the following particulars:

- a) An acknowledgement that the notary has assured himself or herself in person that the person being the subject of the attestation is alive;
- b) The day, month, year and hour when the assurance was obtained;
- c) An indication of how the person's identity was established.

### **Section 63**

#### **Attestation of a declaration of prescription**

(1) The attestation of a declaration of prescription in respect of a title, or of a right equivalent to easement, to real property shall be made in form of a notarial deed. In addition to the general essential elements required of a notarial deed (Section 47), the attestation of prescription must contain:

- a) A declaration of the party to the deed that the conditions for prescription laid down in a specific law<sup>6)</sup> have been met, including in particular the circumstances justifying lawful determination of the beginning, duration and uninterrupted nature of prescription. The party's declaration shall be supported by:



1. Statements of the persons being the holders of a title, or of a right equivalent to easement, to the real property as per the last entry in the Land Register, or of the legal successors of such persons, insofar as they are known, that they have no objections against the acquisition of the title, or of the right equivalent to easement, through prescription; the signatures attached to such statements must be officially authenticated;

2. A statement of the municipality in whose cadastral area the real property is located that the acquisition of the title or of a right equivalent to easement through prescription does not prejudice the municipality's lawful interests;

3. Where the real property is situated outside the developed area of a municipality, a statement of the legal entity competent for the administration of the real property under a specific law<sup>6a)</sup> or authorised to dispose of the real property under a specific law<sup>6b)</sup> that the legal entity has no objections against the acquisition of the title or of the right equivalent to easement through prescription; the signatures attached to such statements must be officially authenticated;

b) References to the proofs presented to the notary in support of the matters being attested;

c) Indication of the date as to which the party to the deed has acquired the title, or the right equivalent to easement, to the real property.

(2) The declarations referred to in paragraph (1) must not be made through a proxy.

(3) Where the municipality does not indicate any interests in the statement referred to in sub-paragraph (1) (a), or does not submit its statement within three months from the receipt of the request for statement, the municipality's interests shall be deemed unprejudiced.

(4) Where the legal entity referred to in the third item in sub-paragraph (1) (a) does not submit its statement within three months from the receipt of the request for statement, the legal entity shall be deemed to have no objections.

### **Section 63a**

#### **Attestation of the satisfaction of conditions required by a specific law**

Based on presented documents, a notary shall attest the satisfaction of conditions required by a specific law<sup>6baa)</sup> in form of a notarial deed indicating the particular conditions to which the attestation relates and the manner in which the satisfaction of those conditions was established, and containing a certification statement stating that no impediments have been identified to prevent the party to the deed from proceeding according to the specific law.<sup>6baa)</sup>

### **Section 64**

#### **Attestation of other matters**

(1) A notary shall be authorised to attest other matters, including without limitation the process of a drawing or presentation of things of legal relevance, which took place in the presence of the notary.

(2) To that end, the notary shall draw up a notarial deed containing an accurate description of the event which took place in the presence of, and was witnessed by, the notary and indicating the place and time of the event being attested, and the name, surname, permanent address or registered office, as applicable, of the person requesting the attestation and of the persons participating in the event.

(1) The notarial deed may also attest the identity of the person requesting the attestation and of the persons participating in the event, subject to the requirements laid down in Section 48.

#### **DIVISION FOUR ADMINISTRATION OF ESCROWS**

##### **Section 65**

(1) The administration of escrows by a notary shall consist in the acceptance for safekeeping of:

- a) Testaments;
- b) Other instruments or materialised securities (hereinafter “instruments”);
- c) Money;
- d) Movable assets in case of escrow for the purposes of fulfilling an obligation;

(2) A notary may accept an instrument for escrow to dispose of the instrument

- a) in accordance with the depositor’s instructions; or
- b) in accordance with the agreement made between the depositor and the beneficiary; or
- c) to fulfil an obligation.

(3) A notary may accept money for escrow to dispose of the money

- a) in accordance with the depositor’s instructions; or
- b) in accordance with the agreement made between the depositor and the beneficiary; or
- c) in accordance with a specific law<sup>6ba</sup>); or
- d) to fulfil an obligation.

(4) When administering an escrow, the notary shall draw up a deed of escrow with the depositor; the notary may also draw up a deed with the beneficiary if so requested by either the depositor or the beneficiary.

(5) Where the deed of escrow is drawn up only with the depositor and the disposition of the asset to be held in escrow is to be governed by the agreement made between the depositor and the beneficiary, the beneficiary’s signature attached to the agreement must be officially authenticated.

(6) During the term of escrow, the notary shall handle the asset held in escrow in such manner that guarantees the achievement of the purpose of the escrow. The notary shall not be authorised to use the asset held in escrow to fulfil any third-party claims existing under specific laws.<sup>6bb</sup>)

##### **Section 66 Escrow of a testament**

(1) In addition to the essential elements required under Section 47, a deed of escrow in respect of a testament must contain:

- a) An indication of the place and time of the receipt of the testament;
  - b) An indication of the type of testament;
  - c) A statement that the testament was accepted by the notary for escrow;
  - d) A statement that the depositor was informed about the requirements for the formal elements and contents of a testament;
- b) The testator's name, surname, date of birth, personal ID and permanent address, and the place and time of the signature of the testament
- (2) A notary shall draw up a deed of escrow for a testament with either the testator or with his or her authorised representative holding a special power of attorney authorising the representative to place the testament in escrow. The principal's signature attached to the power of attorney must be officially authenticated, unless the attorney-in-fact is at the same time an attorney at law. The notary shall without undue delay register the acceptance of the testament for escrow in the Notarial Central Register of Testaments.
- (3) The notary may release the testament from escrow only as provided for in a specific law.<sup>6bc)</sup> In case of such release of the testament, the notary shall draw up an official record of the state and contents of the testament. The notary shall without undue delay register the release of the testament from escrow in the Notarial Central Register of Testaments.
- (4) A notary may return a testament held in escrow only to the testator or to his or her authorised representative holding a special power of attorney authorising the representative to take the testament from escrow. The principal's signature attached to the power of attorney must be officially authenticated, unless the attorney-in-fact is at the same time an attorney at law. The notary shall draw up an official record of the return of the testament from escrow to the testator or to his or her authorised representative, indicating the place, date and time when the testament was returned from escrow. The testator or the testator's authorised representative shall acknowledge the receipt of the testament by signing the official record. The notary shall without undue delay register the return of the testament from escrow in the Notarial Central Register of Testaments.

## **Section 67**

### **Escrow of an instrument**

- (1) In addition to the essential elements required under Section 47, a deed of escrow in respect of an instrument must contain:
- a) An indication of the place and time of the receipt of the instrument;
  - b) A description of the instrument with such scope as enables the identification of the instrument;
  - c) A statement that the instrument was accepted by the notary for escrow;
  - d) The depositor's order or an agreement between the depositor and the beneficiary specifying the conditions on which the notary should release the instrument to the beneficiary, or return the instrument to the depositor if the escrow is not intended for fulfilling an obligation.
- (2) If the depositor waives the right of disposition of the instrument being placed in escrow, the disposition of the instrument shall pass to the notary.
- (3) The notary shall release the instrument from escrow without undue delay as soon as the conditions for release have been fulfilled as stipulated in the deed of escrow. The notary shall make an official record of the release of the instrument from escrow, which record must contain an express

statement that the conditions for release of the instrument to the beneficiary have been met and the notary has released the instrument. If the beneficiary is present, he or she shall confirm the receipt of the instrument by signing the official record.

(4) The notary shall return the instrument from escrow to the depositor without undue delay as soon as the conditions for return have been fulfilled as stipulated in the deed of escrow. The notary shall make an official record of the return of the instrument from escrow, which record must contain an express statement that the conditions for return of the instrument to the depositor have been met and the notary has returned the instrument. If the depositor is present, he or she shall confirm the receipt of the instrument by signing the official record.

(5) The notary shall without undue delay notify the release or return, as applicable, of the instrument from escrow to both the depositor and the beneficiary.

## **Section 68**

### **Escrow of money**

(1) In addition to the essential elements required under Section 47, a deed of escrow in respect of money must contain:

a) An indication of the amount and currency of the money being placed in escrow;

b) A statement that the money has been deposited in the notary's account and received by the notary for escrow, or is to be deposited in the notary's account within a particular time limit designated by the depositor;

c) The identification of the bank, or the branch of a foreign bank, in which the money received for escrow will be deposited;

d) An indication of the purpose of escrow, as designated by the depositor;

e) The depositor's order or an agreement between the depositor and the beneficiary specifying how the notary should dispose of the money if the escrow is not intended for fulfilling an obligation;

f) The depositor's statement of waiver of the right of disposition of the money if the escrow is not intended for fulfilling an obligation;

d) The identification of the bank, or the branch of a foreign bank, and the name and number of the depositor's account and of the account to which the money is to be released to the beneficiary or returned to the depositor, respectively, as appropriate, if the escrow is not intended for fulfilling an obligation.

(2) Where the money is not deposited in the notary's account at the time the deed is drawn up, the notary shall issue a certificate of the receipt of the money for escrow without undue delay after the money has been deposited in the notary's account.

(3) The disposition by the notary of the money held in escrow shall follow the depositor's disposition order or the disposition agreement made between the depositor and the beneficiary.

(4) The notary shall release the money from escrow without undue delay as soon as the conditions for release to the beneficiary have been fulfilled as stipulated in the deed of escrow. The notary shall draw up an official record of the fulfilment of conditions and release of money from escrow. If the beneficiary and/or the depositor so requests, the notary shall issue a certificate stating that the conditions for the release of money to the beneficiary have been fulfilled and the money released, and an indication of the amount and currency of the sum released from escrow, and the

identification of the bank, or the branch of a foreign bank, and the name and number of the depositor's account to which the money has been released.

(5) The notary shall return the money from escrow to the depositor without undue delay as soon as the conditions for return have been fulfilled as stipulated in the deed of escrow. The notary shall draw up an official record of the fulfilment of conditions and return of money from escrow. If the depositor so requests, the notary shall issue a certificate stating that the conditions for the return of money to the depositor have been fulfilled and the money returned, and an indication of the amount and currency of the sum returned from escrow, and the identification of the bank, or the branch of a foreign bank, and the name and number of the depositor's account to which the money has been returned.

(6) The notary shall without undue delay notify the return of the money from escrow to both the depositor and the beneficiary.

(7) Where the money placed in escrow constitutes proceeds from the sale of a collateral under a specific law<sup>6ba</sup>), the notary shall retrieve from the Notarial Central Register of Pledges (hereinafter "register of pledges") or the Land Register or a special register, as appropriate, the other pledges concerned and notify them of the escrow of money. The release by the notary of the proceeds from the sale of the collateral from escrow shall follow a specific law.<sup>6bab</sup>)

## Section 68a

### Escrow for the purposes of fulfilling an obligation

(1) A notary shall accept at the depositor's request an instrument, money or a movable asset for escrow for the purposes of fulfilling an obligation under a specific law.<sup>6bac</sup>)

(2) An asset cannot be accepted for escrow for the purposes of fulfilling an obligation if it is not suitable for safekeeping, such as any perishable articles or articles of a nature or size that prevents their placement in a safe box of the notary or a bank or a branch of a foreign bank and it is impossible to find a suitable third-party safe-keeper.

(3) The notary shall without undue delay publicly announce the receipt of the asset for escrow for the purposes of fulfilling an obligation on the Bar's website.

(4) The deed of escrow for the purposes of fulfilling an obligation must include the depositor's declaration that the obligation cannot be fulfilled because of the creditor's absence or delay or of the depositor's reasonable doubt as to the identity of the creditor, or of the fact that the creditor is not known to the depositor.

(5) In addition to the general essential elements required under Section 47, a deed of escrow of a movable asset for the purposes of fulfilling an obligation must contain:

- a) An indication of the place and time of the receipt of the asset;
- b) Such a description of the asset that excludes any confusion;
- c) A statement that the asset was accepted by the notary for escrow and an indication of the location where the asset will be kept;
- d) An indication of the purpose of escrow, as designated by the depositor;

(6) The release by the notary of the asset held in escrow for the purposes of fulfilling an obligation shall follow a specific law.<sup>6bad</sup>)

(7) The notary shall acknowledge the release of the asset held in escrow for the purposes of fulfilling an obligation by issuing a certificate of release to the depositor and the beneficiary or the person to which the asset was released.

(8) The provisions of Sections 67 to 68 shall apply, *mutatis mutandis*, to escrows for the purposes of fulfilling an obligation.

## DIVISION FIVE NOTARIAL CENTRAL REGISTERS

### Section 73a

(1) Notarial central registers are public registers kept by the Bar in an electronic form in which data prescribed by law shall be entered.

(2) Data entered in the notarial central registers shall have a legal effect on everyone as of the date of entry. Nobody concerned by an entry in a notarial central register may challenge an action of a party relying *bona fide* on such entry on the ground that the entry is not consistent with the real facts.

(3) A notary shall issue certificates and excerpts of the data entered in the notarial central registers, which shall constitute authentic instruments (Section 3 (3)).

### Section 73aa

A notary may issue transcripts of data entered in special registers, unless a specific law provides otherwise, and attest the accuracy of such data.

### Section 73b

#### Notarial Central Register of Designated Legal Entities

(1) A notary shall make entries in the register of designated legal entities as provided for in a specific law.<sup>2d)</sup>

(2) The notary shall issue a certificate of an entry to the requesting party (Section 64).

### Section 73c

#### Notarial Central Register of Testaments

(1) The Bar shall keep the Notarial Central Register of Testaments containing records of undisclosed testaments and other instruments drawn up for the case of death which have a form of a notarial deed and are held in escrow by notaries.

(2) Upon request of the court, or the notary commissioned by a court to administer the probate proceedings, the Bar shall notify the court or the notary whether or not any testament of a testator has been registered, and if so, by whom it is held in escrow. Such a request shall not be accepted if submitted during the life of the testator.

### **Central Notarial Register of Pledges**

#### **Section 73d**

(1) The Bar shall keep the register of pledges containing the following information:

a) The name and surname (business name), residential address, permanent address (registered address) and date of birth (registration number) of the pledgor;

b) The date and time of the registration of the pledge;

c) A reference to the claim secured by the pledge and the due date, if established, and value of the claim; if the value of the claim was not established at the time the pledge was created, the maximum value of the principal amount up to which the claim is secured;

d) A clear designation of the collateral that will allow the identification of the asset, right or other tangible value at any time throughout the duration of the pledge; and where the collateral is a business or its part, an express indication to that effect;

e) The name and surname (business name), residential address, permanent address (registered address) and date of birth (registration number) of the debtor, if different from the pledgor;

f) The name and surname (business name), residential address, permanent address (registered address) and date of birth (registration number) of the pledgee or the person authorised to act on behalf of the pledgee; where the party being registered is the latter, an express indication to that effect must entered;

g) The commencement of the exercise of the pledge;

h) The deletion of the pledge from the register of pledges;

i) The identification of the notary making the entry.

(2) Further indications required by law with regard to a pledge may be made in the remarks section of an entry, including without limitation:

a) For a pledge created for a definite term, the term for which it is created;

b) The order in which security interests are to be satisfied, if different from the order of entry of those interests;

c) Such other details as required by law.

(3) The provision of Section 73a (2) shall not apply to the register of pledges.

#### **Section 73e**

(1) A notary shall register a pledge, any changes in the details of a pledge and the commencement of the exercise of a pledge, and delete a pledge from the register of pledges, upon request of the authorised person, as referred to in a specific law.<sup>6bb)</sup>

(2) The person filing the request for registration referred to in paragraph (1) shall present to the notary a proof of identity, and where such person is different from the authorised person, a proof of his or her authority to act.

### Section 73f

(1) The person filing a request for the registration of a pledge shall present to the notary all details prescribed by law for the entry in the register of pledges. Where the pledge has been created under an approved agreement of heirs on the settlement of succession, or an order of a court or an administrative authority, the person filing the request for registration of the pledge shall be obligated to present to the notary the order under which the pledge was established.

(2) Before entering the pledge in the register of pledges, the notary shall:

(2) Establish the identity of the person filing the request for registration, and where such person is different from the authorised person, check his or her authority to act;

b) Check that the request for registration of the pledge contains all the particulars required under Section 73d (1) sub-paragraphs (a), and (c) to (f);

(3) Where the pledge has been created under an order of a court or an administrative authority, the notary shall make the registration upon delivery of the order under which the pledge was established.

### Section 73g

(1) The person filing a request for the registration of changes in the details of the pledge shall present to the notary all details prescribed by law for the entry in the register of pledges. Where a specific law so requires, the person filing the request for registration of changes in the details of the pledge shall present to the notary instruments evidencing the change in details. Where the changes in details arise from an order of a court or an administrative authority, the person filing the request for registration of the change in the details of the pledge shall be obligated to present to the notary the order from which the change arises.

(2) Before entering the change in the details of a pledge in the register of pledges, the notary shall:

(2) Establish the identity of the person filing the request for registration, and where such person is different from the authorised person, check his or her authority to act;

b) Check that the request for registration of the change in the pledge details contains all the particulars required by law.

(3) Where the pledge has been created under an order of a court or an administrative authority, the notary shall make the registration of the change in the pledge details upon delivery of the order under which the pledge was established.

(4) Paragraphs (1) to (3) shall apply, *mutatis mutandis*, to the deletion of a pledge from the register of pledges.



### **Section 73h**

(1) A notary shall register a pledge and any changes in the details of a pledge and the commencement of the exercise of a pledge, and delete a pledge from the register of pledges, without undue delay after having checked the registration conditions referred to in Sections 73f and 73g and having received the registration request from the authorised person.

(2) Upon registration, the notary shall issue to the requesting party a certificate of registration.

### **Section 73i**

(1) Anyone shall have the right to consult, and request excerpts from, the register of pledges. Upon request, a notary shall issue an excerpt from the register of pledges or a certificate that a particular registration is not entered in the register of pledges.

(2) Details of the register of pledges and the keeping, maintenance, updating and control of the register of pledges and the registration procedures shall be laid down in a law of general application to be enacted by the Ministry.

### **Section 73j**

#### **Notarial Central Register of Auctions**

(1) The Bar shall keep the Notarial Central Register of Auctions containing a list of announced auctions.

(2) The list of announced auctions shall indicate, in particular, the object of auction, the auctioneer, the initiator of the auction, and the place and time of the auction.

(3) Upon request of an authorised person, a notary shall ensure the registration in the Notarial Central Register of Auctions of the details of a voluntary auction prescribed by law and issue a certificate of such registration to the requesting party.

### **Section 73k**

#### **Notarial Central Register of Instruments**

(1) The Bar shall keep the Notarial Central Register of Instruments (hereinafter “register of instruments”) containing judicial instruments, as provided for in a specific law, the notarial deeds drawn up by a notary and other instruments whose registration is requested by a natural person or a legal entity.

(2) A notary shall ensure the filing of a notarial deed in an electronic form in the register of instruments on the date when the instrument has been signed.

(3) Upon request of a natural person or a legal entity, a notary shall ensure the filing of the original of an instrument in the register of instruments in an electronic form.

(4) Upon request of a natural person or a legal entity, any notary may issue an authenticated copy of a notarial deed from the register of instruments, subject to the provision of Section 74, and an authenticated copy of an instrument filed in the register of instruments, subject to the approval of, or the terms determined by, the natural person or legal entity. Upon request of a court, a notary shall issue to the court for the purposes of court proceedings an authenticated copy of an agreement of mediation and a certificate of completion of mediation<sup>6bc</sup>). A notary shall not be authorised to delete any agreement of mediation or certificate of completion of mediation from the register of instruments.

## DIVISION FIVE

### ISSUANCE OF COPIES, EXCERPTS AND CERTIFICATES

#### Section 74

(1) Authenticated copies shall be issued of notarial deeds other than deeds of testaments.

(2) Unless the notarial deed provides otherwise, authenticated copies may be issued to the parties to the deed or their representatives, whether singly or repeatedly. A copy may be issued to other persons to the extent such other persons produce a proof of legal interest therein. The foregoing shall also apply to the consultation of notarial deeds.

#### Section 75

(1) A copy of a notarial deed must be true to the original. Such excerpt must also include the copies of any powers of attorney and other documents enclosed with the deed.

(2) Any such copy must be authenticated by the notary. The statement of authentication must include a confirmation that the copy is true to the original and the date on which it was made. The notary shall affix his or her signature and official stamp to the statement of authentication of the copy.

#### Section 76

Where the notarial instrument is drawn up in respect of several individual legal acts, a party to the deed may receive instead of a full copy of the instrument an excerpt from it concerning an individual legal act. Such document must contain an indication that is an excerpt only. The issuance of excerpts shall be subject, *mutatis mutandis*, to the provisions of Sections 74 and 75. An excerpt shall not constitute and authentic instrument within the meaning of Section 3 (3).

#### Section 77

An authenticated copy of a notarial deed filed in the Notarial Central Register of Instruments may be issued by any notary.

### **Section 79**

The issuance of copies, excerpts and certificates of facts known from the files and other instruments kept by a notary shall follow, *mutatis mutandis*, the foregoing provisions. A certificate of facts shall identify the matter to which it relates and the facts being certified, the person to whom, and the purpose for which, the certificate is issued, and the date of issue and the notary's signature and official stamp.

## **PART FIVE**

### **HANDLING AND SAFEKEEPING OF FILES**

#### **DIVISION ONE**

### **Section 80**

#### **Handling of files**

(1) Files not yet closed shall be kept in the notary's office in a manner making the files readily accessible to the notary and to audit authorities at any time. Where the notary does not keep the file in his or her office, a clear reference to the location of the file must be entered in the relevant register.

(2) Unless otherwise provided by law, the handling of notarial deeds shall be subject, *mutatis mutandis*, to the provisions of Sections 81 to 83.

#### **Consultation of Files**

### **Section 81**

(1) Authorised persons and competent authorities referred to in Section 82 shall be allowed to consult files not deposited in the notarial archive solely in the notary's office and under supervision by the notary or a person appointed by the notary. Any consultation of a file shall be recorded.

(2) Upon justified request of authorised persons and competent authorities referred to in Section 82, a file may be sent by registered mail to another notary's office where the file will be made available for consultation.

(3) Files relating to activities referred to in Section 5 shall be available for consultation only to the party concerned; any consultation by other parties shall be subject to approval of the party concerned.

(4) Authorised persons and competent authorities referred to in Section 82 shall also be allowed to consult registers, subject to the same conditions as apply to the consultation of files. Any consultation of registers shall be recorded.

### **Section 82**

(1) For the purposes of Section 81, competent authorities shall include the Presidium of the Bar, the Minister and the Ministry's personnel appointed by the Ministry, law enforcement authorities, financial control bodies and courts, each of them to the extent of their powers.

(2) For the purposes of Section 81, authorised persons shall include the parties to whose matters the file relates and their legal successors and representatives, and a sworn expert appointed and directed to consult the file by a competent authority referred to in paragraph (1).

(3) During a testator's life, the right to consult the notarial deed of his or her testament shall pertain solely to the testator.

### **Section 83**

#### **Lending of Files**

(1) A notary may lend his or her files upon justified request to other notaries, authorities referred to in Section 82 (1), and to sworn experts in circumstances referred to in Section 82 (2).

(2) During a testator's life, the notarial deed of his or her testament must not be lent to anyone.

(3) Files relating to activities referred to in Section 5 may be lent only with the approval of the party concerned.

### **Section 84**

#### **Recovery of Files**

(1) A notary shall recover files that have been destroyed or lost, whether in full or in part, upon petition of the parties concerned, or at the request of a court of first instance in respect of a matter on which the notary acted as a court's commissioner (Section 3 (2)), or without any petition.

(2) The notary shall execute authenticated copies of instruments borrowed from the parties concerned or their legal successors, or from another notary, a Land Register body, another authority or a sworn expert. The notary shall attach to such copies a statement that the document is executed *in lieu* of an instrument that has been destroyed or lost.

(3) The notary may also perform steps to establish the details of an instrument, including without limitation hearing the parties concerned or their legal successors; the notary shall attest the contents of the instrument by a notarial deed stating all the facts established by the notary. The notary shall produce a certificate containing the statements of the parties concerned or their legal successors regarding the contents of the instrument.

## **DIVISION TWO**

## SAFEKEEPING OF CLOSED FILES

### Section 85

- (1) Closed files shall be kept separately, organised by subject-matter, in the notary's office.
- (2) Closed files shall be kept in the office of the notary who has executed the files, or in another safe location, throughout the duration of that notary's notarial office.

## DIVISION THREE

### NOTARIAL ARCHIVE

### Section 86

- (1) The files, registers and official stamps of notaries whose notarial office has been terminated shall be kept in the notarial archive.
- (2) The notarial archive shall be kept by the court of first instance in whose district of jurisdiction the notary held his or her office.

### Section 87

- (1) When the notarial office has been withdrawn and the execution of the notarial office terminated, the files, registers and the notary's official stamp shall be handed over to the respective court of first instance; the foregoing shall not apply if the notarial office is terminated under Section 14 (1) (e), or if the notary is commissioned for a different notarial office (Section 10). If any immediate measures need to be taken, including without limitation taking the possession of and temporarily safekeeping the files, registers and official stamp, they shall be carried out by the court of first instance.
- (2) A written record shall be written down of the hand-over of the files, registers and official stamp.

### Section 88

- (1) Once deposited in the notarial archive, the files shall be subject to laws governing the safekeeping of court files.
- (2) Any excerpts, copies and certificates from and of notarial files kept in the notarial archive shall be issued by the competent court at the request of authorised persons. The consultation and lending of such files shall be subject to, *mutatis mutandis*, the provisions in Sections 81 to 83.

## PART SIX

### SUPERVISION OF THE ACTIVITIES OF NOTARIES AND EXERCISE OF DISCIPLINARY POWERS

### Section 89

(1) The state supervision of notaries' activities, as referred to in Section 3 (1), and of the Bar shall be exercised by the Ministry.

(2) The Bar shall supervise the notaries' activities referred to in Section 3 (1) as well as the running of notarial offices. The Bar's supervision shall be exercised in particular by way of handling complaints under a specific law<sup>6c)</sup> and auditing files, instruments, objects of escrow and registers. If any irregularities are identified, the Bar's competent body shall impose on the notary the obligation to correct such irregularities within a reasonable time limit.

(3) Complaints against notaries shall be handled by the Bar. Complaints against the Bar shall be handled by the Ministry.

(4) During the exercise of the state supervision and the supervision referred to in paragraph (1) and (2), respectively, the notary shall allow the supervisors to access the premises of the notarial office, and provide the supervisors with all necessary information and supporting materials, for the purposes of audit.

### Section 90

(1) A notary who has breached his or her obligations arising from the notarial office, or who has behaved in a manner impairing his or her dignity and honour, may be sanctioned by disciplinary measures including an oral or a written reprimand.

(2) The authority to decide on the imposition of disciplinary measures shall be with the Presidium of the Bar.

(3) No remedy against a decision to impose disciplinary measures shall be available.

### Section 91

(1) Misconduct shall mean a culpable gross or repeated breach of obligations to which the performance of activities of a notary is subject under this Act or a specific law<sup>1a)</sup>, or a culpable gross or repeated breach of other obligations arising from this Act or the Notary's Code of Ethics or the Bar's internal rules or resolutions, or a conduct by which the dignity and honour of the notaries' profession is grossly or repeatedly impaired, or continued performance of an activity which is incompatible with the activities of a notary. Misconduct shall also mean a notary's culpable action resulting in delays in probate proceedings or in disciplinary action, and a failure to respect a lawfully imposed disciplinary measure.

(2) Misconduct may be sanctioned by a disciplinary measure.

(3) Disciplinary measures shall include the following:

a) A written reprimand;

b) A monetary fine of up to EUR 3,300;

c) Suspension of the exercise of the notarial office for at least two months and no more than 24 months;

d) Withdrawal of the commission as a notary.

(4) A candidate notary appointed as a notary's representative may be sanctioned by the disciplinary measures referred to in paragraph (3) (a) and (b) or by withdrawal of the notary's commission.

(5) Fines paid under paragraph (3) (b) shall be earned by the Bar.

## Section 92

A motion to initiate disciplinary action may be filed by the Minister, the chair of a county court and the President of the Bar (hereinafter "initiator") within one year of the date when the misconduct has been established, and no later than three years of the date when the misconduct was committed. The notary or candidate notary concerned may select a lawyer or a notary to represent him or her as a defence attorney in the disciplinary action.

## Section 92a

(1) Everyone shall be obligated to provide the Disciplinary Committee with all necessary explanations required for the consideration of a motion to initiate disciplinary proceedings; a person shall have the right to refuse to give such explanation to the extent he or she could otherwise inflict a risk of criminal prosecution on the person himself or herself, or on his or her close person.<sup>1d)</sup>

(2) Anyone who is under the obligation to give a statement as witness in disciplinary action must tell the truth and not withhold anything.

(3) A witness may refuse to give a statement if giving the statement would lead to disclosing a classified matter or bank secret or tax secret or trade secret, or a breach of an obligation of confidentiality expressly imposed or recognised by law, unless the witness has been released from such obligation by a competent authority or the obligee.

(4) A person shall also have the right to refuse to give a statement to the extent he or she could otherwise inflict a risk of criminal prosecution on himself or herself, or on his or her close person.<sup>1d)</sup>

(5) Before the hearing, the Disciplinary Committee shall inform the witness of his or her right to refuse to give a statement and his or her obligation to tell the truth and not withhold anything, and on the legal consequences of giving a false or an incomplete statement.

(6) The Disciplinary Committee may impose, whether singly and repeatedly, a disciplinary fine of up to EUR 200.00 on anyone who hampers the process of the disciplinary action by failing without justified reasons to appear before the Disciplinary Committee upon its request or disturbing order despite a previous reprimand or refusing without a justified reason to give a statement as a witness or an explanation, or to submit an instrument.

## Section 93

(1) The Disciplinary Committee shall impose disciplinary measures through its panels.

(2) The Disciplinary Committee shall send the decision on the disciplinary measure no later than 30 days after the date the decision was issued.

(3) The person against whom the disciplinary measure referred to in paragraph (1) was issued may challenge the Disciplinary Committee's decision imposing the disciplinary measure within 15 days

from the receipt of the decision; the decision may also be challenged by the initiator. The challenge shall be filed with the Bar. The challenge shall be considered by the county court in whose district of jurisdiction the notary concerned has his or her seat.

(4) The disciplinary action shall be interrupted if the accused person has been removed from the notarial office under Section 14 (2) (a); the disciplinary action shall be resumed if the accused person has been re-commissioned as a notary.

(5) The time limits laid down in this Act shall be interrupted during any time of interruption of the disciplinary action.

#### **Section 94**

(1) Subject to consultation of the Bar, the Minister may suspend the exercise of a notarial office

d) if criminal proceedings have been initiated against the notary for an intentional criminal offence or a criminal offence concerned with his or her activity as a notary, until the relevant decision becomes final;

b) if proceedings regarding the notary's legal capacity have been commenced, until the relevant decision becomes final.

(2) The Minister shall suspend the exercise of the notarial office for a notary who serves a custodial sentence for the time the sentence is served, unless reasons for removal of the notary from the notarial office exist; and for a notary found guilty of an intentional criminal offence or a criminal offence concerned with his or her activity as a notary for the time until the judgement of the court of the first instance becomes final.

(3) The notary shall not be allowed to perform the activities as a notary during any time when his or her exercise of the notarial office has been suspended.

### **PART SEVEN**

#### **NOTARY'S FEE**

#### **Section 95**

(1) In consideration of the activities performed under this Act, a notary shall be entitled to a fee and to reimbursement for his or her out-of-pocket expenses and the time spent performing those activities, which shall constitute the notary's income.

(2) Before executing a notarial act, the notary shall inform the party concerned of the estimated amount of the fee; failing that, the notary's entitlement to the fee shall lapse. The foregoing shall not apply if the notarial act needs to be executed without delay.

(3) A notary may request an advance for the notary's fee and for the reimbursement of out-of-pocket expenses in a reasonable amount.

(4) The amount of the notary's fee and the method of determination of the same shall be established by the Ministry through a law of general application.

#### **Section 96**



The payer shall be the party requesting the execution of the notarial act. Where the execution of the notarial act is requested by more than one person, those persons shall be liable for the payment of the fee jointly and severally.

#### **Section 97**

The remuneration of a notary for his activities as a court commissioner shall be governed by a specific law.<sup>7)</sup>

### **PART EIGHT**

#### **COMMON, TRANSITIONAL AND FINAL PROVISIONS**

#### **Section 97a**

Details of the administration of a notarial office, the format of instruments and the signing of the same, and the creation and circulation and discarding of files shall be governed by the Notarial Office Rules to be enacted by the Ministry through a law of general application.

#### **Section 98**

A state notary holding the office as of the date of withdrawal of state notarial offices shall become a notary under this Act if such state notary applies to the Minister for commissioning as a notary under this Act in the seat of the court of first instance within whose district of jurisdiction the notary was last commissioned as a state notary, which application must be submitted within 30 days from the effective date of this Act. If such notary applies for the commission for a different seat within the district of jurisdiction of the same court or a different court, the Minister shall grant such commission, if deemed reasonable, with effect as of the effective date of this Act.

#### **Section 99**

Until the Bar commences its operation, its function shall be exercised by the Ministry; the Ministry shall summon the constitutive meeting of the Bar no later than 10 days from the effective date of this Act.

#### **Section 100**

(1) The court of first instance within whose district of jurisdiction the state notarial office was last operated shall take over all files, documents, registration means and notarial stamps of the state notarial office as of the effective date of this Act, unless a specific law provides otherwise.

(2) The court of first instance shall also take over all escrows kept by the state notarial office in an iron cabinet and escrows registered in the Escrow Register and kept by a third-party custodian.

(3) With effect from the effective date of this Act, the custody of notarial deposits and current accounts opened with a financial institution shall pass to the competent court of first instance.

#### **Section 100a**

The references to university degrees in Section 11 (1) (b) and Section 21 (1) (b) shall be deemed to include university degrees obtained from a faculty of law of a university seated in the former Czech and Slovak Federal Republic.

#### **Section 100b**

##### **Transitional provision effective from 01 September 2003**

(2) If the Bar does not file a petition for removal of a notary, as provided for in paragraph (1), after the expiry of the time limit, the Ministry may remove the notary without petition.

#### **Section 100c**

##### **Transitional provision concerning the legislation effective from 01 September 2009**

Notarial deeds executed before or on 31 August 2009 shall be governed by the provisions of the Act effective by 31 August 2009.

#### **Section 100d**

##### **Transitional provision concerning the legislation effective from 01 January 2014**

The exercise of the notarial office by a notary who has reached the age of 67 years before or on 31 August 2013 shall be terminated as of 30 June 2014.

#### **Section 100e**

##### **Transitional provision concerning the legislation effective from 01 December 2015**

Where the notary's employment relationships with his or her employees came into existence before 1 December 2015 and do not comply with the requirements of the provisions of this Act effective from 1 December 2015, the notary shall ensure that those employment relationship be brought into compliance with the requirements of the provisions of this Act effective from 1 December 2015 no later than 31 January 2016.

### **Article III**

The Act of the Slovak National Council No 330/1991 on land consolidation measures, ownership settlement procedures, land administration offices, stock of land and land holder communities shall be amended as follows:

In Section 41 (3), the words "state notarial offices" shall be deleted.

#### **Article IV**

The Act of the Slovak National Council No 293/1992 on the consolidation of certain titles to real property shall be amended as follows:

1. The words "a state notarial office" shall be replaced with the word "notary", except Section 17.
2. Section 22 shall be deleted.

#### **Article V**

This Act shall come into effect on 1 January 1993.

**F. Mikloško *m.p.***

**J. Čarnogurský *m.p.***

**Annex 1**  
**to the Act of the Slovak National Council No 323/1992**

**Specimen official stamp of a notary:**



**Annex 2**  
**to the Act of the Slovak National Council No 323/1992**

**Designation of the notary's office:**



**Footnotes**

<sup>1)</sup> Sections 7 and 9 of the Act No 275/2006 on the information systems of public administration and on amendments to certain laws, as amended

<sup>1a)</sup> For example, the Code of Civil Procedure

<sup>1aa)</sup> Act No 420/2004 on mediation and on amendments to certain laws, as amended

<sup>1b)</sup> Act No 244/2002 on arbitration, as amended by the Act No 521/2005

<sup>1c)</sup> Section 128 (1) of the Criminal Code

<sup>1d)</sup> Section 116 of the Civil Code

<sup>1e)</sup> Act No 365/2004 on equal treatment in certain areas and protection against discrimination and on amendments to certain laws (Antidiscrimination Act), as amended

<sup>2)</sup> Section 5 of the Act No 131/2002 on universities and on amendments to certain laws.

<sup>2a)</sup> Act No 586/2003 on the attorney's profession and on amendments to the Act No 455/1991 on trades (Trades Regulation Act), as amended. Act of the National Council of the Slovak Republic No 233/1995 on court bailiffs and their activities (Code of Enforcement Procedure) and on amendments to certain laws, as amended Act No 385/2000 on judges and associate judges and on amendments to certain laws, as amended Act No 154/2001 on prosecutors and candidate-prosecutors and on amendments to certain laws, as amended

<sup>2b)</sup> Criminal Code, as amended

<sup>2c)</sup> Act No 330/2007 on the Criminal Register and on amendments to certain laws, as amended

<sup>2ca)</sup> Section 13 (4) of the Act No 330/2007 on the Criminal Register and on amendments to certain laws, as amended

<sup>2d)</sup> For example, the Act No 366/1999 on income taxes, as amended by the Act No 561/2001

<sup>2da)</sup> Act No 122/2013 on personal data protection and on amendments to certain laws, as amended

<sup>2e)</sup> For example, Section 11 (9) of the Act of the National Council of the Slovak Republic No 278/1993 on the management of the state's property, as amended; Section 1 (2) and Sections (6) to (35) of the Act No 747/2004 on the supervision of the financial market and on amendments to certain laws, as amended

Act No 514/2003 on liability for actions in the exercise of public power and on amendments to certain laws

<sup>4)</sup> Act of the National Council of the Slovak Republic No 270/1995 on the state language of the Slovak Republic, as amended

<sup>4a)</sup> Article 22 of the Regulation of the European Parliament and of the Council No 650/2012 of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ EU L 201, 27.7.2012)

<sup>5)</sup> Act No 191/1950 on bills of exchange, promissory notes and cheques

<sup>6)</sup> Section 134 of the Civil Code

<sup>6a)</sup> For example, Section 11 of the Act No 61/1977 on forests, as amended by the Act of the National Council of the Slovak Republic No 183/1993; the Act No 92/1991 on the conditions of a transfers of the state's property to other persons, as amended; Section 17 of the Act No 229/1991 on the

consolidation of titles land and other farming assets, as amended; Section 34 (2) first sentence of the Act of Slovak National Council No 330/1991 on land consolidation measures, ownership settlement procedures, land administration offices, stock of land and land holder communities, as amended; the Act of the National Council of the Slovak Republic No 278/1993 on the management of the state's property, as amended; and Section 6 of the Act of the National Council of the Slovak Republic No 181/1995 on land holder communities

<sup>6b)</sup> For example, Section 34 (2) second sentence of the Act of the Slovak National Council No 330/1991, as amended by the Act No 80/1998; Section 16 (1) of the Act of the National Council of the Slovak Republic No 180/1995 on certain measures for the consolidation of titles to land

<sup>6ba)</sup> For example, Section 151ma (5) of the Civil Code; Sections 14 and 32 of the Act No 527/2002 on voluntary auctions and on amendments to the Act of the Slovak National Council No 323/1992 on notaries and notaries' activities (Notary Rule), as amended

<sup>6baa)</sup> For example, the Council Regulation (ES) č. 2157/2001 of 8 October 2001 on the Statute for a European company (SE) (Official Journal L 294 of 10.11.2001); the Act No 562/2004 on a European company and on amendments to certain laws; the Civil Code Act No 40/1964, as amended

<sup>6bab)</sup> Sections 345 to 351 of the Code of Non-contentious Civil Procedure

<sup>6bac)</sup> Section 568 of the Civil Code

<sup>6bad)</sup> Sections 335 to 344 of the Code of Non-contentious Civil Procedure

<sup>6bb)</sup> For example, the Act of the National Council of the Slovak Republic No 233/1995 on court bailiffs and their activities (Code of Enforcement Procedure) and on amendments to certain laws, as amended; the Act No 7/2005 on bankruptcy and restructuring and on amendments to certain laws, as amended

<sup>6bc)</sup> Sections 176 to 178 of the Code of Non-contentious Civil Procedure

<sup>6c)</sup> Act No 9/2010 on complaints, as amended by the Act No 289/2012

7) Code of Civil Procedure