

NOTARY AND THE IMPLEMENTATION OF INTEGRATED ELECTRONICS BUSINESS LICENSING SERVICES

by Firman Freaddy Busroh

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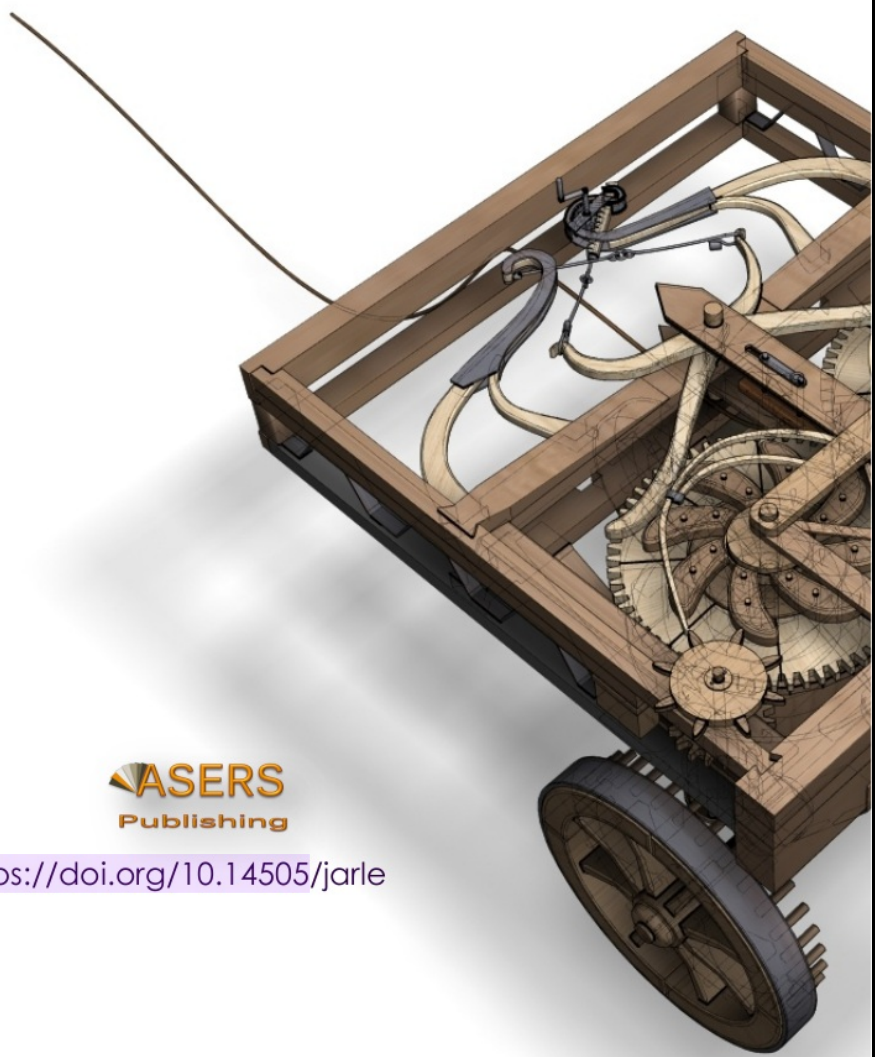
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Contents:

- 1 **Legal Regulation of Interest Rates under the Loan Agreement, with the Participation of the Borrower – the Entity, Under the Civil Law of Ukraine and Germany: A Comparative Characteristic**
by Anatoly Yu. Babaskin, and Natalya M. Parkhomenko ... 695
- 2 **Issues of Commercial Jurisdiction in the Context of Courts Specialization in Ukraine**
by Iryna Baliuk, and Olga Namiasenko ... 703
- 3 **Implementing Effective Measures for Preventing the Concealment of Criminal Offenses by the Police as a Guarantee of National Security**
by Askhat K. Bekishev, Aleksandr G. Kan, Alua S. Ibrayeva, S.S. Dyussebaliyeva, and Nurlan Salamatovich Ibrayev ... 711
- 4 **Specifics of Receiving Evidence in the Criminal Procedure of Kazakhstan**
by A.K. Bekishev, Zhansaya Umirzakova, Alua Salamatovna Ibraeva, Elizaveta Kutibaeva, and Nurlan Salamatovich Ibrayev ... 717
- 5 **Challenges in Contract Murder Investigations**
by Askhat K. Bekishev, Alua Ibrayeva, Akmaral Smanova, Lyatifa Nussipova, and Aleksandr G. Kan ... 725
- 6 **Specificity of the School-Students' Illegal Behavior Prevention in the Work of Social Teacher**
by Vitaliia. Bocheliuk, Tetiana M. Shvets, Iryna V. Shaposhnykova, Kostiantyns Shaposhnykov, and Nikita S. Panov ... 734
- 7 **Waiver in the Russian Criminal Process from the Point of View of Standards of European Court of Human Rights**
by Irina N. Chebotareva ... 746
- 8 **Res Judicata in Civil, Economic and Criminal Proceedings in Ukraine**
by Yuliia Chornous, Nataliia Volkova, Antonina Zghama, Yuliia Tsal-Tsalko, and Olha Tsybul'ska ... 753
- 9 **Activity of the European Court of Human Rights and Its Impact on Ukraine's Criminal Justice Policy**
by Pavlo L. Fris, Yurii I. Mykytyn, Sviatoslav M. Kruj, and Viktoriia V. Shpiliarevych ... 762
- 10 **Instruments for Measuring the Activity of the European Ombudsman**
by Claudiu Ignat ... 767
- 11 **Specific Notarial Protection of the Testator's Exclusive Rights: Kazakh and International Experience**
by Karlygash Asilkhanovna Jumabayeva, Lola Furkatovna Tatarinova, Gulnaztursunovna Alayeva, Saulezhusupbekovna Suleimenova, and Danila Vladimirovich Tatarinov ... 770

12	Evaluation the Role of Media and Language Policy in the Stabilization Interethnic Relations at the Present Stage: The Example of a Multinational Kazakhstan by A.T. Kashkinbayeva, B.A. Gabdulina, A.O. Kuzembayeva, M. A. Takibayev, and K.D. Zhanpeyisova ... 778
13	Administrative Coercion in the Activity of Law Enforcement Bodies by Zhanar Kegembayeva, Abzal Abdikhalikov ... 787
14	Protection of Non-Property Right by Mykhailo M. Khomenko, Anatoliy V. Kostruba, and Oleksii O. Kot ... 794
15	Separatism as a Threat to the National Security of Kazakhstan: Problems of Counteraction by Nurylbek A. Kilybayev, and Yernar N. Esteusizov ... 802
16	Philosophical and Methodological Basis of the Property Institute Study by Olena S. Kizlova, Kateryna M. Hlyniana, Natalia N. Denysiak, Valentyna V. Andrienko, and Oleh B. Hryniak ... 809
17	Balance of Interests in the Mechanism of Protection of Industrial Property Rights by Iryna Koval, Gulnara Dzhumageldiyeva, Bogdan Derevyanko, Iryna Venediktova, Nino Patsuria, and Svitlana Patiuk ... 819
18	Prospects of Improvement of Civil Liability Norms for Participants in Corporate Relations by Saule Kuanyshbayeva, Tugel Bekimbetov, Uldanay Sartbayeva, Gulmira Meirkulova, and Bakdaulet Turegeldiyev ... 828
19	Features of Group Motivation for Criminal Acts Committed on the Grounds of Religious Hatred or Hostility by Tetiana Ye. Leonenko, Maksym I. Leonenko, Oleh O. Shkuta, and Vasyl M. Yurchyshyn ... 834
20	Criminal-Legal Mechanism of Counteraction of Insider Activity in the Stock Market by K.A. Malysenko, V.A.Malysenko, E.S.Bekirova, S.N. Bekirov, S.V. Arkhipova, and M.V. Anashkina ... 842
21	Constitutional-Legal Mechanism for Ensuring the Citizens' Rights for Participation in Local State Administration in Kazakhstan by Aigerim M. Nemerebaeva, and Zhazira D. Eralieva ... 850
22	Economy and Healthcare: Their Role in Providing Medical Care and Maintaining Public Health by Michail A. Osadchuk, Alexey M. Osadchuk, Nikolay P. Korzhenkov and and Maxim V. Trushin ... 864

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- 23 ² **On the Issue of the Succession Law Reform in Russia and the European Union: Some Results of 2017-2019**
by Alexandr A. Pukhart and Hajiyev Adil Afganogly ... 871
- 24 ¹⁴ **Empowerment Model of Micro, Small, and Medium Enterprises (MSMES) Village Tourism Business in E Commerce Transactions and Legal Protection**
by Endang Purwaningsih, and Suhaeri ... 876
- 25 ¹³ **Notary and the Implementation of Integrated Electronics Business Licensing Services**
by Rianda Riviyusnita, Jauhariah Jauhariah and Firman Freaddy Busroh ... 886
- 26 **Legal Framework of Developing Corporate Governance in Healthcare Organizations in Kazakhstan**
by Indira Sovetovna Saktaganova, Gulmira Sovetovna Saktaganova, Sholpan Sherehanovna Ormanova, Elnara Ashimovna Ashimova, and Nurzhan Saulen ... 890
- 27 ¹⁶ **Criminal Procedure Aspects of the International Cooperation of States in the Field of Combating Transnational Organized Crime**
by Saida Seilkhanova, Aigerim Shegebayeva, Azina Otarbayeva, and Yestay Abilezov ... 903
- 28 **Ethics of Applying Compulsory Treatment as A Preventive Measure in Criminal Law**
by Svetlana Sheveleva, Anton Baumstein, Valeriy Novichkov, and Andrey Baybarin ... 910
- 29 **Relevant Problems of Legal Regulation of IT Modernization of Local Self-Government Technologies in Russia**
by Sergey Gennadevich Solovev, Valeriyvitalievich Kireev, and Liliya Vladimirovna Sotnikova ... 917
- 30 ⁴¹ **Improving the Grain Distribution System in the Context of the State Regulation of the Market**
by Anatoly T. Stadnik, Svetlana G. Chernova, Konstantin E. Vahnevich, Sergei Schelkovnikov, Anastasia A. Samokhvalova, and Yana V. Leonova ... 922
- 31 **Ideal Setting of Investigation Authority in the Context of Eradicating Indonesian Corruption in The Perspective of Ius Constituendum**
by Sukmareni and Ujuh Juhana ... 932
- 32 **Balance of Interests as a Principle of Civil Law: Some Aspects of Legal Consciousness**
by Yury Alexandrovich Svirin, Vladimir Viktorovich Kulakov, Alexandr Anatolievich Mokhov, Sergej Nikolaevich Shestov, and Vladislav Petrovich Sorokin ... 940

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- 33 **Constitutional Principles of Contractual Representation in Ukraine: Problems of Theory and Practice**
by Vadym Tsiura, Susanna Suleimanova, Oleksandr Sotula, Vita Panasiuk, and Volodymyra Dobrovol'ska ... 948
- 34 **Non-Judicial Forms of Resolving Disputes Related to the Protection of Consumer Rights in Russia and the European Union: Results of 2018-2019**
by Marina M. Vildanova, Elena P. Ermakova, and Tatyana V. Alekseeva ... 954
- 35 **Institutional Mechanisms of International Judicial Cooperation in Combating Doping in Sports**
by Yana Andreevna Yanishevskaya ... 959
- 36 **How Caspian Region Can Help Arctic Region?**
by Chernitsyna Sofiya Yurievna ... 964
- 37 **Financial and Legal Prospects for the Use of Government Bond Loans in Modern Conditions**
by Irina M. Zhmurko ... 971

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Notary and the Implementation of Integrated Electronics Business Licensing Services

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Abstract:

Since the enactment of Government Regulation Number 24/2018 concerning Electronic Integrated Licensing Services, every licensing service activity must go through the Online Single Submission (OSS) system. The purpose of this regulation is to simplify the service of copying. With the enactment of these regulations, it also influences the duties and roles of the notary to help business actors. Along with the Industrial Revolution era, Notaries must also be able to adapt and use the system. In reality, some problems were found so that it hampered the licensing services assigned to the Notary. For this reason, coordination with related parties is needed so that the system runs well.

Keywords: Cyber Notary; business licensing; people in business; Online Single Submission.

JEL Classification: K20; K29; K00.

Introduction

The development of the business world in Indonesia is proliferating. Progress in the field of science and technology makes people in Indonesia become active communities, especially in the business world. The freedom to access information through the internet makes it an opportunity to try to be more open with its breadth. The increasingly rapid development of the business world is expected to realize increasingly rapid economic growth in our country. Reflected in the Doing Business 2018 Index ranking report issued by the World Bank, Indonesia is currently at 72. (Business in Indonesia 2018). One of the most significant problems in establishing a new company in Indonesia is to get all the necessary permits. The licensing process can be time-consuming and expensive. The bureaucracy that is difficult to understand in the relevant agencies in issuing business licenses is the reason for the difficulty in managing business licenses in Indonesia. This situation causes the development of the business world to be hampered by difficulties in obtaining licenses in the business world. To overcome this, the government in Indonesia issued a business convenience policy known as EASY OF DOING BUSINESS (EODB), by implementing Online Single Submission (OSS) based on Government Regulation number 24 of 2018 concerning Business Licensing Services Integrated Electronics.

Government Regulation number 24 of 2018 regulates provisions concerning:

- (1) types of licenses, applicants for licensing and issuance of licenses;

- (2) licensing implementation mechanism, rearranging K / L / P functions;
- (3) licensing reform; delete, merge, simplify, group forms and types of permits in the list of licensing lists;
- (4) OSS; institutions, systems, and funding;
- (5) incentives and disincentives for the implementation of licensing through OSS;
- (6) resolving licensing problems and obstacles through OSS;
- (7) imposition of sanctions.

The grouping of types of business licenses as stipulated in Article 5 of this regulates business licenses and commercial or operational permits, all business licenses regulated in sector legislation, classified as business licenses or commercial or operational permits. A notary is an official who holds a particular position who runs a profession in legal services to the public (Helena, Harris 2017). The existence of the notary profession regulated in Law number 30 of 2004 concerning the Act of Notary Position was further expanded through the opinion of the Constitutional Court Judges stating that Notaries were professions and public officials who carried out part of the government's duties.

Cyber Notary is a necessity. At present, the registration for obtaining a Decree regarding the establishment of a company in the form of a legal entity in the form of a Limited Liability Company (PT) has been carried out online through the Directorate General of Public Law Administration and Online Services. This progress has caused much increase in the acceleration of the issuance time of the decree of the establishment of a company and cut down on long-winded bureaucracies because all registration processes are done online. The ease of getting this information in society makes a value system in society. The public wants a government that is accountable, transparent and free of corruption. Based on the above description, legal issues a rise which will be discussed in this paper, that are the role of a notary in Indonesia as a public official authorized to make the deed of establishment and register the establishment of the company in connection with the enactment of Government Regulation number 24 /2018, and the obstacles faced by notaries in Indonesia in connection with the enactment of Government Regulation number 24 /2018 concerning Business Licensing Services to be Integrated Electronically in Indonesia.

1. Discussions

The government in the Republic of Indonesia to respond to and support the development of the business world in Indonesia. Number 24 /2018. In the context of accelerating and increasing investment and business, it is necessary to apply licensing services to try to be integrated electronically. The legal basis for the issuance of Government Regulation Number 24 /2018 is:

- (1) Article 5 paragraph (2) of the Constitution Republic of Indonesia;
- (2) Regulation number 25 of 2007 concerning Investment (State Gazette of the Republic of Indonesia) of 2007 number 67, Supplement to the State Gazette of the Republic of Indonesia number 4724;
- (3) Regulation number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2014 number 244, Supplement to the State Gazette of the Republic of Indonesia number 5587) as has been changed many times with Law number 9 of 2015 concerning Amendment to Law Number 23 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2015 number 58, Supplement to the State Gazette of the Republic of Indonesia number 5679). Based on a series of regulations, the government of the Republic of Indonesia at this moment issues Government Regulation number 24 of 2018 concerning Business Licensing Services Integrated Integrated Electronic.

In Article 1 of Act No. 2 of 2014 that a Notary is a public official authorized to do authentic deeds and has other authorities as referred to in this Act or under other laws (Association of Legislation of Notary Position, 2015). With this affirmation in Article 1 of Law Number 2 the Year 2014, a notary must carry out his authority responsibly. A notary must act honestly, thoroughly, independently, impartially, full of a sense of responsibility based on legislation and the contents of a notary code of ethics. The first break through of the Ministry of Law and Human Rights of the Republic of Indonesia was the existence of a Legal Entity Administration System or abbreviated as SABH for the establishment of a Limited Liability Company as a legal entity that is supporting the economy of a country. The Legal Entity Administration System is implemented with the aim of creating a fast, accountable and transparent public service towards e-government in Indonesia. With the enactment of Government Regulation number 24 of 2018, the community of business people has become more widespread in carrying out integrated company registration. In this case the role of the notary is only as an authorized official in making the deed of the founder of the company and providing legal consultation on the implementation of Government Regulation number 24 of 2018 without being able to play an active role in registering company services based on Government

Regulation number 24 of 2018 in Indonesia. Article 6 paragraph (1) Government Regulation number 24 of 2018 that the Applicant for Business Licensing consists of:

- (a) Individual Business Actors;
- (b) Non-individual business actors.

Thus the role of the notary in connection with the enactment of Government Regulation number 24 of 2018 is as a General Officer authorized to make company deed in the form of a legal entity and not a legal entity and register changes related to the company based on applicable legal regulations. At present, there are differences in Limited Liability Companies in the Legal Entity Administration System with OSS System Coordinating Ministry The Economic Sector is because the OSS system uses KBLI 2017 while the Legal Entity Administration System uses KBLI before KBLI 2017 which results in data mismatch between the Ministry of Law and Human Rights with the Coordinating Ministry of Economic Affairs so that the Employer Identification Number (NIB) cannot be processed on the OSS System.

To overcome this, the Ministry of Law and Human Rights vs. the Directorate General of General Legal Administration and the Coordinating Ministry for Economic Affairs vs. the OSS Institution will process and issue NIB for Limited Liability Companies whose purpose moreover, business activities have not used KBLI 2017, by adjusting the aims and objectives and activities the business is in accordance with KBLI 2017 through SABH the Directorate General of General Legal Administration in accordance with the mechanism stipulated in the provisions of legislation concerning Limited Liability Companies. This is done through changes in the articles of association of the company as referred to in the provisions of Article 21 paragraph (2) of Law Number 40 of 2007 concerning Limited Liability Companies where changes in intent and purpose constitute the articles of association which must be approved by the Minister of Law and Human Rights. With the issuance of Government Regulation number 24 of 2018, it is clear the hope of the Government of the Republic of Indonesia to further develop the business world in Indonesia. The development of the business world in Indonesia is intended to increase economic growth in Indonesia further. The creation of healthy economic growth in Indonesia is expected to improve welfare for the people of Indonesia further.

Conclusions

The role of the notary in connection with the enactment of Government Regulation number 24 of 2018 is to act as a public official authorized to assist the business community by making a deed of incorporation and adjusting the articles of association of the Minister of Justice & Human Rights, the purpose and objectives are adjusted to KBLI 2017 so that it is in accordance with the OSS system. The obstacle that occurs with the issuance of this Government Regulation is that the Notary needs to provide information to the perpetrators to immediately adjust the company's articles of association by adjusting the aims and objectives stated in the company's articles of association so that it complies with KBLI 2017 following the OSS system.

To the development and improvement of people's welfare in Indonesia, several suggestions can be put forward, namely:

- (a) the government in Indonesia should be critical in observing the economic behavior of the people in Indonesia, the basic needs of which are the government's attention in formulating regulations in Indonesia;
- (b) coordination and cooperation are needed between parties who play a role in the development of the business world; the government should involve the relevant elements in the community, especially professional experts such as Notaries so that the implementation of these regulations can run optimally in the community of business people;
- (c) related parties such as the business community and Notary public should improve the quality and knowledge in the field of technology so that they do not stutter technology and be able to perform their roles in their respective fields.

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PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10

PAGE 11
