

## Translation of Liechtenstein Law

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## Liechtenstein Law Gazette

2019 No. 306 issued on 2 December 2019

### Notaries Act (NotarG)

of 3 October 2019

I hereby grant My consent to the following Resolution adopted by Parliament:<sup>1</sup>

#### I. General provisions

##### Article 1

###### *Object*

This Act governs:

- a) access to the profession of notary and the rights and obligations associated with practice of the profession;
- b) the drawing up of notarial documents and notarisation in Liechtenstein.

##### Article 2

###### *Attestation and certification by courts and authorities; voluntary use of notaries*

1) The provisions of other laws and ordinances concerning attestation and certification by courts and authorities shall not be affected by this Act.

2) This Act does not establish any obligation to use notaries.

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<sup>1</sup> Report and Motion of the Government No. 37/2019 and Statement of the Government No. 98/2019

### Article 3

#### *Designations*

The designations used in this Act to denote persons, professions, and functions shall include persons of male and female gender alike.

## **II. Liechtenstein notarial profession**

### **A. Access to the profession**

#### **1. Notary**

### Article 4

#### *Requirements to practise the profession*

1) Persons who meet the requirements set out in paragraph 2 and have been entered in the List of Liechtenstein Notaries (List of Notaries) may practise the profession of notary.

2) The requirements pursuant to paragraph 1 shall be:

- a) capacity to act;
- b) trustworthiness;
- c) Liechtenstein citizenship or citizenship of another Contracting Party to the Agreement on the European Economic Area (EEA Contracting Party) or of a State deemed to be equivalent thereto under international treaties;
- d) successfully passing the bar examination or successfully completing notary training in an EEA Contracting Party or Switzerland;
- e) the exercise of an effective and regular activity for three years as a lawyer or notary in an EEA Contracting Party or Switzerland;
- f) successfully passing the notary examination as referred to in Article 5;
- g) conclusion of liability insurance as referred to in Article 20; and
- h) notary's office situated in Liechtenstein as referred to in Article 17.

3) Upon submission, the evidence of the fulfilment of the requirements set out in paragraph 2(a), (b), and (g) may not be older than three months.

4) The notary shall immediately notify the Chamber of Notaries in writing of any change in the requirements set out in paragraph 2.

## Article 5

### *Notary examination*

1) Any person who fulfils the requirements set out in Article 4(2)(a) to (e) shall be admitted to the notary examination.

2) The application for admission to the notary examination must be submitted to the Liechtenstein Chamber of Notaries. The Liechtenstein Chamber of Notaries shall decide on the admission.

3) The notary examination shall be taken before the Examination Commission for Notaries. The Examination Commission for Notaries shall determine the place and time of the examination.

4) The notary examination shall include a written examination and an oral examination in the fields of law relevant to exercise of the profession of notary.

5) Persons who meet the requirements for entry in the register of Liechtenstein lawyers (Article 7 of the Lawyers Act, RAG) or in the register of established European lawyers (Article 60 RAG) shall be exempt from the written examination pursuant to paragraph 4.

6) If the written notary examination is not passed, it may be repeated at the earliest after the expiry of one year. If the second written examination is also not passed, a final repetition may take place at the earliest after the expiry of three years from the first examination.

7) If the oral notary examination is not passed, it may be repeated at the next examination date. If the second oral examination is also not passed, a final repetition may take place at the earliest after the expiry of two years after the first examination.

8) The Government shall provide further details by ordinance.

## Article 6

*Entry in the List of Notaries*

- 1) Any person who provides proof of the fulfilment of the requirements set out in Article 4(2) shall, upon application, be entered by the Chamber of Notaries in the List of Notaries.
- 2) The Chamber of Notaries shall conduct the necessary enquiries and, if the entry is to be refused, it shall hear the applicant beforehand.
- 3) The applicant shall receive a certificate evidencing the entry in the List of Notaries.

## Article 7

*Administration of oath*

- 1) Before taking up their professional activity, a notary shall pledge obedience to the law, strict observance of the Constitution, and conscientious and impartial performance of their duties.
- 2) The oath shall be taken before the President of the Court of Appeal.

**2. Substitute notary**

## Article 8

*Requirements for acting as a substitute notary*

- 1) Persons who meet the requirements set out in paragraph 2 and have been entered in the List of Liechtenstein Substitute Notaries (List of Substitute Notaries) may act as substitute notaries.
- 2) The requirements pursuant to paragraph 1 shall be:
  - a) capacity to act;
  - b) trustworthiness;
  - c) Liechtenstein citizenship or citizenship of another EEA Contracting Party or of a State deemed equivalent thereto under international treaties;

- d) successfully passing the bar examination or successfully completing notary training in an EEA Contracting Party or Switzerland;
- e) proof of conclusion of liability insurance as referred to in Article 20(2).

3) Upon submission, the evidence of the fulfilment of the requirements set out in paragraph 2(a), (b), and (e) may not be older than three months.

4) The substituting notary and the substitute notary shall immediately notify the Chamber of Notaries in writing of any change in the requirements set out in paragraph 2.

#### Article 9

##### *Entry in the List of Substitute Notaries*

1) Any person who provides proof of the fulfilment of the requirements set out in Article 8 shall, upon application, be entered by the Chamber of Notaries in the List of Substitute Notaries; the application must be submitted jointly by the substituting notary and the prospective substitute notary.

2) A substitute notary may always only be entered in the List of Substitute Notaries as a substitute notary of a particular notary.

3) Article 6(2) and (3) shall apply *mutatis mutandis*.

## **B. Rights and duties**

### **1. Notaries**

#### Article 10

##### *Scope of professional activity*

1) Notaries are entitled to perform certifications and attestations as well as related activities in accordance with this Act.

2) The documents drawn up by notaries are public documents, provided that the legal requirements have been observed in their recording and execution.

## Article 11

*Professional title*

No person shall be allowed to use the professional title of notary public unless such person has been entered in the List of Notaries (Article 6(1)).

## Article 12

*Substitute notary and substitution*

1) Notaries are entitled to be substituted by a substitute notary or, if they are prevented from performing their function, by another notary, their statutory liability being maintained.

2) Notaries shall supervise their substitute notaries' activities subject to this Act.

## Article 13

*Own responsibility*

Notaries are obliged to practise their profession independently, in their own name and at their own responsibility.

## Article 14

*Professional honour*

Notaries are obliged to preserve the honour and reputation of the profession by acting with integrity and honesty in their professional and personal conduct. They must refrain from anything that could diminish confidence in the profession.

## Article 15

*Incompatible activity*

It shall be incompatible with the practice of the profession of notary to engage in such activities that are contrary to the reputation of the profession.

## Article 16

*Confidentiality*

1) Notaries are obliged to maintain confidentiality on the matters entrusted to them and on the facts of which they have otherwise obtained knowledge in that capacity and which shall be kept secret in the interests of the persons involved in the certification or attestation. In court and other administrative proceedings, they shall be entitled to confidentiality in the same manner as a lawyer.

2) The right of notaries to confidentiality may not be circumvented by judicial or other administrative measures, in particular by an examination of the notary's auxiliary staff, or by an order for the handing over, or by the seizure, of documents, video, audio or data storage media; this shall not affect any special rules for the further specification of this prohibition.

3) The right of notaries to confidentiality as provided for in paragraph 2 shall also extend to any and all correspondence between the notary, the notary's party, and the persons involved, regardless of where and under whose control this correspondence covered by professional secrecy is.

4) Notaries shall not have the right to confidentiality if a document is presented to them in original or as a copy and the notary is to provide information on whether this document was certified or attested by the notary.

5) Upon request, a notary may provide anyone who proves a legitimate interest with a transcript of a document the notary has drawn up. The notary is obliged to provide such information to domestic authorities upon request, without the authority having to prove an interest.

## Article 17

*Notary's office*

1) Notaries are obliged to have a notary's office situated in Liechtenstein.

2) The notary's office must effectively and permanently fulfil the requirements for the practice of the profession of notary in terms of space, personnel, and organisation.



3) If a notary does not meet the obligation as provided for in paragraphs 1 and 2, despite having been requested to do so, the Chamber of Notaries shall forbid the notary from practising the profession of notary until the notary has furnished evidence that this obligation has been met.

#### Article 18

##### *Stamp and seal*

1) Notaries shall use a notary stamp approved by the Chamber of Notaries for certifications and attestations.

2) The notary stamp shall consist of:

- a) the national coat of arms with the addition “Fürstentum Liechtenstein” (“Principality of Liechtenstein”); and
- b) a circumscription with the name (first name, last name, and optionally academic title) of the notary and the addition “Öffentlicher Notar” (“Notary public”).

3) The notary may use notary stamps on which the additions “Fürstentum Liechtenstein” and “Öffentlicher Notar” as referred to in paragraph 2 are used in a foreign language.

4) If a seal is desired or required, the notary shall use an adhesive, paper, or embossed seal corresponding to the stamp in lieu of the stamp.

5) Stamps and seals shall be kept in such a way that they are personally accessible only to the notary and their substitute notaries.

#### Article 19

##### *Conduct of business*

1) The notary shall conduct business with honesty, accuracy, and diligence in accordance with the existing legal requirements and shall refuse to participate in any prohibited or suspicious business or any business that is a sham or contrary to the notary’s conscience.

2) This shall be without prejudice to any further obligations pertaining to conduct of business obligations under Chapter III.

## Article 20

*Liability insurance*

1) Every notary shall be obliged to take out liability insurance to cover any claims for damages against them resulting from their professional activity. Notaries shall maintain the insurance coverage during their professional activity and shall furnish evidence thereof to the Chamber of Notaries upon request.

2) If the notary uses one or more substitute notaries, the insurance coverage shall also extend to the activity of the substitute notaries. The notary shall maintain the insurance coverage during the period of activity of the substitute notaries and provide evidence thereof to the Chamber of Notaries upon request.

3) If a notary does not meet the obligation as provided for in paragraphs 1 and 2, despite having been requested to do so, the Chamber of Notaries shall forbid the notary from practising the profession of notary until the notary has furnished evidence that this obligation has been met.

4) The minimum insured sum shall be 5 million francs per year.

5) In the event that the right to practise the profession expires or is suspended, the liability insurance coverage must provide for a follow-up liability of at least three years. The deductible may not exceed 10% of the insured sum per case of damage.

6) The special terms and conditions of the insurance contract must include the following text: "The policyholder instructs the insurer to inform the Chamber of Notaries of the Principality of Liechtenstein in the event that the insurance coverage is suspended or ends."

## Article 21

*Fees*

1) Notaries shall be free to agree any fees.

2) The fees shall be based on the type and extent of the work done and on the difficulty of the case.

3) The Chamber of Notaries shall issue guidelines on the amount of a reasonable fee.

## 2. Substitute notaries

### Article 22

#### *Basic principle*

Unless provided otherwise below, the following provisions on the rights and duties of notaries shall apply *mutatis mutandis* to substitute notaries:

- a) Article 14 (Professional honour);
- b) Article 15 (Incompatible activity);
- c) Article 16 (Confidentiality);
- d) Article 19 (Conduct of business);
- e) Article 21 (Fees).

### Article 23

#### *Scope of activity*

The substitute notary is entitled to perform certifications and attestations as well as related activities on behalf of the notary.

### Article 24

#### *Title*

No person shall be allowed to use the title of substitute notary unless such person has been entered in the List of Substitute Notaries (Article 9(1)).

### Article 25

#### *Stamp and seal*

- 1) Substitute notaries performing certification or attestation shall:

- a) use the notary's stamp (Article 18) and add the following in the certification or attestation:
    1. a note that the certification or attestation was made by the substitute notary on behalf of the notary;
    2. the substitute notary's name (first name, last name, and optionally academic title); or
  - b) use a special notary's stamp approved by the Chamber of Notaries, which, in addition to the features described in Article 18(2), contains the following information:
    1. a note that the certification or attestation was made by the substitute notary on behalf of the notary; and
    2. the substitute notary's name (first name, last name, and optionally academic title.
- 2) In addition to the additions referred to in Article 18(3), the note referred to in paragraph 1(a)(1) and (b)(1) may likewise be used in a foreign language.
- 3) Article 18(4) and (5) shall apply *mutatis mutandis*.

### III. Certifications and attestations

#### A. Certifications

##### 1. General procedure

###### Article 26

###### *Drawing up of the document*

The document is either presented by the parties or drawn up by the notary at the parties' request.

###### Article 27

###### *Duty to inform and verify*

1) The notary shall inform the parties of the legal content and the meaning of the document and the legal act to be certified and shall make them aware of any deficits, inaccuracies in fact, and contradictions with legal provisions.

2) The notary shall carefully verify the identity of the parties and the persons involved and the powers of representation of representatives. The identity of natural persons shall be established by presenting an official photo ID, in particular a passport. The identity of legal persons, partnerships, and the powers of representation of their bodies shall be established by the presentation of a certified extract from the Commercial Register, an official confirmation, a certified comparable foreign document, or an extract from an official register in electronic form. Other powers of representation shall be established by presentation of an attestation of power of attorney applicable to the transaction in question. If the identity and/or power of representation cannot be established beyond doubt, the notary shall refuse certification.

3) The notary must carefully examine the capacity of judgement of the parties and the natural persons involved. If there are justified doubts about the capacity of judgement, the notary shall require the person concerned to provide a statement from an expert about their current capacity of judgement, or the person concerned may, on their own initiative, involve an expert. In both cases, the notary is obliged to keep the expert's statement in the notary's files for at least ten years.

4) The notary may refuse a certification without giving reasons.

5) If a party is represented at the certification procedure by a lawyer admitted to practice in the jurisdiction under the law of which the document is drawn up, the notary has no duty to inform in accordance with paragraph 1. Moreover, these parties may agree with the notary on limitation of liability.

## Article 28

### *Conflict of interest*

1) Notaries shall perform their activity independently of the parties or third parties. When carrying out certification, notaries are obliged to impartiality.

- 2) Notaries may not certify legal acts if:
- a) they are themselves a party to the legal act or are or were married to, live or have lived in a registered domestic partnership with, live or have lived in a *de facto* domestic partnership with, or are related by blood or marriage up to the fourth degree with one of the parties. Adoptive, step, and foster relationships are deemed equivalent to natural parent-child relationships;
  - b) a disposition is made for their own benefit or for the benefit of one of the persons referred to in subparagraph a);
  - c) they are a representative, authorised person, employee, or body of a party;
  - d) they have provided legal advice in respect of this legal act to one of the parties. If, on the other hand, the notary has provided legal representation or advice to all parties in respect of the legal act in question, certification is permissible.
- 3) If a certification is made in the cases referred to in paragraph 2, it shall be deemed void.

#### Article 29

##### *Minimum content of documents*

The documents must contain at least the following and shall otherwise be deemed void:

- a) the notary's last name, first name, and office address, as well as the following information about the parties and other persons involved in the certification procedure:
  1. for natural persons: last name, first name, date of birth, nationality, residential or business address, occupation, further details where applicable, and, depending on the legal act, marital status and matrimonial property arrangements;
  2. for partnerships and legal persons: company name or name, register and register number, legal form, and registered office set out in the articles of association. If a partnership or legal person is subject to foreign law and the latter provides neither for a register number nor for a registered office set out in the articles of association, the

- partnership or legal person shall be identified by other suitable information;
- b) the parties' or their representatives' clear, complete and, as far as possible, unambiguous expression of will to be certified, the decision to be certified, or the finding to be certified;
  - c) place, date, and, where required, time of certification.

#### Article 30

##### *Foreign language documents*

1) If the notary, a party, or a person involved does not understand the language in which the document is drawn up, or if a party requests it, a translation must be prepared. The document must indicate that a translation has been prepared. Notaries are obliged to keep the translation in their files for at least ten years.

2) If a document has been drawn up in a foreign language and no translation is necessary, the notary and the parties shall expressly declare that they sufficiently understand the language in which the document has been drawn up and that they waive the production of a translation; this shall be noted in the document.

#### Article 31

##### *Persons with disabilities*

1) If the party or a person involved is mute, deaf, blind, or otherwise impaired in their sensory perception or their ability to express themselves, the certification may be carried out only if the notary is convinced that the person in question is able to comprehend the content of the document. Where necessary, an expert shall be brought in.

2) The certification must state how and by whom the contents of the document were brought to the attention of the party or the person involved. Any expert brought in must confirm by signature that the actions performed by him or her were performed conscientiously. This declaration must be attached to the document.

## Article 32

*Determination of the will of the parties*

1) The notary shall present the document to the parties for reading or shall read it to them. The notary shall ask the parties to confirm that the document contains their will.

2) The notary shall have the parties sign the document after the parties have approved its contents. Persons who do not know how to write or are unable to write due to physical infirmity or great weakness may have their signature replaced by a hand sign or by the certification. The document must state the reason why such person does not sign, and a witness shall be brought in.

3) Subsequent to the approval and signing in accordance with paragraph 2, the certification shall be performed by the notary confirming on the document by signature that the document contains the will of the parties and that the parties:

- a) have read the documents themselves or the documents have been read to them;
- b) have approved the contents of the document;
- c) have been informed about the legal content and significance of the certified legal act; and
- d) have signed the document. If no signature is required, the notary shall indicate the reason.

## Article 33

*Appearance in person*

The parties or their representatives and the persons involved must appear in person before the notary. The document must be drawn up and certified in the presence of these persons.

## Article 34

*Execution of the document*

- 1) Notarial documents must be designated expressly as such.



- 2) The document must be prepared in clearly legible writing and without gaps. The document may be handwritten, typewritten, or printed.
- 3) Signatures must be handwritten.
- 4) The original document may be executed in several copies. The number of executed copies must be noted in the document.
- 5) Multi-page documents must be solidly stapled or joined, except for the copy executed for the notary. The individual pages must be stamped and initialled by the notary.
- 6) The certification signed by the notary must be accompanied by the notary's stamp or seal.
- 7) Enclosures that are part of the document must be attached to it or clearly marked as enclosures.
- 8) If so desired or necessary, the individual pages of the document and the accompanying enclosures must be bound together with ribbon and seal.

#### Article 35

##### *Corrections*

- 1) Erasures in a document are not permitted. Deleted passages must remain legible.
- 2) Corrections must be made and clearly marked in the document or in a certification addendum. If possible, a revised document shall be drawn up.
- 3) Corrections that change the content may be made only during the certification procedure. For facts and legal relationships, as well as for the preamble and certification notes, the notary shall have the power to perform the correction; for the individual declarations and for protocol statements requiring signatures, the power to perform corrections shall lie jointly with the declaring parties and the notary. Each correction must be signed by the persons with the power to perform the correction with their own name or initials.

4) Obvious clerical errors may be corrected even after the completion of the certification procedure. Any such correction must be initialled by the notary.

#### Article 36

##### *Archiving*

1) An executed copy of each document shall be physically kept by the notary for at least ten years, unless the parties have agreed with the notary on a longer term.

2) The notary shall keep an alphabetical and a chronological register of the essential data of the certification on a daily basis. The registers shall be kept in paper form or electronically. The notary must ensure the traceability and verifiability of the register entries. Several notaries may keep a comprehensive register. In such registers, the documents must be able to be assigned to the notary in question.

3) The notary shall make arrangements for the documents and registers to pass to a successor if the notary ceases or is unable to perform the activity. In the absence of a successor arrangement, the documents and registers shall be transferred to a notary to be designated by the Chamber of Notaries.

4) The Chamber of Notaries may, within the scope of its supervision of notaries, at any time inspect the registers and issue appropriate guidelines on the keeping of the registers.

## 2. Special procedures

#### Article 37

##### *Meeting resolutions of legal persons or partnerships*

1) A document on meeting resolutions of legal persons or partnerships must contain at least:

- a) the place, date and time of the meeting, the company name or name of the legal persons or partnership, the register and register number, the registered office, the name of the person chairing the meeting, the person taking the minutes, and the person counting the votes;

- b) the findings of the person chairing the meeting regarding the convening of the meeting in accordance with the law and the articles of association, the number of participants and the rights represented by them and the quorum of the meeting, as well as any objections to these findings;
- c) participants' proposals and other statements the certification of which is requested;
- d) in the case of votes, the proportion of votes, the wording of the resolutions taken, and the reference to the documents on which the resolutions are based;
- e) the signatures of the person chairing the meeting and of the person taking the minutes; and
- f) the signature of the notary, including confirmation that the notary participated in the meeting.

1a) For the creation of a document on resolutions of the meeting, the following shall apply notwithstanding Art. 33, the physical presence of the person chairing the meeting and the person taking the minutes is sufficient.

2) If the procedure is determined in advance, the meeting may be held in the same manner as a contract certification, provided that the participants are present at the same time. Otherwise, the notary shall record the procedure in a suitable manner and draw up the notarial document at the same time or at a later date. If substantive law requires the co-signature of certain persons, the notary shall obtain their signatures before the notary signs.

3) To the extent permissible under the relevant provisions for the meeting, the notary may also be the person taking minutes within the meaning of paragraph 1.

#### Article 38

##### *Facts and legal relationships*

1) Legally relevant facts and legal relationships may be certified if a legitimate interest exists in having them documented in a notarial document and if their legal significance is comprehensible to the notary.

2) If the interest in certification or the legal significance of the certification is not obvious, the notary shall examine these concerns and

indicate them in the document; the notary shall also indicate the person who requested the certification.

3) The notary shall clarify the fact pattern carefully and without delay and shall certify the result of the examination completely and clearly.

*Documents under foreign law*

Article 39

*a) Issuance*

- 1) The notary shall issue documents under foreign law if:
  - a) the notary understands the legal acts to be certified and is able to explain them to the parties, as well as having determined the applicable foreign law in such a way that the notary can formulate the document according to the parties' specifications or check a draft submitted by the parties for its compatibility with the foreign law; or
  - b) each party is represented by a lawyer admitted to practice in the jurisdiction under whose law the foreign document is drawn up. Article 27(5) shall apply.

2) If the notary draws up a document under foreign law, the execution including the designation of the document may be made in accordance with the foreign law applicable to certification.

Article 40

*b) Special forms of declaration*

1) The recording of oaths, affidavits, and comparable forms of declaration shall be governed *mutatis mutandis* by the provisions on the issuance of documents under foreign law. The person making the declaration must appear in person before the notary.

2) Unless foreign law is applicable, the notary shall certify that the person making the declaration has signed the document in the notary's presence and has solemnly sworn or affirmed with a hand vow that the content of the document is true.

3) A notary may record the unsworn or sworn examination of witnesses for use in or preparation for court proceedings abroad. The

formal requirements under foreign law must be observed. No coercive means may be used in the course of such examination. The notary is obliged to point out to the witness to be examined that the witness's cooperation must be voluntary. The notary may not be involved in the court proceedings.

### 3. Executability of notarial documents

#### Article 41

##### *Executability*

A notarial document is executable in the same way as a settlement concluded in court if:

- a) the document establishes an obligation to perform or refrain from performing;
- b) the exact designation of the parties, the legal basis, the precisely defined subject matter, the nature, the scope, and the time of the performance or omission can be inferred;
- c) a settlement is permissible with respect to the obligation under subparagraph a); and
- d) the obligor has declared that this document shall be enforceable immediately or from a certain date (submission to enforcement). This declaration does not require acceptance by the obligee in order to be legally effective. If a private document is notarised only by the obligor, the obligor's submission to enforcement in the notarial document drawn up for this purpose shall be sufficient for the enforceability of the obligor's notarised obligation.

### B. Attestations

#### Article 42

##### *Signature and hand sign*

1) The attestation of a signature consists in the attestation by the notary that the person signing has affixed the signature in the notary's presence or has acknowledged it to the notary as the person's own.

2) If the notary does not know the person signing, the notary shall verify the person's identity in accordance with Article 27(2).

3) If, on an exceptional basis, a blank signature is attested, the notary shall mention this in the attestation note.

4) Paragraphs 1 and 2 shall apply *mutatis mutandis* to the attestation of a hand signal.

#### Article 43

##### *Copy*

1) The attestation of a copy consists in the attestation by the notary that the copy fully and correctly reproduces a document submitted to the notary.

2) Where not evident from the copy, the notary's attestation must state whether the document submitted to the notary was an original document or an attested copy.

#### Article 44

##### *Transcript*

1) Paragraphs, insertions, deletions, and other changes in the document submitted to the notary must be mentioned expressly in the transcript.

2) Article 43 shall apply *mutatis mutandis*.

#### Article 45

##### *Excerpt*

1) The excerpt must reproduce verbatim and completely the essential parts of the document submitted to the notary for the stated purpose and must not be misleading. The omissions must be identified.

2) Articles 43 and 44 shall apply *mutatis mutandis*.

## Article 46

*Translation*

1) The attestation of the translation of a document consists in the attestation by the notary that the translation is correct.

2) If the notary does not have sufficient command of the foreign language, the notary shall consult a translator. On the translation, the translator must confirm the correctness thereof. The notary must supplement the attestation accordingly.

## Article 47

*Attestation of date*

The attestation of the date consists in the attestation by the notary when and by whom a document was presented to the notary.

## Article 48

*Execution*

1) The attestation shall be made by way of a note, which must be signed and stamped by the notary, indicating the place and date. The note shall state the facts on the basis of which the notary is convinced of the authenticity of the signature.

2) When signatures and hand signs are attested, the precise personal data of the person signing must also be recorded.

3) Attestations shall be made directly on the document to which they refer. If this is not possible or if the attestation refers to several pages, the attestation shall be attached to the document or to the other pages as if it were a document.

4) Article 18(4) shall apply *mutatis mutandis*.

## Article 49

*Register*

The notary shall keep a chronological register of the essential data of attestations on a daily basis. Article 36 shall apply *mutatis mutandis*.

## IV. Disciplinary rules

### A. Notaries

#### 1. General provisions

##### Article 50

###### *Disciplinary offences*

1) Notaries who are at fault in violating their duties under this Act, or who, as a result of their conduct, tarnish the honour and reputation of the profession shall be deemed to commit a disciplinary offence.

2) Notaries shall be deemed to commit a disciplinary offence on account of their extra-professional conduct if such conduct is capable of substantially affecting their trustworthiness.

##### Article 51

###### *Limitation period*

1) The prosecution of a notary for a disciplinary offence shall become time-barred, if:

- a) within one year from the Court of Appeal having obtained knowledge of the facts underlying a disciplinary offence, no disciplinary proceedings have been initiated, or if disciplinary proceedings concluded with *res judicata* effect have not been re-opened against the notary;
- b) within five years from the end of the disciplinary conduct no decision disposing of the matter in a final manner has been rendered.

2) The running of the time-limits as provided for in paragraph 1 shall be suspended, if, due to the facts underlying the disciplinary proceedings, criminal court proceedings are pending, or if criminal preliminary enquiries are conducted, for the duration of these proceedings.



3) If a disciplinary offence also constitutes a judicially punishable act and if the criminal limitation period is longer than the time limit set out in paragraph 1(b), the criminal limitation period shall replace the said time limit.

4) If the notary commits another disciplinary offence of the same kind within the limitation period, there shall be no time bar pursuant to paragraph 1, until the limitation period has also expired for this disciplinary offence.

## Article 52

### *Disciplinary penalties*

1) The following disciplinary penalties shall be applied:

- a) written reprimand;
- b) fines up to the amount of 50 000 francs;
- c) prohibition of the practice of the profession for up to five years;
- d) deletion from the List of Notaries.

2) The disciplinary penalty of the prohibition of the practice of the profession may be conditionally suspended in whole or in part with a probationary period of at least one year and a maximum period of three years if it can be assumed that the threat of such penalty will suffice to prevent the accused from committing further disciplinary offences.

3) A fine may also be imposed in addition to the disciplinary penalty of the prohibition of the practice of the profession which is imposed unconditionally or suspended conditionally in whole.

4) In consideration of the type of the disciplinary offence, the prohibition of the employment of substitute notaries may also be imposed as an ancillary penalty.

5) Upon imposition of the disciplinary penalty, special consideration shall be given to the amount of fault and to the disadvantages caused; upon the imposition of a fine, the income and asset situation shall also be taken into consideration.

## 2. Jurisdiction

### Article 53

*Disciplinary court*

- 1) The disciplinary power over notaries shall be exercised by the Court of Appeal acting as the disciplinary court.
- 2) The disciplinary court may delegate the conduct of the disciplinary investigations to a legally qualified judge acting as investigating judge.
- 3) Article 44 of the Judicial Service Act (RDG) shall apply to the appointment of the investigating judge *mutatis mutandis*.

**3. Disciplinary proceedings**

## Article 54

*Basic principle*

- 1) Disciplinary proceedings against notaries shall be initiated *ex officio* or in response to a report.
- 2) The criminal authorities shall immediately inform the disciplinary court if criminal proceedings have been initiated against a notary for a crime or a misdemeanour.
- 3) A disciplinary offence shall not be prosecuted if the notary's fault is minor and if the notary's conduct has resulted in no consequences or in merely insignificant consequences.
- 4) § 305 and § 306(1) of the Code of Criminal Procedure (StPO) shall apply to the reimbursement of costs *mutatis mutandis*.
- 5) In disciplinary proceedings against notaries, only the disciplinary accused and the Chamber of Notaries shall have the status of a party with the rights of application and appeal.

## Article 55

*Disciplinary investigation*

- 1) Disciplinary investigations may be initiated only through a ruling of the disciplinary court (initiating ruling).
- 2) The initiating ruling shall set out the accusations in a specific manner.

3) In the course of the disciplinary investigations, the accusation of a violation of duties brought forward against the disciplinary accused shall be investigated and the facts shall be clarified insofar as this is necessary to be able to discontinue the disciplinary proceedings or to refer the matter to an oral hearing.

4) If the facts are already sufficiently clear, the disciplinary court may refuse to initiate disciplinary investigations or, after hearing the disciplinary accused, instead of the initiation of disciplinary investigations, immediately refer the matter to an oral hearing (referral ruling).

5) The initiating ruling or the referral ruling shall be deemed to initiate the disciplinary proceedings.

6) No ordinary appeals may be lodged against the rulings referred to in paragraphs 1 and 4.

#### Article 56

##### *Examinations and finding of the facts*

1) If a ruling on the initiation of disciplinary investigations has been rendered, the files shall be forwarded to the investigating judge.

2) The investigating judge shall examine the disciplinary accused and, if necessary, witnesses and experts, and investigate any and all circumstances necessary for a full clarification of the facts *ex officio*. If the disciplinary accused refuses to comply with a summons or to make a statement on the accusations, this shall have no influence on the proceedings.

3) The provisions set out in the Code of Criminal Procedure shall apply to the examination of the disciplinary accused, the witnesses and the experts.

#### Article 57

##### *Inspection of files and supplementation of the disciplinary investigations*

1) The investigating judge shall allow the disciplinary accused and their defence counsel to inspect the files in accordance with the provisions set out in the Code of Criminal Procedure.

2) If the disciplinary accused files an application for supplementation of the disciplinary investigations, the investigating judge shall carry out the same. If the investigating judge has concerns about granting any such

application, the investigating judge shall obtain a ruling from the disciplinary court.

3) The disciplinary court may order the supplementation of the disciplinary investigations *ex officio*.

4) After the conclusion or supplementation of the disciplinary investigations, the investigating judge shall forward the files to the disciplinary court.

5) No ordinary appeals may be lodged against the rulings referred to in paragraphs 2 and 3.

#### Article 58

##### *Ruling to discontinue the proceedings or referral ruling*

1) If the disciplinary court deems that there is no ground for a continuation of the disciplinary proceedings, it shall render a ruling to discontinue the proceedings.

2) In the opposite case, the disciplinary court shall render a ruling on the referral of the matter to an oral hearing (referral ruling).

3) The referral ruling shall set out the accusations in a specific manner.

4) The rulings set out in paragraphs 1 and 2 shall be served upon the disciplinary accused.

5) No ordinary appeals may be lodged against the referral ruling provided for in paragraph 2.

#### Article 59

##### *Oral hearing*

1) The disciplinary accused, the disciplinary accused's defence counsel, and the Chamber of Notaries shall be summoned to the oral hearing.

2) The hearing shall not be public. However, the disciplinary accused shall be free to request the admission of three persons of confidence. The provisions of Title XIV of the Code of Criminal Procedure shall govern the conduct of the hearing *mutatis mutandis*.

3) At the beginning of the oral hearing, the referral ruling shall be read out.

## Article 60

*Contents and announcement of the decision*

1) The decision of the disciplinary court must acquit the disciplinary accused of the offences the disciplinary accused has been charged with or the said decision must find the disciplinary accused guilty. If a conviction is rendered and a disciplinary penalty is imposed, the decision shall also include the punishment related to the disciplinary penalty.

2) The decision, together with the grounds for the decision, shall be announced immediately after the end of the oral hearing and shall be served upon the accused within two weeks.

3) The disciplinary court may publish the decision if there is a public interest in doing so or if the disciplinary accused has an interest in doing so.

4) The ruling on the publication and its nature shall be included in the disciplinary decision.

**4. Preliminary measures**

## Article 61

*Preliminary measures*

1) The disciplinary court may order preliminary measures against a notary, in particular if:

- a) criminal proceedings have been initiated against the notary for a crime or misdemeanour that is capable of significantly shaking confidence in the notary, or
- b) the disciplinary penalty of deletion from the List of Notaries has been pronounced, or
- c) criminal proceedings have been initiated against the notary in connection with the notary's professional activity

and if, taking into account the nature and the seriousness of the disciplinary offence the notary is accused of, due to concerns over serious disadvantages, in particular to the reputation of the profession, the preliminary measure is necessary.

2) Prior to the decision on a preliminary measure, the notary concerned and the Chamber of Notaries must be given the opportunity to state their point of view.

3) Preliminary measures shall be in particular:

- a) the supervision of the management of the notary's office by the board of directors of the Chamber of Notaries;
- b) the preliminary prohibition of employment of substitute notaries;
- c) in the cases set out in paragraph 1(a) and (b), the preliminary prohibition of the practice of the profession.

4) Preliminary measures shall be cancelled, modified, or replaced by others if it turns out that the requirements for ordering them do not, or no longer, apply, or if the circumstances have changed considerably.

5) Upon conclusion of the disciplinary proceedings with *res judicata* effect, the preliminary measures shall cease to be in force.

## B. Substitute notaries

### Article 62

#### *Basic principle*

Articles 50 to 61 shall apply *mutatis mutandis* to the disciplinary rules governing substitute notaries.

## V. Expiration and suspension of the notarial profession

### Article 63

#### *Expiration and suspension*

1) The right to practise the profession of notary or to act as a substitute notary shall expire:

- a) in the case of a notary:
  1. if a condition for access to the profession ceases to apply;
  2. if the profession is relinquished;

3. upon a disciplinary decision; or
  4. upon death.
- b) in the case of a substitute notary;
1. if an expiration ground referred to in subparagraph a) applies; or
  2. with the declaration of the notary to the Chamber of Notaries that the person concerned is no longer a substitute notary;
- 2) The right to practise the profession of notary or to act as a substitute notary shall be suspended if:
- a) the practice of the profession or the notarial activity has been prohibited in the course of disciplinary proceedings; or
  - b) the practice of the profession or the notarial activity has been prohibited because no notary's office in Liechtenstein or no liability insurance has been maintained.
- 3) If the right has expired in accordance with paragraph 1, a deletion from the List of Notaries or the List of Substitute Notaries shall be made upon application or *ex officio*. If all statutory requirements are met, a re-entry in the list shall be possible.
- 4) If the right has been suspended in accordance with paragraph 2, the notary or substitute notary shall remain entered in the List of Notaries or List of Substitute Notaries but shall be temporarily prohibited from practising the profession of notary or the notarial activity. The notary shall remain a member of the Chamber of Notaries.

## VI. Organisation and implementation

### A. General provisions

#### Article 64

##### *Bodies*

The following bodies shall be entrusted with the implementation of this Act:

- a) the Chamber of Notaries;
- b) the Examination Commission for Notaries;

- c) the disciplinary court;
- d) the courts.

#### Article 65

##### *Processing of personal data*

- 1) The bodies entrusted with the implementation of this Act may process personal data, including personal data on criminal convictions and criminal offences of the persons subject to this Act, insofar as this is necessary for the fulfilment of their tasks under this Act.
- 2) They shall take all technical and organisational measures necessary to protect the data referred to in paragraph 1.

#### Article 66

##### *Official secrecy*

- 1) The bodies entrusted with the implementation of this Act as well as any additional persons they might involve shall, for an indefinite period of time, be bound by official secrecy rules in respect of the confidential information of which they have become aware during their official work.
- 2) The information subject to official secrecy may not be disclosed. This shall be subject to criminal provisions and special statutory provisions.

### **B. Liechtenstein Chamber of Notaries**

#### Article 67

##### *Composition, legal form, and legal position*

- 1) The Liechtenstein Chamber of Notaries (Chamber of Notaries) shall be formed by all notaries entered in the List of Notaries.
- 2) The Chamber of Notaries is a corporate entity under public law. It shall be subject to the overall supervision by the Government. In its own sphere of responsibilities, the supervision by the Government shall be limited to the verification of the lawfulness of the Chamber of Notaries' conduct of its administrative business.



3) In disciplinary proceedings pursuant to Article 50 et seq., the Chamber of Notaries shall have the status of a party with unlimited party rights.

#### Article 68

##### *Responsibilities*

The Chamber of Notaries shall be responsible in particular for:

- a) preserving the honour and the reputation of the notarial profession;
- b) safeguarding the rights and monitoring the duties of notaries and substitute notaries.

#### Article 69

##### *Plenary assembly*

1) The plenary assembly shall be in charge of the following matters:

- a) election of the chairman, the vice chairman, and the other members of the board of directors;
- b) election of the external auditor;
- c) establishment of the rules of procedure of the Chamber of Notaries;
- d) fixation of the annual contributions of the members of the Chamber to defray the administrative costs;
- e) approval of the draft budget of receipts and expenses;
- f) approval of the annual accounts;
- g) enactment of professional guidelines;
- h) enactment of fee guidelines; and
- i) enactment of other guidelines.

2) The contributions set out under paragraph 1(d) shall be equal for all members of the Chamber.

3) The plenary assembly shall be quorate if at least one fourth of the members of the Chamber are present; it shall pass its resolutions by a simple majority. The passing of resolutions on the internal rules of procedure shall mandatorily require the presence of at least half of the members of the Chamber and a majority of two thirds.

4) In order to be legally valid, the rules of procedure of the Chamber of Notaries shall require the approval of the Government.

#### Article 70

##### *Board of directors*

1) The board of directors of the Chamber of Notaries shall be composed of three to five members who are entered in the List of Notaries.

2) The chairman, the vice chairman, and the other members of the board of directors shall be elected from among the members of the Chamber by an absolute majority of the votes of the persons present. The term of office shall be three years. Re-election shall be permissible.

3) The sphere of responsibilities of the board of directors shall include in particular:

- a) decisions on applications pursuant to Articles 5, 6, and 9;
- b) maintaining the lists referred to in this Act; these lists shall be published on the website of the Chamber of Notaries;
- c) interaction with authorities and third parties;
- d) the fixation and collection of the annual contributions of the members of the Chamber;
- e) the preparation of expert opinions on the reasonableness of the fees and the remuneration of the services of notaries as well as the requested amicable settlement in a dispute on this subject;
- f) the settlement of disputes between members of the Chamber;
- g) supervision in line with the rules of professional conduct;
- h) exercise of the party rights of the Chamber of Notaries in disciplinary proceedings;
- i) supervision of the management of the notary's office pursuant to Article 61(3)(a);
- k) preparation of the business and convening of the plenary assembly;
- l) exercise of the party rights in appeal proceedings;
- m) execution of the resolutions passed by the plenary assembly;
- n) submission of proposals for legislation and expert opinions on bills;
- o) the organisation of basic and further training events or collaboration with other organisers of such events;
- p) collaboration with foreign notaries' organisations;

- q) decision on appeals against decisions rendered pursuant to paragraph 4;
- r) the enactment of the schedule of charges, subject to Article 71(2);
- s) the designation of the data protection officer;
- t) the approval of the notary's stamps.

4) For the purpose of independent execution, the board of directors may delegate certain business to the chairman, individual members of the board of directors, or individual members of the Chamber of Notaries, in particular in the matters referred to in paragraph 3(c) and (f).

#### Article 71

##### *Charges*

1) The Chamber of Notaries shall levy charges in accordance with its schedule of charges for official acts under this Act, in particular for entries and deletions in the List of Notaries or the List of Substitute Notaries.

2) In order to be legally valid, the schedule of charges shall require the approval of the Government and shall be announced in the Liechtenstein Law Gazette.

#### Article 72

##### *Fixation of contributions and charges*

The legally binding fixation of contributions and charges shall constitute an execution title as defined by the Execution Act.

### **C. Examination Commission for Notaries**

#### Article 73

##### *Examination Commission*

1) The Government shall appoint the Examination Commission for Notaries for a term of four years. It shall be composed of three members and of as many substitute members. It shall be made up of one judge of the Court of Justice, one lawyer named by the Chamber of Lawyers, and

one notary named by the Chamber of Notaries. The Government shall determine the chairperson.

2) The members of the Examination Commission shall be independent in the exercise of their office and shall be bound to secrecy.

## **D. Cooperation**

### Article 74

#### *Cooperation of the courts with the Chamber of Notaries*

The courts shall, without being requested to do so, forward to the Chamber of Notaries all decisions of a disciplinary or criminal nature which it needs to fulfil its duties under this Act.

## **VII. Legal remedies**

### **A. Administrative proceedings**

#### Article 75

#### *Appeals against decisions of the Chamber of Notaries, the Examination Commission for Notaries, and the Government*

1) Decisions and decrees within the meaning of Article 70(4) may be appealed, by way of complaint, to the board of directors of the Chamber of Notaries within 14 days of service.

2) Decisions and decrees of the board of directors of the Chamber of Notaries may be appealed, by way of complaint, to the Government within 14 days of service.

3) Decisions and decrees of the Examination Commission for Notaries may be appealed, by way of complaint, to the Government within 14 days of service.

4) Decisions and decrees of the Government may be appealed, by way of complaint, to the Administrative Court within 14 days of service.

## B. Disciplinary proceedings

### Article 76

#### *Appeals against decisions of the disciplinary court*

1) Rulings by the disciplinary court to discontinue the proceedings, the imposition or refusal by the disciplinary court of preliminary measures, as well as any decision by the disciplinary court disposing of the matter in a final manner may be appealed, by way of complaint, to the Supreme Court within 14 days of service.

2) The provisions laid down in §§ 238 et seq. of the Code of Criminal Procedure shall apply *mutatis mutandis* to the appeal proceedings.

### Article 77

#### *Suspensive effect*

Appeals against the imposition or refusal of a preliminary measure (Article 61) shall have no suspensive effect.

## VIII. Criminal provisions

### Article 78

#### *Misdemeanours*

Any person who commits the following shall be punished by the Court of Justice with imprisonment of up to three months or with a monetary penalty of up to 180 daily rates who:

- a) obtains entry in the List of Notaries or in the List of Substitute Notaries without fulfilling the requirements provided for in Article 4(2) or Article 8(2);
- b) fails to comply with the notification obligation provided for in Article 4(4) or Article 8(4).

## Article 79

*Contraventions*

1) Any person who, without meeting the requirements uses the designation “Notar”, “öffentlicher Notar”, “Notariatssubstitut”, “Beglaubigungsperson”, “Beurkundungsperson”, “Legalisator” or any other designation which gives the appearance of being entitled to practise the profession of notary or notarial activity, in German or any other language, shall be punished by the Court of Justice with a fine of up to 50 000 francs, and if the said amount is non-collectible, with imprisonment of up to six months.

2) Any person shall be punished in the same way who, when attesting a blank signature pursuant to Article 42(3), fails to affix a note to that effect.

**IX. Transitional and final provisions**

## Article 80

*Implementing ordinances*

The Government shall issue the ordinances required for the implementation of this Act.

## Article 81

*Transitional provisions*

1) The Government shall, within one month after the entry into force of this Act, appoint three members from the register of Liechtenstein lawyers who shall form the founding board of directors of the Chamber of Notaries.

2) Within one year after the entry into force of this Act, the founding board of directors shall convene a plenary assembly at which the ordinary board of directors of the Chamber of Notaries shall be elected from the notaries already entered in the List of Notaries.

3) Until the election of the ordinary board of directors of the Chamber of Notaries, the decisions on applications pursuant to Articles 5, 6, and 9 and the keeping of the lists under this Act shall be the responsibility of the

founding board of directors. Until the issuance of a schedule of charges as referred to in Article 71, the founding board of directors shall apply the corresponding schedule of charges of the Liechtenstein Chamber of Lawyers for these official acts.

4) Until the election of the ordinary board of directors of the Chamber of Notaries, the Government shall appoint two members of the founding board of directors, named by the founding board of directors, as a member and a substitute member of the Examination Commission as referred to in Article 73.

5) The notarial activity may commence only after all measures for the establishment of the Chamber of Notaries have been taken and the necessary guidelines have been issued. The Government shall announce this date in the Liechtenstein Law Gazette.<sup>2</sup>

#### Article 82

##### *Entry into force*

Subject to expiry of the referendum period without a referendum being called, this Act shall enter into force on 1 January 2020, otherwise on the day of its promulgation.

Representing the Reigning Prince:  
signed *Alois*  
Hereditary Prince

signed *Adrian Hasler*  
Prime Minister

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<sup>2</sup> The notarial activity may commence from 1 January 2021. (LGBI. 2020 No. 467)