

Ministry of education and science of the Republic of Kazakhstan

“A. Baitursynov Kostanay Regional University” NCJSC

Department of Civil law and procedure

**Educational and Methodological Complex of
“Notaries of the Republic of Kazakhstan” course**

(EMC)

5B030100 – Law

Kostanai, 2020

The compiler: Natalya Korytnikova, m.j., senior lecturer

Recommended at the Civil law and procedure Department session

“18” 06 2020 Protocol № 6

Head of the department

A. Aldabergenova

MINISTRY OF EDUCATION AND SCIENCE OF THE REPUBLIC OF
KAZAKHSTAN

"A. Baitursynov Kostanay
Regional
University" NCJSC
Economic and Law
Institute

Approved by
Director
A. Tabuldenov
_____._____2020

Department of Civil law and procedure

Training syllabus

course Notaries of the Republic of Kazakhstan

major 5B030100 – Law

credits 5

Kostanai, 2020

The Syllabus is designed by Natalya Korytnikova, m.j., senior lecturer

Considered and recommended at the meeting of the Department Civil law and procedure dated 18. 06 . 2020, Minutes № 6

Head of the Department

A. Aldabergenova

1 Course description:

"Notaries of the Republic of Kazakhstan" is the basic discipline. Its study will help students master the profession of a notary. In modern conditions, the role of notaries was increasing markedly. The quality of the work of the notes depended on the normal functioning of civil circulation, the effectiveness of the protection of property rights and the legitimate interests of citizens and legal entities. In this regard, the study of the course "Notaries" is of great importance for law students. The notaries was also particularly important in the context of the formation of market relations with regard to the interests of entrepreneurs, in connection with the execution and registration of contracts, the creation of various forms of ownership and transactions with it.

Prerequisites: Civil law of the Republic of Kazakhstan

Post-requisites: Family law of the Republic of Kazakhstan, Inheritance law of the Republic of Kazakhstan.

The purpose of the course:

Educational purpose - training of personnel and highly qualified specialists in theoretical and practical issues of notarial activity, ready to meet the complex challenges posed to them by practice and capable of effectively protecting the legitimate rights and interests of the persons who addressed them, professionals capable of providing legal assistance for the restoration of violated rights, able to analyze and solve legal problems in the field of civil law relations.

The objective:

to develop the necessary knowledge and skills to carry out notary activities.

When studying the course students should:

- **know:** classification and systematization of legal institutions within the course; basic methods of studying legal phenomena in the relevant field; current normative acts regulating notarial legal relations in Kazakhstan;

- **be able:** to analyze and interpret legal norms when working with normative legal acts, to draw up and solve various cases and exercises within the framework of the studied topics; comment on norms of civil legislation of the Republic of Kazakhstan regulating notarial relations;

- **have skills in**

- glossary within the framework of the studied course; skills in the drafting of specific notary documents;

-**be competent in**

- the transfer of legal information, problems and ways to solve them both to specialists and not to specialists; developing judgment and the ability to interpret legal information; self-study of material necessary for the application of current legislation.

2 Content of the course

Module 1. Organization and legal basis of notarial activity

1.1 The main world notary systems. System of a Latin notaries. The International Union of Notaries. Purposes and objectives of IUN. IUN structure, commissions and working groups. Partnerships with international organizations. Development of worldwide notary network (WNN). Features of the Anglo-Saxon legal model and the place of a notary in it. Application of norms of law of other states by notary. international treaties.

1.2 Notaries: the general provisions. Kazakhstan Notary Profession. Notarial activity and its guarantees. Unified notarial information system. Payment for notarial activities. Payment for legal and technical services within activities carried out by private notary. Control of notary activity. Competence of Ministry of Justice of the Republic of Kazakhstan to regulate notaries. Competence of territorial body of justice to regulate notaries.

1.3 Legal status of notary and notary association. Notary in the Republic of Kazakhstan. Clerks and trainees of notary. Certification for the right to carry out notarial activities. Rights and obligations of notary. State notary office. Notary in private practice. Activity area of notary. Insurance of activity of private notary. Responsibility of notaries and civil servants, authorized to carry out notarial activities. Suspension of notary licence. Loss of notary licence. Termination of notary licence.

Module 2. Notarial activities and rules for its provision.

2.1 Notarial activities carried out by notaries and authorized civil servants. Procedure for carrying out notarial activities. Timing of performance of notarial activities. Grounds and terms for postponement and suspension of notarial activities. Limitation of rights to carry out notarial activities. Refusal to carry out notarial action. Registration of notarial activities. Notarial clerical correspondence. Language of clerical correspondence.

2.2 Certificate of transactions, facts and accuracy of copies of documents and extracts from them, authenticity of signature and accuracy of translation. Issuance of certificates of ownership for share in general joint property. Notarially certified transactions. Explanation to parties of meaning and significance of draft transaction. Certification of property alienation and pledge documents subject to registration. Notarization of powers of attorney and consents. Certification of fact that a citizen is alive. Certification of facts that citizen is in a particular place. Certification of time of presentation of documents. Certification of accuracy of copies of documents and extracts from them. Certification of accuracy of copy of document issued by citizen. Certification of accuracy of copy from copy

of document. Certification of authenticity of signature on document. Certification of accuracy of translation.

2.3 Notarization of hereditary rights of citizens. Certification of wills. Procedure for change and revocation of wills. Notification of heirs and legatees on opening of inheritance. Acceptance of applications for renunciation of inheritance or issue of certificate of right to inheritance. Places and terms of issue of certificate of right of inheritance. Procedure of issue of certificate of right of inheritance. Conditions of issue of certificate of right to inheritance under law. Conditions of issue of certificate of right to inheritance under will.

2.4 Fulfillment of executive notes. Collecting money or recovering other movable property from a debtor. Terms of execution of executive note. Content of executive note. Procedure of collection under executive note. Deadlines for presentation of an executive note. Sending a copy of an executive note or relevant resolution to the debtor. Issuance of an executive note to a recoverer. Cancellation and contestation of an executive note or relevant resolution.

2.5 Other notarial activities. Provision of evidence. Execution of marine protests and protest of bill. Acceptance of documents and security papers for storage. Return of documents and security papers accepted for storage. Transfer of declarations. Acceptance of money on deposit. Refund of money to the person who deposited it.

3 Recommended sources

Required books:

- 1 Kembaev Zh. Introduction to the Law of Kazakhstan, the Netherlands, 2012.
- 2 Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
- 3 Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Supplementary books:

- 4 Zhaskayrat M., Ilyassova G., Kussainova Notarial Activity in the Republic of Kazakhstan: Problems and Development Prospects.// Life Science Journal 2014;11(9) <http://www.lifesciencesite.com>
- 5 Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf

Regulatory legal acts:

- 6 Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
- 7 Об утверждении Правил совершения нотариальных действий нотариусами Приказ Министра юстиции Республики Казахстан от 31 января 2012 года № 31. Зарегистрирован в Министерстве юстиции Республики Казахстан 28 февраля 2012 года № 7447 // <http://adilet.zan.kz/rus/docs/V1200007447>
- 8 The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435.// <http://adilet.zan.kz/eng/docs/Z030000435>
- 9 Civil Code of the Republic of Kazakhstan Enforced by the Decree of the Supreme Council of the Republic of Kazakhstan dated December 27, 1994. // <http://adilet.zan.kz/eng/docs/K940001000>
- 10 Civil Code of the Republic of Kazakhstan (Special part) Code of the Republic of Kazakhstan No 409 dated July 1, 1999. // <http://adilet.zan.kz/eng/docs/K990000409>
- 11 The Code of the Republic of Kazakhstan On Marriage (Matrimony) and Family dated 26 December, 2011 No. 518-IV.// <http://adilet.zan.kz/eng/docs/K1100000518>
- 12 Правила по нотариальному делопроизводству, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 32
- 13 The Law of the Republic of Kazakhstan On State Registration of Rights to Immovable Property dated 26 July, 2007 No. 310.// http://adilet.zan.kz/eng/docs/Z070000310/_history
- 14 The Law of the Republic of Kazakhstan On Housing Relations dated 16 April 1997 No. 94.// <http://adilet.zan.kz/eng/docs/Z970000094>

- 15 Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
- 16 Об утверждении форм нотариальных свидетельств и постановлений, удостоверяющих надписей на сделках и свидетельствуемых нотариусами документах. Приказ Министра юстиции Республики Казахстан от 29 февраля 2016 года № 104 // <http://adilet.zan.kz/rus/docs/V1600013561>
- 17 Об утверждении критериев оценки степени риска и проверочных листов в сфере нотариальной деятельности. Совместный приказ Министра юстиции Республики Казахстан от 28 декабря 2015 года № 649 и и.о. Министра национальной экономики Республики Казахстан от 30 декабря 2015 года № 833. Зарегистрирован в Министерстве юстиции Республики Казахстан 31 декабря 2015 года № 12698 // <http://adilet.zan.kz/rus/docs/V1100007100>
- 18 Кодекс чести нотариуса. Утвержден Республиканским Съездом частнопрактикующих нотариусов 16 февраля 2001 года // https://online.zakon.kz/document/?doc_id=30575206

Form of the scheme of training and methodological support of the course

Ф. 4-33

Submitted by
Head of the Department

A. Aldabergenova
____.____. 20____.

The scheme of training and methodological support of the course **Notaries of the Republic of Kazakhstan** for 2020 – 2021 academic year

Speciality	Number of students		Bibliography (author, title, place, publication year, number of pages)	Type of publication	Format	Number of copies		Availability in the net	Remarks
	Odd number sem.	Even number sem.				Library	Department		
			1. Textbooks, teaching guides, electronic educational editions						
5B030100 - Law		14	Required						
			Кембаев Ж. Introduction to the Law of Kazakhstan, the Netherlands, 2012	textbook	paper	2			
			Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.	textbook	paper	18			
			Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.	textbook	paper	5			
			Supplementary						

		Zhaskayrat M., Ilyassova G., Kussainova Notarial Activity in the Republic of Kazakhstan: Problems and Development Prospects.// Life Science Journal 2014;11(9)	article				http://www.lifesciencesite.com	
		Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155.//					http://adilet.zan.kz/eng/docs/Z970000155	
		The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435.//					http://adilet.zan.kz/eng/docs/Z030000435	
		Об утверждении Правил совершения нотариальных действий нотариусами Приказ Министра юстиции Республики Казахстан от 31 января 2012 года № 31. Зарегистрирован в Министерстве юстиции Республики Казахстан 28 февраля 2012 года № 7447 //					http://adilet.zan.kz/rus/docs/V1200007447	
		Правила по нотариальному делопроизводству, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 32					http://adilet.zan.kz/rus/docs/V1200007	
		Overall number of copies			25		5	
		2. Manuals of the department						
		N. Korytnikova Notaries of the Republic of Kazakhstan	EMC	paper		1	in university network	
		Overall number of copies			0	1	1	
Total	14	Total			25		6	

Compiler _____ N. Korytnikova

Topic 1 The main world notary systems. Notaries: the general provisions.

Purpose: to acquaint with the main world notary systems and general provisions of the notaries in the Republic of Kazakhstan.

Content:

- 1 The world legal systems and the main world notary systems
- 2 The International Union of Notaries.
- 3 History of notaries and the Kazakhstan model of notaries
- 4 Notaries: the general provisions

- 1 The world legal systems and the main world notary systems

Today there are two main systems of notaries - Latin and Anglo-Saxon types. Distinctions in systems of notaries are explained by special features of legal families (Anglo-Saxon and Romance and Germanic) on which the called systems are based. To understand the difference between these legal families means to define that Anglo-Saxon and Latin systems of a notaries differ from each other, as this determines correctness of choice by the state of this or that system of notaries. "The power of the lawyer is in the uncertainty of the law." - Jeremy Bentham. This quote is, to an extent, appropriate to both the common and the civil law system (known as continental law). However, there are fundamental differences between common and civil law in their origins, their development and their contemporary applicability.

So what are these differences? I will focus on 3 differences which I consider to be the most important. Please keep in mind that there are other differences too. So, the first difference between common law and civil law is existence or absence of codification. Civil law is said to be codified as opposed to common law which is said to be uncoded. When we say that something is codified, we basically mean that it is written down somewhere, that the rules are all collected together somewhere. The second difference between common law and civil law is the significance of precedent in jurisprudence. Judicial precedents are said to be binding in common-law jurisdictions. This means that like cases should be treated alike. Lower Courts have to follow upper Courts' decisions, and matters which were dealt with one specific way, if another case arises with the same facts and/or legal issues, that also must be dealt with similarly. Judicial precedent is not so important in civil-law jurisdictions because the decisions themselves have not been reached purely through the judges' own scholarship and interpretation. The judges' role in civil-law jurisdictions is to establish the facts of the case and to apply the provisions of the applicable code. Although they use their expertise, they are not considered to be as creative as common-law judges. The judges' role in common-law jurisdictions is to create the law to some extent, and to interpret the statutes passed by Parliament when those are in play in cases. Their role is therefore active and creative, as opposed to civil-law judges'

more passive and technical role. This is why judicial precedent is considered to be more important in common-law countries.

Finally, it should be clear by now that common-law jurisdictions are more case-law reliant, and also operate very much on custom and practice. In contrast, civil-law jurisdictions are more reliant on legislation.

And now some words about the main world notary systems. There are two different main types of notary in our modern times: the Latin type and the type found in the common law system. The Latin type of notary is usually found in the countries with a civil law system. The main difference between the two types concerns the role of the notary in jurisprudence and the competences the notary has. Civil law notaries have huge competence in different areas of jurisprudence, while common law notaries are limited in competence and notarize, that is, attest to as an impartial witness, signatures and copies of documents. The role of the notary in civil law countries is much greater than in common law countries. A notary, in almost all common law jurisdictions, is a qualified, experienced practitioner.

A notary in common law (hereinafter – public notary) is a public official appointed by a state government to help deter fraud. Notary publics witness the signing of important documents and verify the identity of the signer(s), their willingness to sign the documents, and their awareness of the contents of the document or transaction, but they may not give legal advice. Generally speaking, a notary public in the common law has powers that are far more limited than the role of a civil law notary in the rest of the world.

2 The International Union of Notaries.

The International Union of Notaries (UINL) is a non-governmental organisation. It aims to promote, co-ordinate and develop the function and activities of notaries throughout the world. It assures their dignity and independence in order to provide a better service to people and society in general.

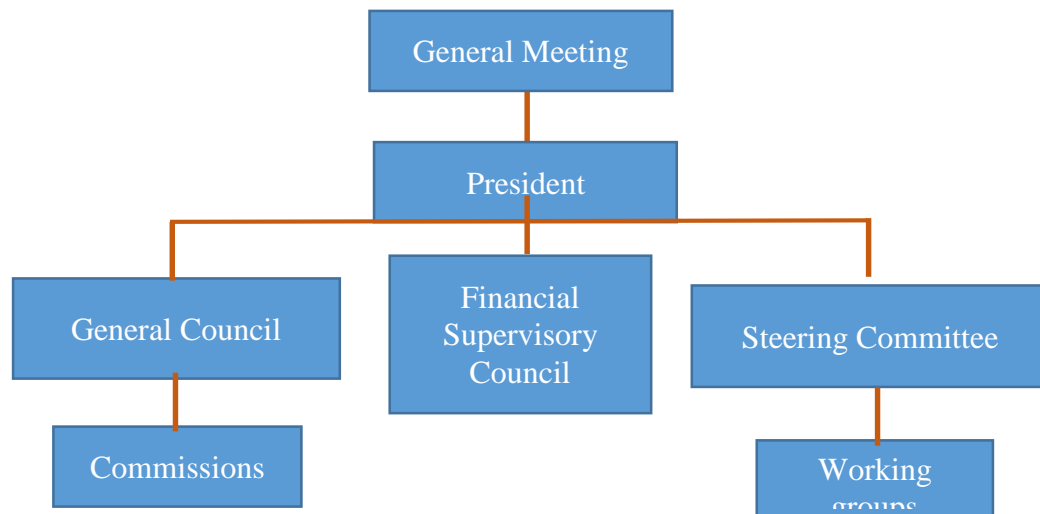
Formed by 19 countries at the time of its establishment in 1948, our organisation includes 88 countries on 2 October 2018, of which 22 out of the 28 member countries of the European Union and 15 out of the 19 countries of the G20, thus showing the expansion of the European legal system. Today it is in place in almost 120 countries, totalling 2/3 of the world population and accounting for over 60% of world Gross Domestic Product.

Directed by a Steering Committee formed by 28 councillors, the decision-making body is the General Meeting of member notariats where each country has one vote regardless of its importance. It also includes a General Council formed by 176 members and continental and intercontinental commissions working from the scientific (vocational training and research), strategic (development), economic (networks and activities) and sociological (human rights and social protection) standpoints.

Aims of the International Union of Notaries:

- Promote and apply the fundamental principles of the civil law notarial system and the principles of notarial deontology;
 - Represent the notariat at and co-operate with international organisations;
 - Collaborate with national bodies and institutional authorities in every country;
 - Study law in the field of notarial activities and co-operate to harmonise national legislations at international level;
 - Promote, organise and develop vocational training and support scientific works in the notarial field;
 - Study and systematically gather legislation on the civil law notarial institution;
 - Promote international congresses, conferences and meetings.
- Promote and establish relations with:**
- developing Notariats and Notaries in countries lacking notarial organisations to work for their development and organisation with a view to their admission to the Union;
 - notarial organisations under legal systems that are eligible to join the civil law notarial system;
 - organisations that are not part of the notarial system in order to collaborate with them in areas of common interest.
 - Support the development of law in States.

Structure of the International Union of Notaries



The resources of UINL include:

- ordinary or extraordinary contributions of Member Chambers of Notaries;
- receipts deriving from the activities and the publications edited and published by the Union;
- gifts, legacies, subventions and subsidies.
- any other income or sources of funding.

3 History of notaries and the Kazakhstan model of notaries.

The notaries has its origin in the civil institutions of ancient Rome. Public officials, called "scribae", that is to say, scribes, rose in rank from being mere copiers and transcribers to a learned profession prominent in private and public affairs. Some were permanent officials attached to the Senate and courts of law whose duties were to record public proceedings, transcribe state papers, supply magistrates with legal forms, and register the decrees and judgments of magistrates.

In the last century of the Republic, probably in the time of Cicero, a new form of shorthand was invented and certain arbitrary marks and signs, called "notae", were substituted for words in common use. A writer who adopted the new method was called a "notarius". Originally, a notary was one who took down statements in shorthand and wrote them out in the form of memoranda or minutes. Later, the title "notarius" was applied almost exclusively to registrars attached to high government officials, including provincial governors and secretaries to the Emperor.

Notwithstanding the collapse of the Western Empire in the 5th century AD, the notary remained a figure of some importance in many parts of continental Europe throughout the Dark Ages. When the civil law experienced its renaissance in medieval Italy from the 12th century onwards, the notary was established as a central institution of that law, a position which still obtains in countries whose legal systems are derived from the civil law.

The notaries in legal system, certainly, carries out as one of the main function of rendering legal aid to many categories of citizens, and also legal entities. However, in Kazakhstan the legal nature of notaries isn't specified, the legislative base of institute is imperfect. At the same time, it is impossible to call legal policy of the state concerning a notaries univocal. There are a number of conceptual and legislative problems which constrain development of researched institute. They are connected both with current legislation about notaries, and with civil, financial, tax and other branches of the Kazakhstan legislation. Inconsistent legislative decisions in many respects are consequence of that institute of notaries, its opportunities aren't understood up to the end and not estimated completely. Such decisions are often caused by lack of basic theoretic-legal researches of the public relations developing in the sphere of notarial activity. The theoretical understanding of place and notaries role in legal system of Kazakhstan, its communication and interaction with law enforcement and other government bodies in the sphere of administration of justice, the rights and freedoms of citizens has basic value in creation of the constitutional state in our country. In Kazakhstan, despite the active resistance of notarial community, at the beginning of 2012 admission reform to implementation of notarial activity was carried out, namely the system of quoting of notaries was cancelled, competitive selection on holding the post of the private notary was abrogated. Passed about two years from the moment of coming into force of the specified innovations that allows formulating certain results. Today any person having the license for the right of occupation of notarial activity, has opportunity to enter in members of notarial chamber, in the presence of office premise, to pass record registration in judicial

authorities and to get down to work as the notary. Thus there is no restriction of number of notaries working in the same district.

Since the beginning of 2013 in the republic the total of notaries has made 3672 persons. The ranks of territorial chambers in the reporting period were joined by 797 notaries. 207 notaries who have again entered chambers have accumulated period of work till five years, 332 notaries have accumulated period of work from five to ten years, 258 new notaries have accumulated period of work on specialty over 10 years.

Today only every sixth notary (581 notaries) of the republic is deployed in the regional centers. Only 161 notaries work in rural districts at constant basis (there are 2 386 rural districts in the republic). The termination of inflow of new notaries to rural areas is observed in recent years.

4650 people are the share of service of one notary on the average in the republic, including in the capital of the republic in Astana city 1200 inhabitants are the share of one notary, in the Alma-Ata city – 2000 people. Now this indicator is four times lower than the standard provided by Latin notaries. By this criterion nowadays Kazakhstan is among the “oversupplied” countries by number of notaries.

For comparison: in Germany about 10 thousand notaries are on 82 million inhabitants (one is the share of 8 200 inhabitants); in France on 65 million inhabitants – about 9500 notaries (one on 6900 inhabitants); in Mongolia on 2,7 million inhabitants – about 190 notaries (one on 20 000 inhabitants); in Russia on 143 million inhabitants – about 7 000 notaries (one on 20 000 inhabitants); in the People's Republic of China on 1,3 billion inhabitants – about 11 000 notaries (one on 120 000 inhabitants).

Necessity of improvement of Kazakhstan legislation assumes studying of international experience, and first of all activity of the International Union of Latin Notaries (further IULN) in this sphere, and also influences of IULN on the national legislation of the Republic of Kazakhstan in the sphere of notaries. Within Latin notarial system models of its organization likewise can be various, differing by extent of involvement of the notary in civil turnover, nature of actions made by him and volume of aid and advice in legal matters given by him.

The Kazakhstan model of notaries has a number of peculiarities that we will talk about later.

4. Notaries: the general provisions

The Kazakhstan Notary Profession is a legal institution providing qualified legal assistance and protection of rights and legal interests of individuals and legal entities by carrying out notarial activities.

The right to carry out notarial activities in the cases and within the limits established by the Law on Notaries, shall be held by:

1) notaries working state notary offices (state notary), and notaries engaging in private practice (private notary);

- 2) civil servants in akim authorities in cities of regional significance, municipalities, villages and rural districts, authorized to carry out notary activities;
- 3) persons fulfilling consular functions in the name of Republic of Kazakhstan;
- 4) other persons authorized by this Law to carry out notarial activities.

Notarial activity is carrying out of notarial activities provided for by the Law on Notaries and other Kazakhstan legislative acts, by the notary. It should be noted that notarial activity is not a business activity.

Principles of notarial activity in the Republic of Kazakhstan

- legality,
- independence,
- impartiality,
- secrecy of notarial acts.

In carrying out notarial activities, notaries and other persons licensed to carry out notarial activities are independent and subject only to the Law.

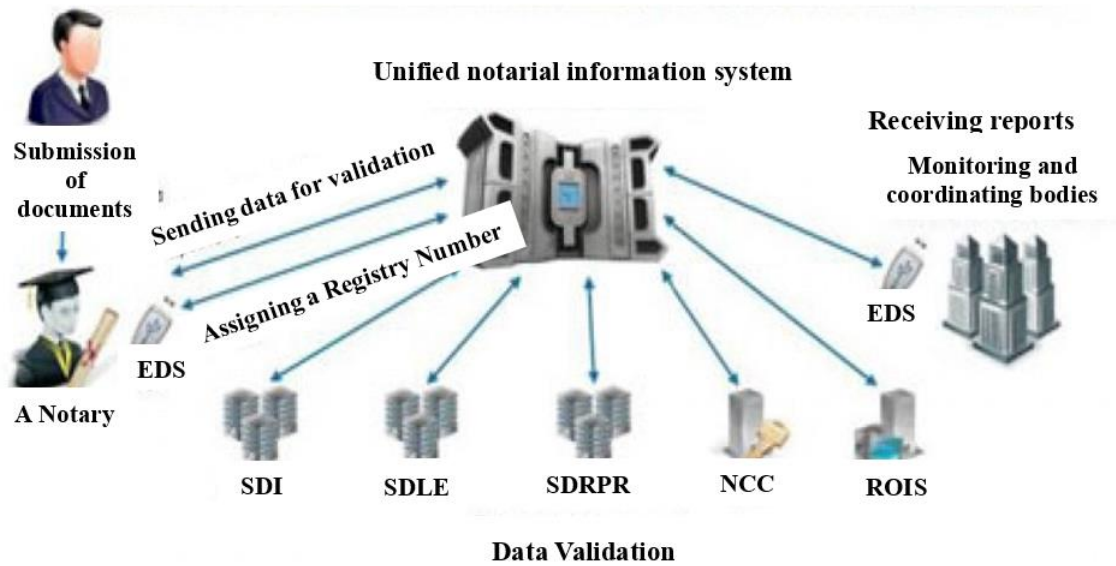
Notarial activities are performed in compliance with the rules of notarial clerical correspondence in accordance with the Rules, confirmed by the Kazakh Ministry of Justice (Rules of notarial clerical correspondence). Notarial clerical correspondence shall be conducted in accordance with Kazakh legislation concerning languages. If an applicant for notarial action, does not speak the language of the clerical correspondence, the texts of the documents formulated shall be translated for him/her, at his/her request, for a fee.

Since October 2010, the Unified Notarial Information System (ENIS) has been imperative introduced into the organization of work of the Kazakhstan notaries. The unified notarial information system is a hardware and software complex, intended for automation of notarial activities and interaction of judicial bodies and notary associations.

The benefits of the ENIS are as follows:

- Improving the legal security of notarial actions;
- Prompt receipt of data from state databases for notarial proceedings;
- Strengthening the capacity to identify the entities seeking notarial action;
- reduction of temporary and material expenses for persons applying for notarial action;
- Access to state databases allows notaries to claim authenticity of notary acts with all the ensuing consequences, as: their special evidentiary or direct executive power

UNIFIED REGISTRY NUMBER GENERATION SERVER FOR ALL NOTARIAL DOCUMENTS



Acronyms and terms used in the scheme

Acronym	Term in English	Term in Russian
SDI	State database "Individuals"	Государственная база данных "Физические лица"
SDLE	State database "Legal entities"	Государственная база данных "Юридические лица"
SDRPR	State database "Real Property Register"	Государственная база данных «Регистр недвижимости»
NCC	National Certification Centre	Национальный удостоверяющий центр
ROIS	Registry Office Information System	Информационная система «ЗАГС»
EDS	Electronic digital signature	Электронная цифровая подпись

-	Single registry number generation server for all notarial documents	Единый сервер генерации реестровых номеров для всех нотариальных документов
-	Submission of documents	Подача документов
-	Sending data for validation	Отправка данных на проверку
-	Assigning a Registry Number	Присвоение реестрового номера
-	Receiving reports	Получение отчетности
-	Monitoring and coordinating bodies	Контролирующие и координирующие органы
-	Data Validation	Проверка данных

Questions:

- 1 What are the world legal systems?
- 2 What are three differences between common law and civil law systems?
- 3 Are there any differences between the Latin type and the type found in the common law system?
- 4 What is the essence of the reforms of the notary system in the Republic of Kazakhstan in the last 10 years?
- 5 When was the International Notary Union established?
- 6 Is the International Union of Notaries (UINL) a non-governmental organization?
- 7 Who has the right to carry out notarial activities in the Republic of Kazakhstan?
- 8 What principles are based the notarial activity in the Republic of Kazakhstan?
- 9 What does the Unified Notarial Information System mean?
- 10 What are the benefits of the ENIS ?

Recommended sources

- 19 Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
- 20 Kembraev Zh. Introduction to the Law of Kazakhstan, the Netherlands, 2012
- 21 The president of the Human rights center “Rectum ESSE” M. Amirova's performance at the International conference “15 years to a private notariate of Kazakhstan: achievements and problems” www.almaty-notary.kz/vystuplenie - m.amirovoy---prezident
- 22 Kashurin I.N. Notariat in the legal system of the Russian Federation. Author's abstract of Candidate of science in Law, 2005.26.

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Topic 2 Legal status of notary and notary association. Notarial activities carried out by notaries and authorized civil servants.

Purpose: to acquaint with the legal status of notary and civil servants, authorized to carry out notarial activities, as well as notary association.

Content:

- 1 Persons entitled to carry out notarial activities.
- 2 Legal status of notary
 - 2.1 Obtaining a license to engage in notarial activities
 - 2.2 The rights, obligations and responsibility of the notary
- 3 Notary association: the concept, structure, powers and types.
 - 1 Persons entitled to carry out notarial activities.

The right to carry out notarial activities in the cases and within the limits established by the Law On Notaries, shall be held by:

- 1) notaries working state notary offices, and notaries engaging in private practice (private notary);
- 2) civil servants authorized by the Law On Notaries to carry out notarial activities.
- 3) persons fulfilling consular functions in the name of the Republic of Kazakhstan;
- 4) other persons authorized the Law On Notaries to carry out notarial activities

The state notary office shall be a structural subdivision of the territorial body of justice without legal entity rights, and shall act on the basis of the Provisions confirmed by this body.

A notary engaged in private practice shall be a citizen, involved in notarial activities without establishing a legal entity on the basis of a license, who insured his civil liability for obligations arising from harm resulting from notarial acts, and became a member of the notarial chamber.

Civil servants in akim authorities in cities of regional significance, municipalities, villages and rural districts, who have successfully passed the certification in the territorial body of justice.

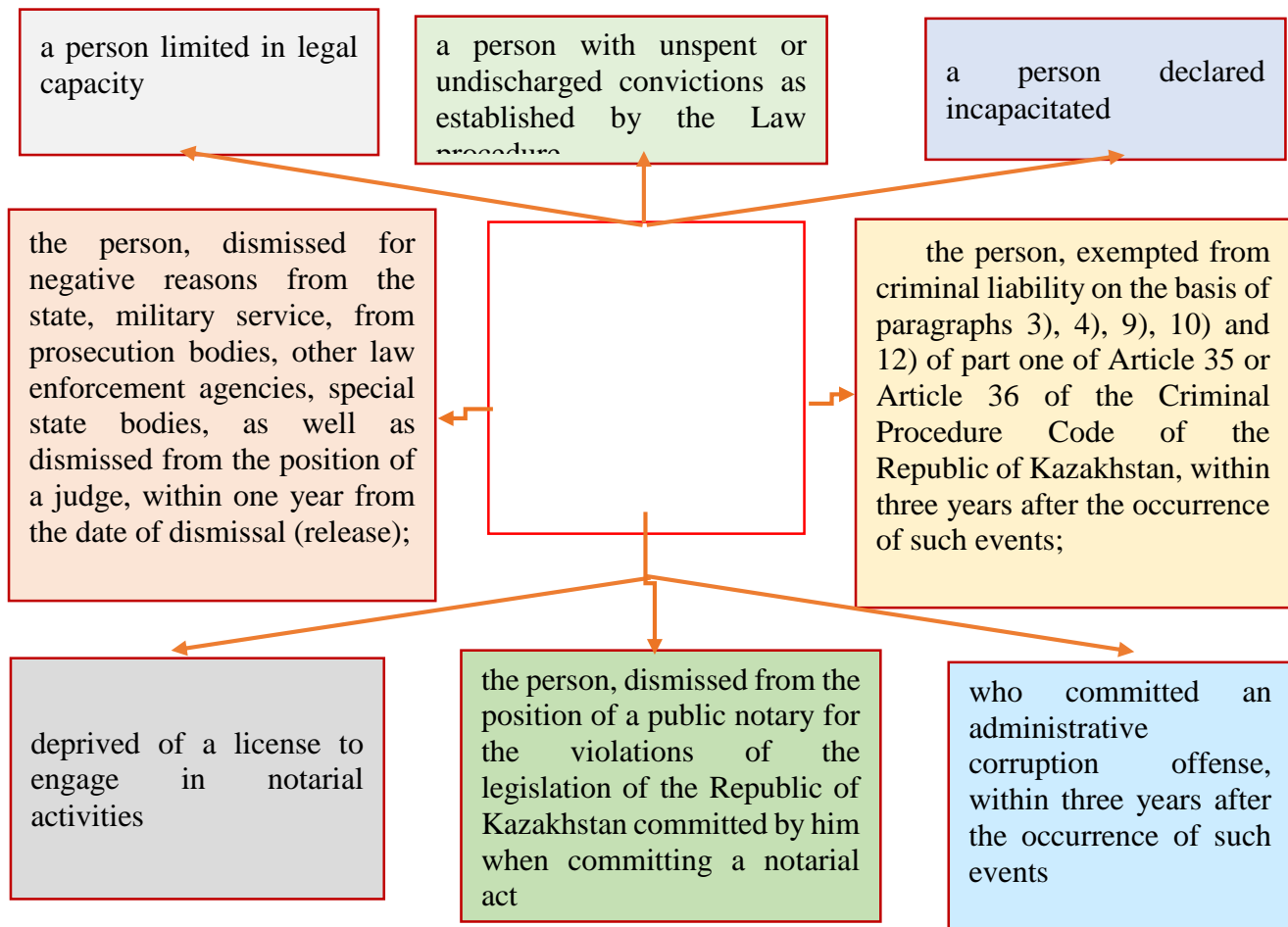
Other persons authorized by this Law to carry out notarial activities, for example, in accordance with article 37 of the Law On Notaries and articles 167 and 1052 of the Civil Code of the Republic of Kazakhstan "...powers of attorney of military servicemen and of any other persons who are in medical treatment at hospitals, sanatoria and any other military medical institutions, attested to by the chiefs, deputy chiefs for medical issues, senior doctors and doctors on duty of those hospitals, sanatoria and other military medical institutions;... powers of attorney of the persons who are in places of imprisonment,

certified by the heads of the places of their incarceration; powers of attorney of capable citizens of full age who are in institutions for the social protection of the population, certified by the head of that institution or of the relevant body for the social protection of the population... and so on”

2 Legal status of notary

2.1 Obtaining a license to engage in notarial activities

In accordance with item 1 article 6 of the Law On Notaries, notary may be a Kazakh citizen who has reached the age of 25 years and has higher legal education, not less than 2 years’ work experience in the legal profession, has undertaken a notary internship lasting not less than 1 year, is certified by the certification commission of justice, and has obtained a license for the right to carry out notarial activity, unless this Law provides otherwise.



Consider in more detail the pre-license stages.

A notary internship

The purpose of the internship shall be the acquisition by the trainee of professional knowledge and practical skills in performing notarial acts, organization of the work of a notary for the subsequent obtaining of a license to engage in notarial activities.

Trainees shall undergo internships with notaries, having at least five years of experience in notarial activity, based an internship agreement with a notarial chamber. Training shall be carried out according to unified program of professional preparation of trainees, confirmed by order of the Kazakh Ministry of Justice by agreement with the state notary association. Reduction of duration of training shall not release trainees from responsibility to pass through the training program. Completion of the professional training programme shall be a compulsory condition of training.

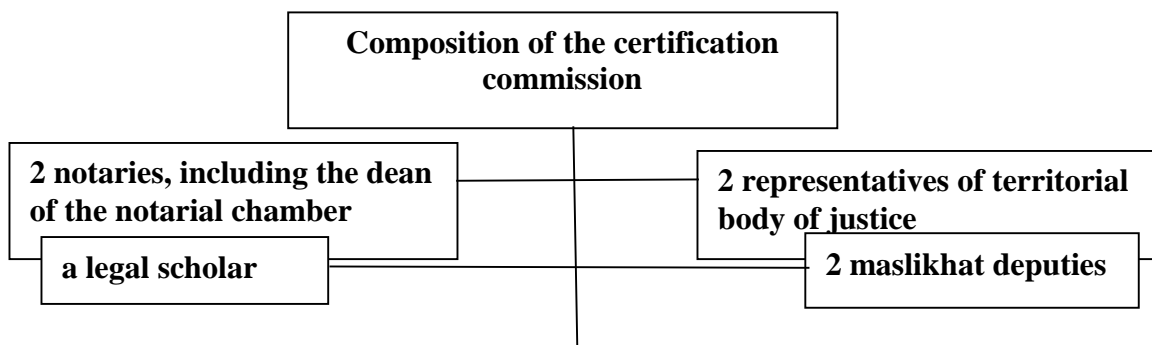
At the end of the internship, the notary shall prepare a report that reflects the training program taken by the trainee, which is approved by the notarial chamber within ten working days. In case of incomplete mastering of the vocational training program by the trainee, the trainee shall be given extra time.

The internship report shall be valid for three years after its approval.

Certification in the attestation commissions of justice

The basic tasks of certification commission of justice for the right to carry out notarial activity shall be:

- 1) ensuring quality selection of applicants to license to carry out notarial activity;
- 2) ensuring openness and publicity of sessions.



A person applying for the right to engage in notarial activity, after completing an internship, shall send an application at the place of residence to the appropriate attestation commission of justice for the right to engage in notarial activity on his admission to attestation. An applicant admitted to attestation shall be notified in writing of the place, date, time, procedure for attestation no later than ten calendar days before it. Certification consists of two stages:

- 1) passing a computer test on awareness of Kazakh legislation;
- 2) oral test on exam papers.

Applicants may, if they wish, undergo a test in the Kazakh and Russian languages. The test shall be conducted using computer technology.

According to the results of certification, the certification commission of justice for the right to carry out notarial activity shall issue a well-grounded decision on whether or not to certificate not later than the day following certification. The decision of the certification commission shall be effective for three years from the date of issue. Decisions of the certification commission of justice may be appealed against before a court according to the procedure established by the Law.

According to the results of certification a license to carry out notarial activity (notary license), issued by the Ministry of Justice of the Republic of Kazakhstan, shall authorize a private notary to carry out notarial activities. A notary license shall be issued without a time limit and shall be valid throughout the Republic of Kazakhstan. A charge, the amount and payment method of which shall be determined by tax legislation, shall be applied for the issue of a notary license. The decision of refuse may be appealed against before a court.

It should be remembered that the Law of the Republic of Kazakhstan on Notaries establishes not only the grounds and procedure for terminating the license to engage in notarial activities, but also the suspension and deprivation (loss) of the notary's license (articles 10-12)

In addition to obtaining a license, private notaries shall be obliged to take out civil liability insurance for obligations arising from civil damages arising from the execution of notarial activities, and shall not have a right to carry out notarial activities in the absence of such policy.

2.2 The rights, obligations and responsibility of the notary

Rights of notary

Notaries shall have the right to:


- carry out notarial activities, provided for by this Law and other Kazakh legislative acts, in the interest of individuals and legal entities approaching them;
- produce drafts of contracts, applications and other documents;
- prepare copies of documents and abridged versions of them;
- provide consultation on issues of fulfilment of notarial activities;
- claim from individuals and legal entities the documents and information necessary for fulfilment of notarial activities, in accordance with established requirements for disclosure of information, including commercial, banking and other secrets legally protected by Kazakh legislative acts;
- practice a scientific, educational and creative activity;
- conduct conciliation procedures;
- be elected (appointed) by the arbitrator in the arbitration proceedings.

Obligations of notary

Notaries shall be obliged to:

- to perform notarial acts, as well as actions related to electronic registration, in accordance with the requirements of this Law, the Law of the Republic of Kazakhstan "On state registration of rights to real estate" and other regulatory legal acts of the Republic of Kazakhstan governing the activities of a notary;
- explain rights and obligations to citizens and legal entities, and warn of consequences of performed notarial activities so that lack of legal information cannot be used to their detriment;
- keep under seal of secrecy information made known to them in the context of professional activity;
- refuse to carry out notarial activity that contravenes Kazakh legislation;
- comply with professional ethics;
- submit information on fulfilment of notarial action, other documents, and where necessary personal explanations, including issues of noncompliance with the requirements of professional ethics in the event of complaints about their action to judicial authorities and/or the notary association;
- transfer documents being produced to another notary in the event of suspension of license, according to the procedure provided for by the rules concerning notarial clerical correspondence;
- to hand over the seal to the territorial body of justice for the period of suspension of the license, as well as in the event of termination of the license;
- send all notarial documents held to the private notarial archive in the event of termination of license on grounds, provided by subparagraphs 1), 2), 4), 4-1) and 6) of paragraph 1 of Article 12 of this Law;
- provide information on change of surname, name, patronymic and location of office to the territorial body of justice within one month;
- to notify the territorial body of justice and the notarial chamber within five working days in case of non-performance of notarial activity within one month;
- to improve professional qualifications.

Restrictions of activities of notary

	<p><u>Notaries may not:</u></p> <ol style="list-style-type: none"> 1) carry on business activities; 2) provide intermediary services during the completion, amendment and dissolution of a treaty; 3) perform notarial duties in cases of election of representative body by deputy; 4) perform their duties without a compulsory notary's civil liability insurance contract; 5) use a facsimile or transfer seal or electronic digital signature to another person, except when sending a seal to the territorial body of justice for the period of suspension of notary's license;
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6) to perform activities outside the location of its premises, except for the cases provided for by this Law.

Notaries in private practice may not be in working relationships as employees, unless otherwise provided by the Law on Notaries

Responsibility of notaries and civil servants, authorized to carry out notarial activities

Notaries and civil servants authorized by this Law to carry out notarial activities, shall bear criminal, administrative, financial, disciplinary and other liability provided for by Kazakh legislation in the event of illegal acts on their part. A notary, engaged in private practice, in case of violation of its professional duties and ethical standards, shall be prosecuted by the notarial chamber in accordance with the legislation of the Republic of Kazakhstan, the Notary Code of Ethics.

The body for considering appeals, complaints about violation by members of the notarial chamber of the requirements of the legislation of the Republic of Kazakhstan, the Notary Code of Ethics, the charter of the notarial chamber, the conditions for membership in the notarial chamber (hereinafter referred to as the complaint) shall be **the disciplinary commission**.

The procedure for consideration of complaints

The complaint shall be considered no later than one month from the date of its receipt.

When considering complaints, the disciplinary commission shall be obligated to invite to its meetings the persons who filed the complaints, as well as the members of the notarial chamber in respect of which the complaint is being considered. The failure to appear of these persons duly notified of the time and place of the consideration of the complaint shall not preclude its consideration.

The disciplinary commission shall have the right to decide on the application of **the following disciplinary measures**:

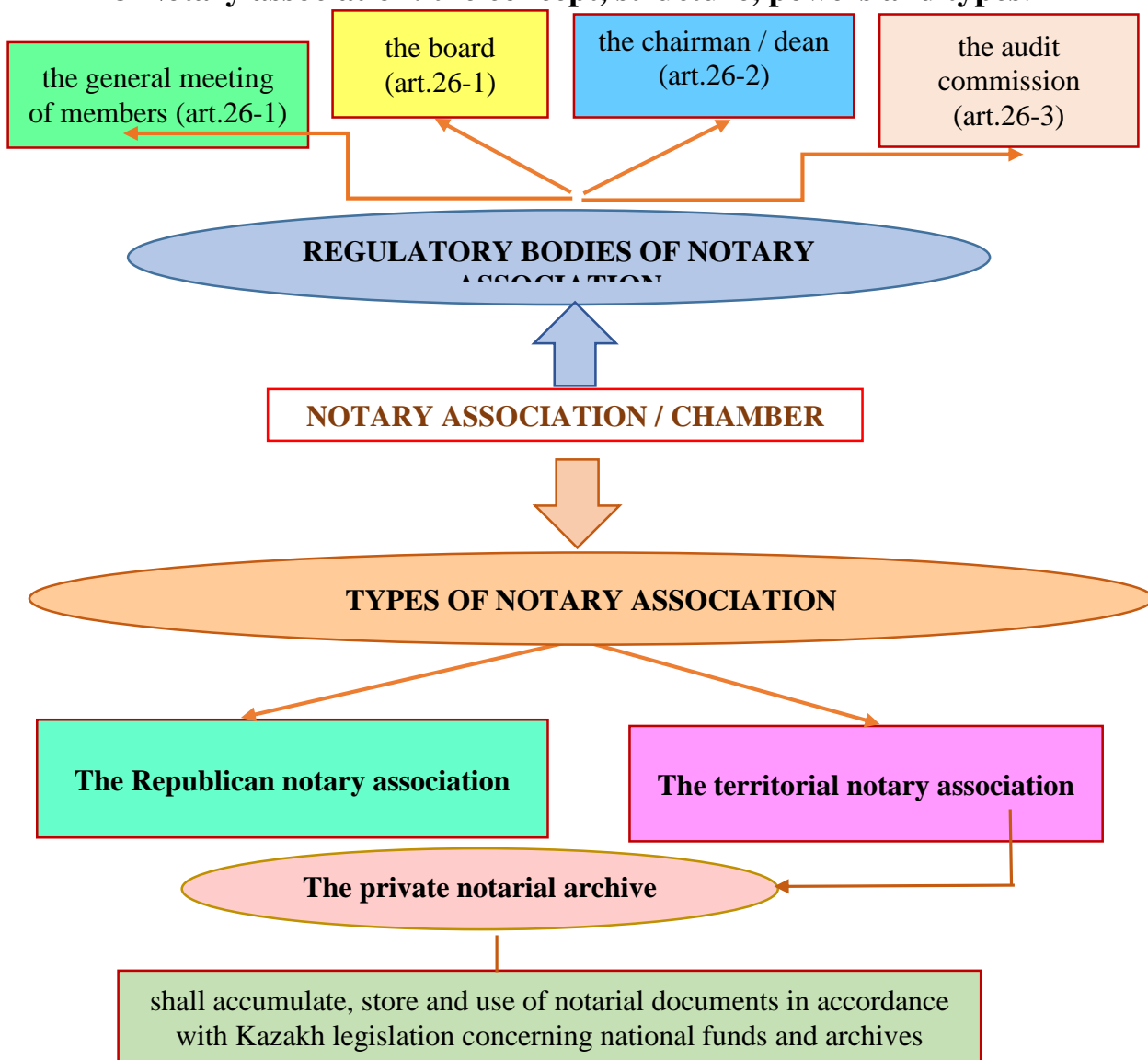
- 1) the issuance of an order obliging a member of the notarial chamber to eliminate the revealed violations and set the deadlines for their elimination;
- 2) issuing a warning to a member of the notarial chamber;
- 3) suspension of membership in the notarial chamber;
- 4) exclusion from the notarial chamber or exclusion from the notarial chamber with submission of a petition to the licensor to prepare a statement of claim on termination of the notary license.

The decisions provided for by subparagraphs 1) and 2) of paragraph 3 of Article 24 shall be made by a majority of votes of the members of the disciplinary commission and shall enter into force on the day they are made by the said body. Decisions provided for by subparagraphs 3) and 4) of paragraph 3 of Article 24 may be taken by at least two-thirds of the votes of members of the disciplinary commission.

The notarial chamber, within five calendar days from the day the disciplinary commission makes a decision on application of disciplinary measures against a member of the notarial chamber, shall send a copy of the decision to the member of the notarial chamber, as well as to the person who sent the complaint, on which the decision was made, using communication means providing registering of its receipt. Decisions of the disciplinary commission of the notarial chamber may be challenged by members of the notarial chamber in the Republican notarial chamber or court.

Complaints concerning, or refusal to accept, notarial activities shall be considered by the courts in accordance with regulations of civil procedure legislation.

3 Notary association: the concept, structure, powers and types.



The notary association is an uncommercial professional self-financing organization, created for expressing and protecting the rights and legal interests of notaries in private practice and monitoring observance of legislation on notaries in provision of notarial activities. The notary association shall be a legal entity and subject to registration according to the procedure established by the Law.

The Republican notarial chamber shall be a non-profit, professional, self-financing organization uniting territorial notarial chambers based on their mandatory membership

The general meeting of members shall be the supreme body of the notary association.

The notarial chamber shall be managed by **the board** and the chairman of the notarial chamber. The members of the board shall be elected by secret voting for a four-year term. The board shall be a regulatory body of the notary association, and shall include not less than five persons. A notary who is a direct member of the notary association for not less than five years shall be elected **chairman / dean of the notary association**. The dean of the notary association shall be elected by secret voting for a four-year term. At that, the same person may not hold the post of chairman of the notarial chamber for more than one term.

The audit commission of the notarial chamber shall be the body that exercises control over the financial and economic activities of the notarial chamber. The audit commission of the notarial chamber shall be formed from among the members of the notarial chamber consisting of no more than five people. Members of the audit commission of the notarial chamber shall not be entitled to occupy any other elected position in the notarial chamber. Members of the audit commission of the notarial chamber shall carry out their activities on a voluntary basis free of charge. The audit commission of the notarial chamber shall be elected by the general meeting of members of the notarial chamber for a period of not more than two years.

Charter of notary association

The charter of the notary association shall include:

- 1) its name, aims and main types of activity;
- 2) the rights and obligations of the Board;
- 3) conditions and procedures for acquisition, suspension and forfeit of membership;
 - 3-1) rights, obligations and responsibility of members;
 - 3-2) disciplinary liability of members of the notarial chamber and the procedure for bringing to it in accordance with the requirements of this Law;
- 4) procedure of formation, function and duration of powers of governing bodies;
- 5) sources and procedure for the formation of cash and other property of the notarial chamber and directions for its use, the limits of disposal of property by notarial chambers, the procedure for monitoring the use of property by the notarial chamber;
 - 5-1) the procedure for paying the membership dues and fees;

- 6) procedure for introduction of amendments and supplements to the charter;
- 7) procedure for reorganizing and liquidating the Board, and fate of assets following liquidation.

The charter of the notary association may also embody other regulations, not inconsistent with legislation.

The powers of Republican / state notary association/chamber and notary association/chamber are provided for in articles 29 and 27, respectively.

Questions:

- 1 Who has the right to carry out notarial activities in the Republic of Kazakhstan?
- 2 How does the Law define a public notary office?
- 3 How does the Law define a notary in private practice?
- 4 What are the requirements of the Law for candidates for notaries?
- 5 Who cannot be a notary, according to the Law?
- 6 What are the pre-license stages?
- 7 Who are the members of the certification commission?
- 8 What are the rights of the notary, according to the Law?
- 9 What are the obligations of the notary, according to the Law?
- 10 What are the main features of the responsibility of notaries and civil servants, authorized to carry out notarial activities?
- 11 How does the Law define a notary association?
- 12 How does the Law define a Republican /State notary association?
- 13 What are the regulatory bodies of notary association?
- 14 What are the powers of notary association?
- 14 What are the powers of a Republican /State notary association?

Recommended sources

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Topic 3 Certificate of transactions

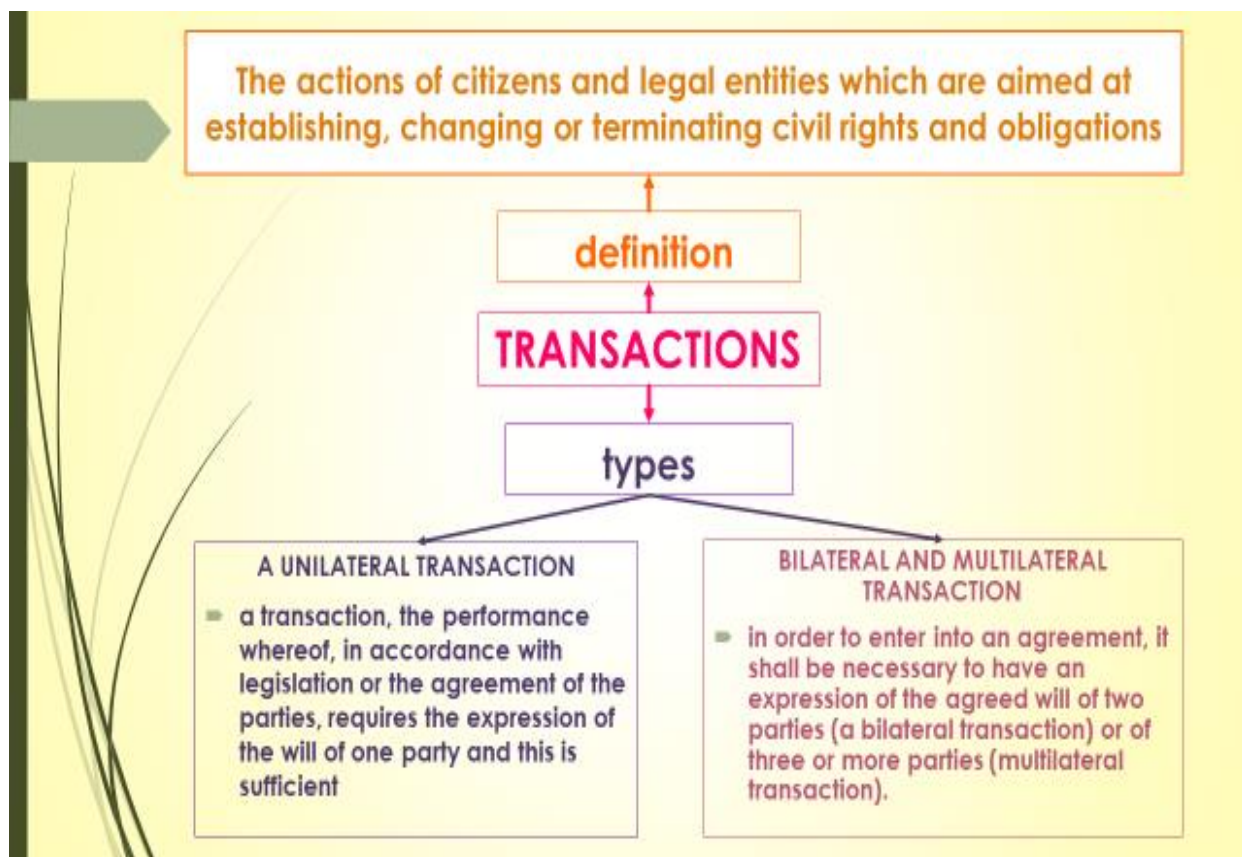
Purpose: Clarify the rules for certification of unilateral, bilateral and multilateral transactions in accordance with the Rules for notarial actions by notaries.

Content:

- 1 The concept of transaction
- 2 Certificate of transactions: general provisions
- 3 Certification of property alienation contracts.
- 4 Certificate of transactions by disposal of the common property of the spouses
- 5 Features of the alienation of real estate located on a land plot
- 6 Features of the alienation of the vehicle
- 7 Notarization of powers of attorney
- 8 Notarization of consents

1 The concept of transaction

The concept, types and forms of transactions are established by civil law.



Transactions can be entered into **orally** or in **written** form (**simple** or **notary**).

In cases stipulated by laws of the Republic of Kazakhstan or by agreement of the parties, the written transactions are deemed to be committed only after their notarization.

Failure to comply with the requirement of notarization entails the nullity of the transaction with the consequences provided for in paragraph 3 of Article 157-1 of this Code, except for the cases specified in paragraph 2 of Article 154.

2. Certificate of transactions: general provisions

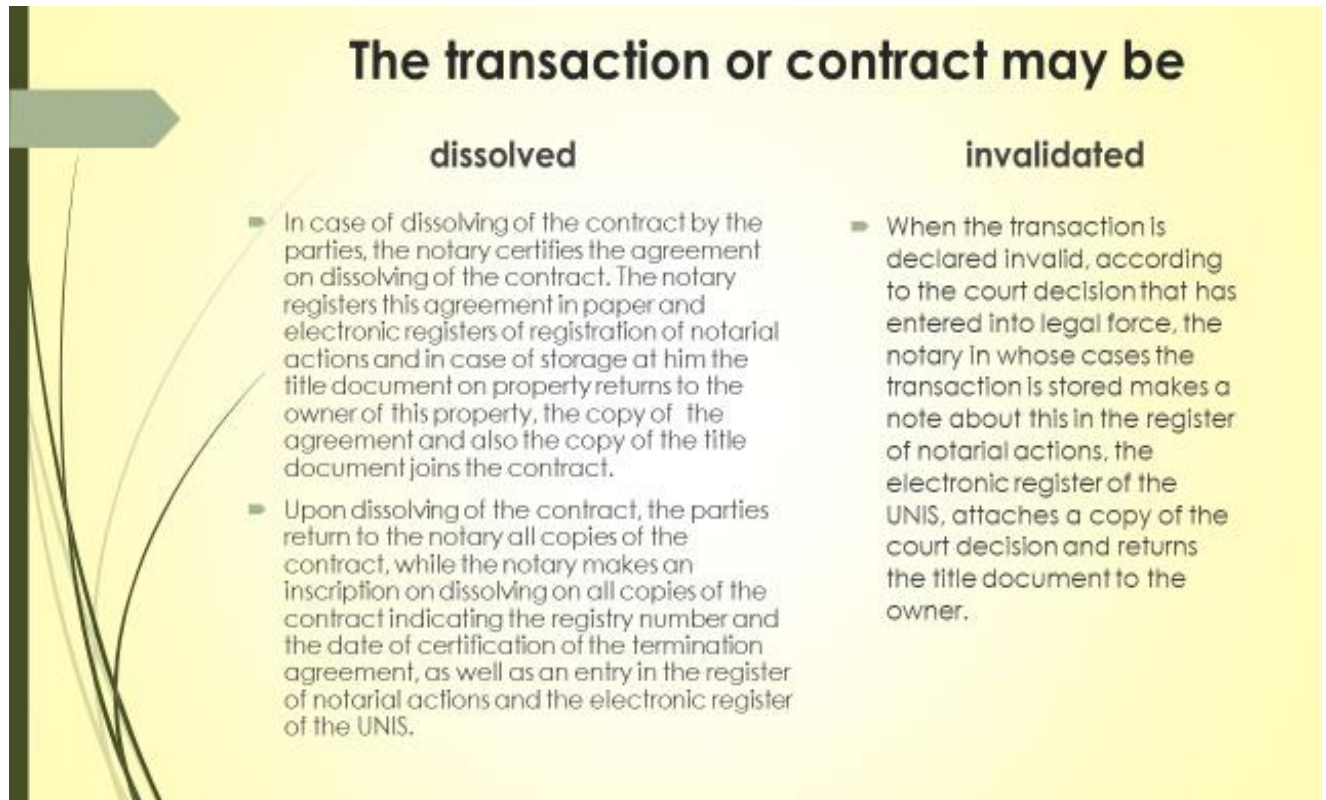
In accordance with the Law the notary shall certify transactions for which notarial certification is required by legislation. The notary may certify other transactions if the parties so wish.

Notaries and civil servants carrying out notarial activities must:

- clarify the meaning and significance of the draft transaction presented
- shall check that the content reflects the parties' actual intent and is not inconsistent with the requirements of legislation.

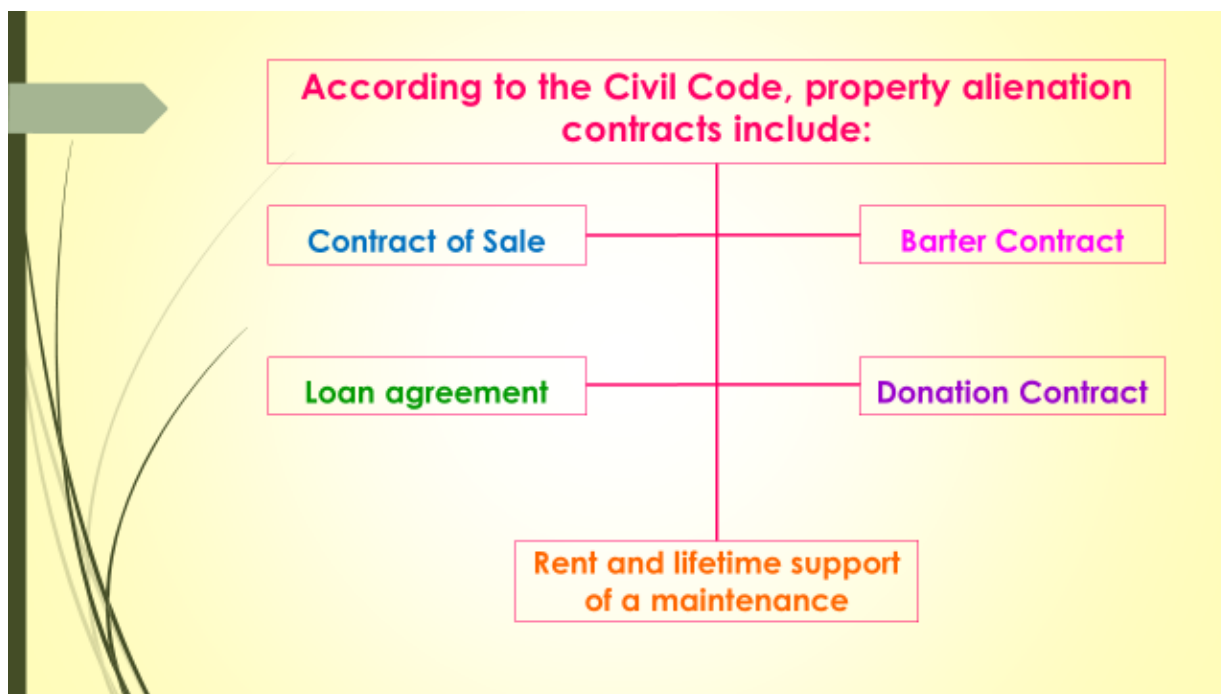
It should be borne in mind that in any transactions in which the property of minors or persons over whom guardianship or trusteeship is established is reduced, **the consent of the guardianship and trusteeship authority must be sought.**

The number of copies of documents containing the content of the transaction is determined by the persons who applied for a notarial act, but **must not be less than two copies**, one of which remains in the notary's files.



N.B. Upon dissolving of contracts, the previously collected payment for certification of these contracts is not returned to the parties.

3 Certification of property alienation contracts.



Alienated property may belong to the alienator both **on the right of personal property** and **on common property**.

Chapter 3 of the Rules for notarial actions by notaries regulates the alienation of property belonging to the alienator on the right of common property.

When alienating a share in the right of shared ownership, the notary is guided by the norms of Articles 216 and 501 of the Civil Code of the Republic of Kazakhstan.

When making transactions requiring notarial certification or state registration, the **notary seeks the consent of the other participants in the joint property** to perform the transaction, which is subject to notarial certification.

In the event of seizure of immovable property and movable property, the notary refuses to perform a notarial act, which makes a **decision to refuse** to perform a notarial act.

When certifying a contract for the alienation of immovable and movable property subject to state registration, the notary explains the need for state registration of the contract, as noted in the text of the contract.


4 Certificate of transactions by disposal of the common property of the spouses

When one of the spouses makes a transaction **to dispose of the common property of the spouses**, the consent of the other spouse is assumed, if the marriage contract does not establish a different regime of property.


For the execution by one of the spouses of a transaction on the dispose (acquisition) or termination of a transaction requiring notarial certification and (or) registration in accordance with the procedure established by law, it is necessary to seek the notarized consent of the other spouse, or a declaration that the owner of the alienated property is not married, with the exception of a transaction on the alienation of property acquired by the spouse on the basis of free transactions, prior to the registration of the marriage or by inheritance, as well as with the exception of property, which belongs to the spouse as the separate ownership on the basis of a marriage contract. In this case, the notary is presented with a marriage contract.

At the same time, the text of the contract indicates that the property

- **is acquired with the consent of the spouse (s) specifying**
 - his/her full surname, first name and patronymic (if available),
 - an individual identification number,
 - date and place of birth or that the purchaser is not married to anyone at the time of the conclusion of the contract.



- **in cases of a marriage contract,** the surname, name, patronymic are indicated (if any) the notary who certified the marriage contract, the date and place of the certificate, the register number and the legal regime of the property.



The marital relations of the spouses are checked by the notary

- on the marriage certificate
- or through the Unified Notary Information System (hereinafter - UNIS) in the state database "Physical persons," the information system "registration point of the registry office,"

Notary also makes a record on consent and indicates the number, date of issuance of the certificate and the name of the authority that issued the document.

5 Features of the alienation of real estate located on a land plot

Features of the alienation of real estate located on a land plot



- The alienation of real estate located on a land plot without the corresponding alienation of the ownership right (land use right) to the land plot is not allowed.
- When certifying contracts for the alienation of real estate, the notary seeks title, identification documents for the land plot and determines the authority of the owner of the land plot (land user) to alienate his rights.
- At the same time, the notary checks the information about the right holder and the identification characteristics of the real estate object indicated in the title document with documents confirming the identity of the right holders of physical persons or a certificate of registration of the legal person, as well as with the information of the state databases "Real Estate Register" and "Legal persons."

The notary does not request an identification document for the land plot during the alienation of residential and non-residential premises located in the condominium.

It should be remembered that when alienating real estate, the notary through the UNIS in the state database "Individuals " checks the information and notifies the purchaser in writing about the number of registered persons at the address with the address registration code (RAC) of the real estate object.

6 Features of the alienation of the vehicle

When certifying the contract of alienation of the vehicle, the notary shall request:

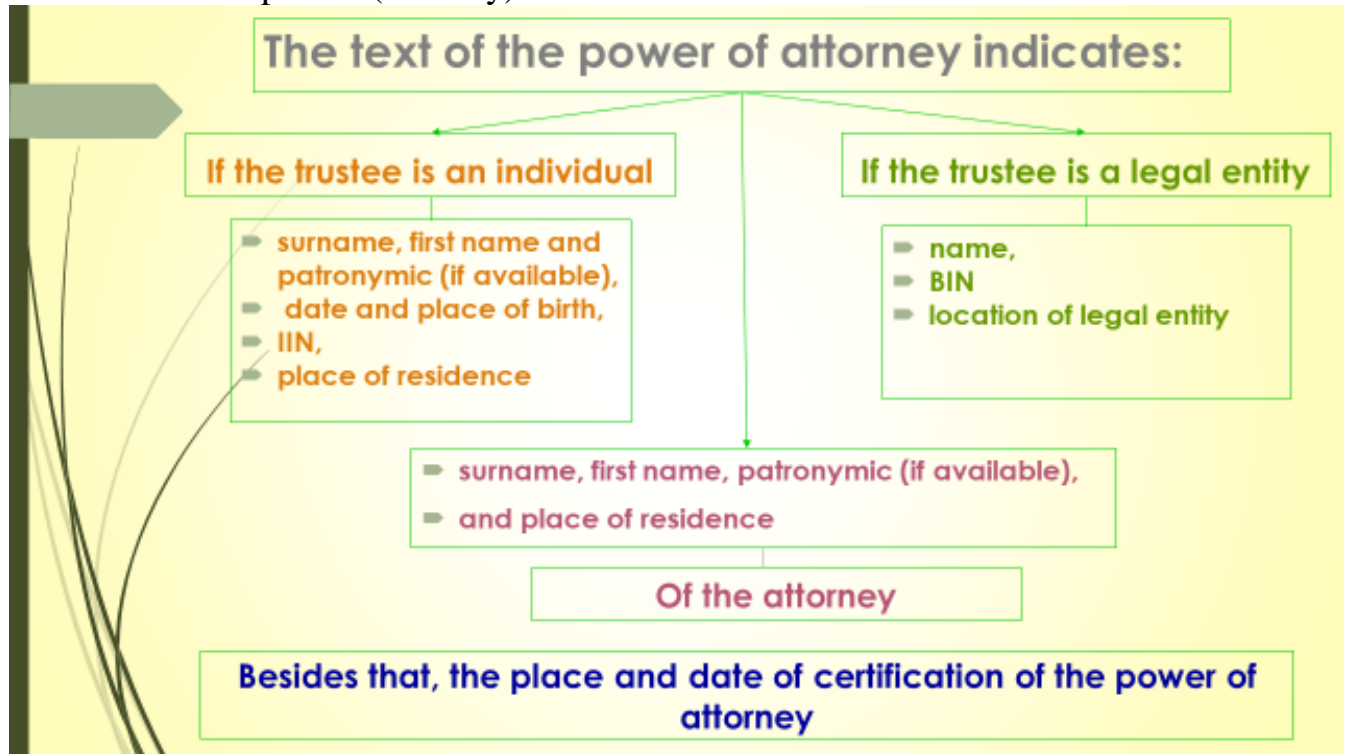


- 1) certificate of state registration of the vehicle;
- 2) a certificate of registration authorities on the absence of vehicle deposit, and other encumbrances, or a mark of the registration authority on the deregistration of the vehicle;
- 3) notarized consent of the spouses of the parties to alienation (if it was acquired during the period of joint marriage) or acquisition of this property or notarized statement of the owner and (or) the buyer that at the time of acquisition of the alienated property was not married, or is not.

7 Notarization of powers of attorney

According to the Civil Code of the republic of Kazakhstan, a written authorization by one person for representation on his behalf, which is issued to another person shall be recognized as a power of attorney.

The notary certifies the power of attorney on behalf of one person (principal) in the name of another person (attorney).



The electronic register of the UNIS contains the IIN and the data of the document confirming the identity of the trustee, as well as the BIN of a legal person.

The term of the power of attorney is indicated in words and cannot exceed three years. If the term of the power of attorney is not specified, it remains valid for one year from the date of its commission.

Powers of attorney for the management of property, for the execution of transactions requiring notarial certification and power of attorney issued in the order of sub-delegation procedure (except for powers of attorney specified in paragraph 4, 6 of Article 167 of the Code) are subject to notarial certification.

The power of attorney for the right to drive and dispose of the vehicle is certified if there is a certificate of state registration of the vehicle (technical passport).

A power of attorney issued by a legal entity may be notarized. In this case, the notary checks the powers of the official person who signed the power of attorney and the legal capacity of the legal entity.

A power of attorney on behalf of a state body, commercial and non-profit organization **for receiving or issuing money and other property** should also be signed by the chief (senior) accountant of this organization.

A power of attorney issued in the order of sub-delegation procedure

A power of attorney issued in the order of sub-delegation procedure is subject to certification only when the main power of attorney is submitted, in which the right of transfer is stipulated.

The power of attorney issued in the order of sub-delegation procedure indicates:

- the surname, name, patronymic of the notary who certified the main power of attorney,
- the date and place of certification,
- the registry number,
- surname, first name and patronymic (if available),
- date and place of birth,
- place of residence of the person to whom the main power of attorney or the name and place of residence of the legal person who issued the main power of attorney, as well as the person to whom the authority is transferred, and, where appropriate, their position.

On the main power of attorney, a note is made about sub-delegation procedure. A copy of the main power of attorney is attached to the copy of the power of attorney left by the notary.

In cases where **the attorney transfers the powers** of the main power of attorney **in full**, the initial power of attorney with a note of sub-delegation, is attached to the power of attorney issued in the order of sub-delegation procedure and transferred to a third person.

In case of **the transfer of specific powers** specified in the main power of attorney or several persons, **the original power of attorney with a mark of sub-delegation is returned to the attorney**, and a notarized copy of the original power of attorney and the power of attorney issued in the order of sub-delegation procedure is transferred to a third party.

Further transfer of powers on the basis of a power of attorney issued in the order of sub-delegation procedure is not allowed.

8 Notarization of consents

Notary certifies consent in cases provided for in Chapter 3-1 of the Rules for notarial actions by notaries

Certification of consent is carried out in accordance with the general rules for the certification of transactions.

Notarization of consents

The consent states:

- the name of the Consent document;
- the place and date of approval;
- last name, first name, patronymic (if available) of the person (persons) who signed the consent,
- his/her individual identification number,
- his/her date and place of birth, place of residence or location.



In cases where the law permits the consent of the representative, such consent shall be certified subject to confirmation of the representative's authority by the relevant documents.

The consent shall be certified by a notary in two copies, one of which shall be kept in notary files. **Certification of one consent**, regardless of the number of persons who signed it, **is one notary act**.

Consent may not be withheld or modified, except as provided by law.

Questions:

- 1 How can you define the concept “transaction”?
- 2 What types of transactions do you know?
- 3 In what form can transactions be made?
- 4 May the notary certify other transactions, except transactions for which notarial certification is required by legislation?
- 5 In what cases the consent to the transaction of the guardianship and trusteeship authority must be sought?
- 6 In what cases the transactions and contracts may be dissolved?
- 7 In what cases the transactions and contracts may be invalidated?
- 8 What are the features of certification of property alienation contracts?
- 9 What are the features of certificate of transactions by disposal of the common property of the spouses?
- 10 What are the features of certificate of the alienation of real estate located on a land plot?

- 11 What are the features of certificate of the alienation of the vehicle?
- 12 What are the features of notarization of powers of attorney?
- 13 What are the features of notarization of consents?

Recommended sources

- 38 Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
- 39 Rules for notarial actions by notaries // <http://adilet.zan.kz/rus/docs/V1200007447> [in Russian]
- 40 Kembaev Zh. Introduction to the Law of Kazakhstan, the Netherlands, 2012
- 41 The president of the Human rights center “Rectum ESSE” M. Amirova's performance at the International conference “15 years to a private notariate of Kazakhstan: achievements and problems” [www.almaty-notary.kz/vystuplenie - m.amirovoy---prezident](http://www.almaty-notary.kz/vystuplenie_m.amirovoy---prezident)
- 42 Kashurin I.N. Notariat in the legal system of the Russian Federation. Author's abstract of Candidate of science in Law, 2005.26.
- 43 Alenova A. Actual problems of the organization of notarial business and notariate functioning in the Republic of Kazakhstan. www.ug.zanmedia.kz/index.php?option=com_content&task=view&id=221&Itemid=3
- 44 Buribayev Ye.A., November, 8, 2013. Statement of question of need of number of private notaries' restriction. www.zakon.kz/4585308-postanovka-voprosa-o-neobkhodimosti.html/
- 45 The consolidation of final information of territorial notary chambers for 2013 year. Notary bulletin. 2014.1:13-35.

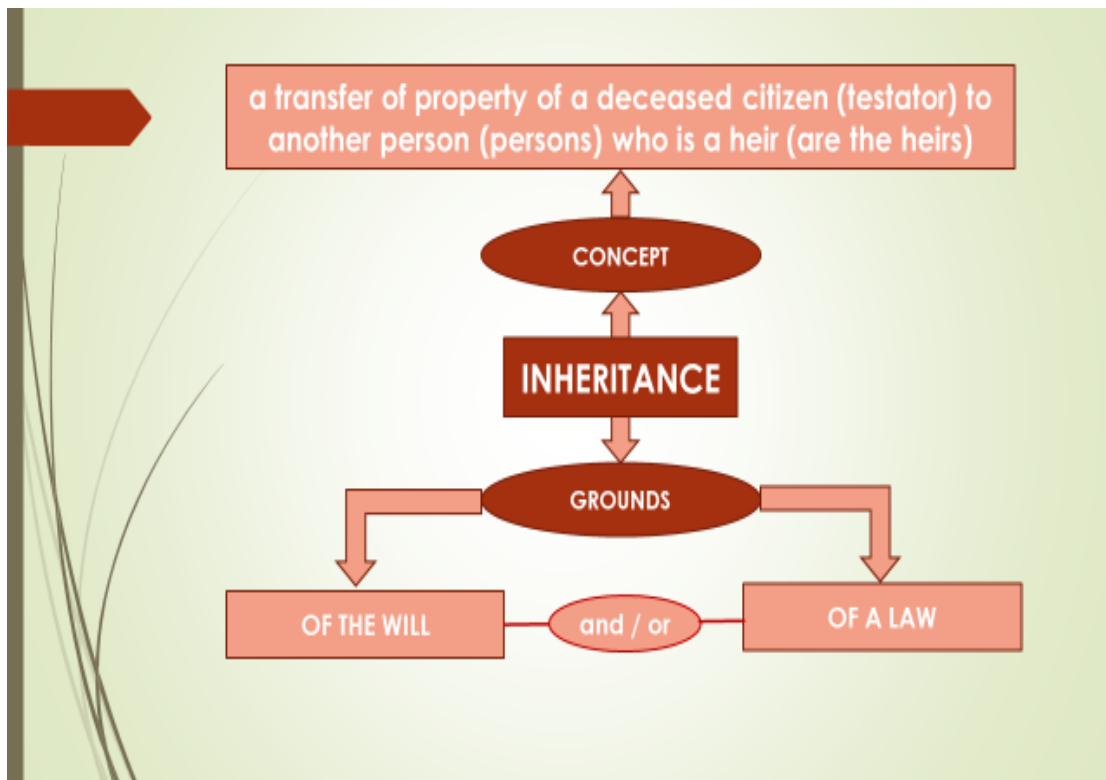
Topic 4 Certification of hereditary rights of citizens.

Purpose: to acquaint with the certification of hereditary rights of citizens.

Content:

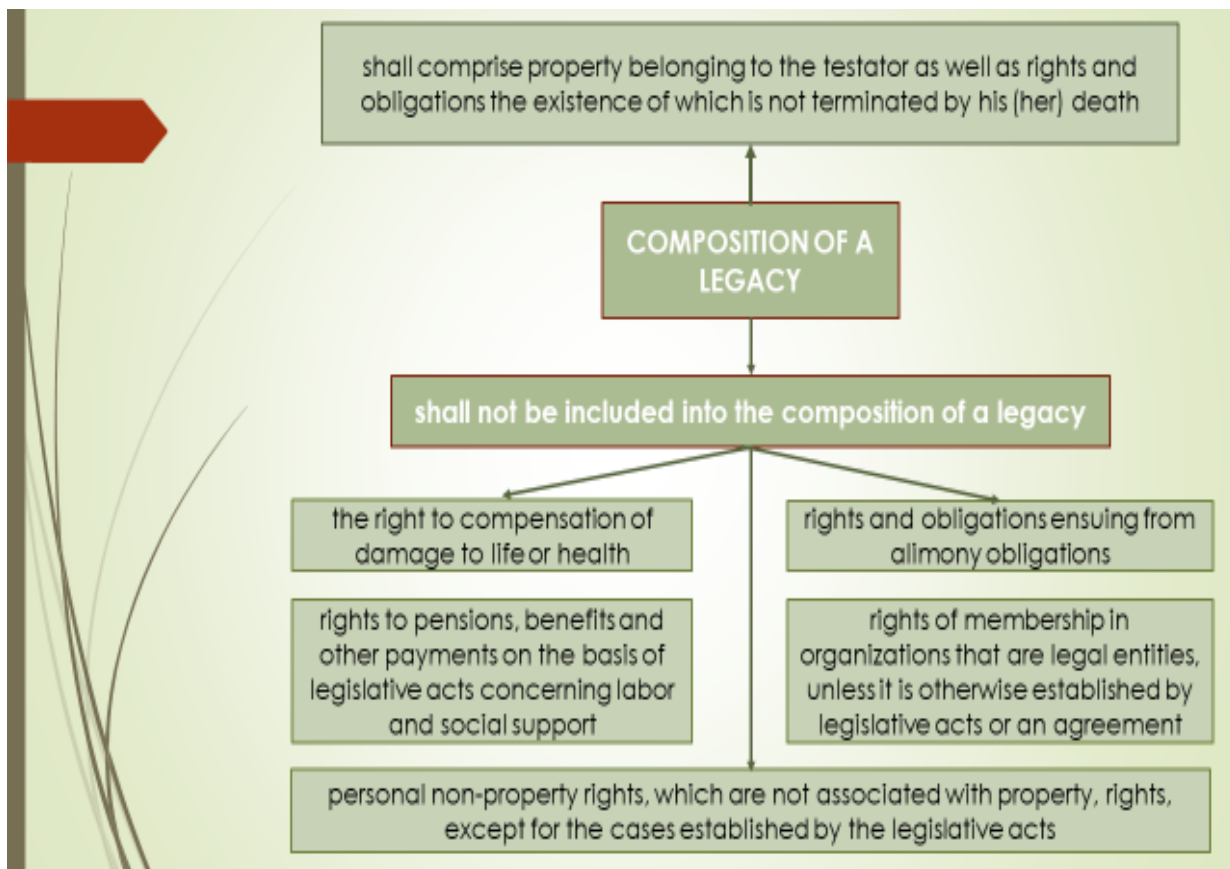
- 1 General Provisions Concerning Inheritance
- 2 Certification of wills
- 3 Issue of certificate of right to inheritance

1 General provisions concerning inheritance



Inheritance by law shall take place where there is no will, or where the will defines the destiny of a part of legacy, as well as in other cases established by the Civil Code of the Republic of Kazakhstan.

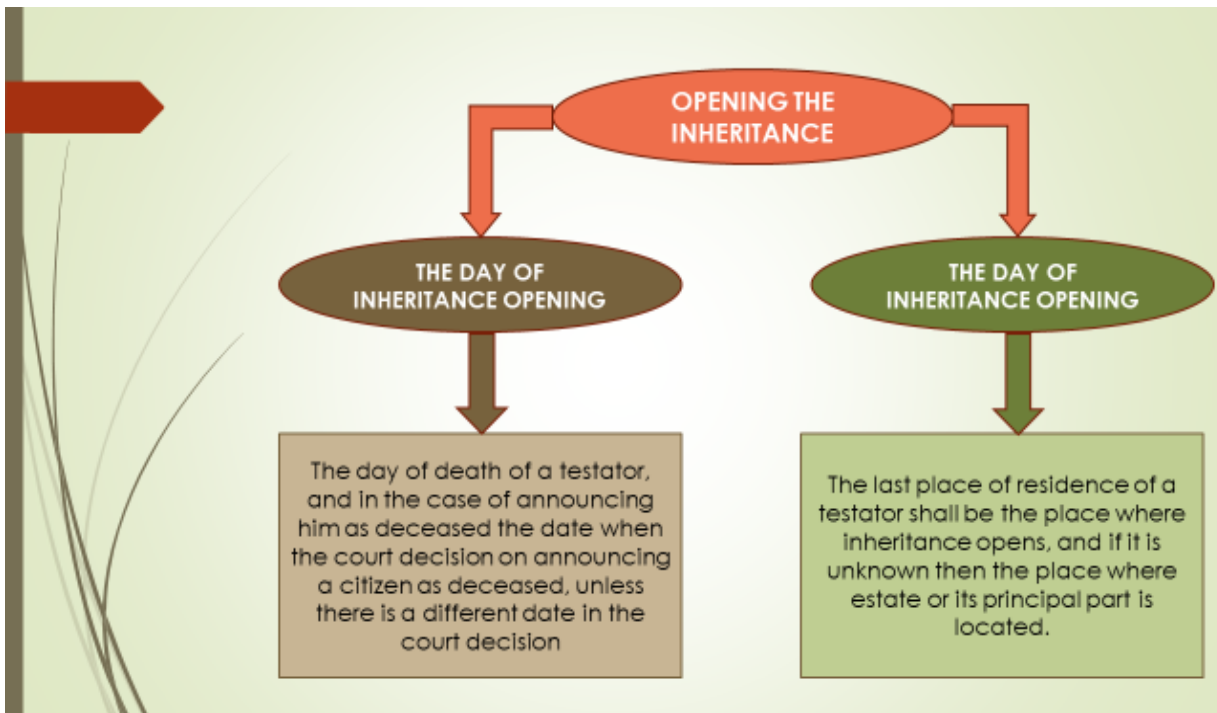
Property of a deceased citizen shall be transferred to other persons on the terms of universal legal succession. Legacy shall be transferred as one entity and at the same moment, unless it otherwise ensues from Section 6 “Inheritance Rights” of the Civil Code of the Republic of Kazakhstan.



Personal non-property rights and other non-material values, which belonged to the testator, may be exercised and protected by heirs.

Citizens being alive at the moment when inheritance opens, as well as those conceived when the estate-leaver is alive and those born alive after the inheritance opens, may be **heirs by law and will.**

Legal entities formed prior to the opening of inheritance and which existed at the time when inheritance opens, as well as the state may be **heirs by will.**



If persons who had the right to inherit one after another died on one day, they shall be recognized as deceased simultaneously (), and inheritance shall be opened after each of them and heirs of each of them shall be called for inheritance.

2 Certification of wills

An expression of will of a citizen with regard to distribution of property he (she) has in the case of his (her) death shall be recognized as **a will**.

- ▶ The will shall be created by a citizen who had his (her) full dispositive capacity as of the time when it was created.
- ▶ A will must be executed personally. Execution of a will through a representative shall not be allowed.



A testator shall have the right:

- to bequeath all his (her) property or part of it to one or several persons who are or are not heirs by law, as well as to legal entities and the state.
- to deprive of inheritance one, several, or all heirs by law; deprivation of an heir by law of inheritance shall not apply to his descendants who inherit by the right of presentation, unless it otherwise ensues from the will
- to execute a will containing instructions on any property. A testator shall be entitled to set heirs' shares in the estate in any way, to dispose of his (her) property or any of its part, by making one or several wills, concerning different properties.
- to renounce and amend the drawn up will at any moment after executing it, and he shall not be obliged to indicate reasons for the renunciation or amendment.



N.B.

1. Presentation of evidences confirming right to property bequeathed shall not be required upon certification of wills from testators.
2. A testator shall not have the right to entrust to the persons who are in his will appointed by him as heirs, the duty to distribute the properties bequeathed by him in a certain manner in the case of their death.

A notarized will must be

- personally written by a testator
- written down by a notary from the words of the testator
- certification of wills on behalf of several persons is not allowed



If the will is recorded by a notary in the words of the testator, the presence of witnesses is necessary.

When a will is written down from the words of a testator by a notary, usual technical devices may be used (awriter, personal computer etc.).

A will written by a notary from the words of a testator must be fully read by the testator in the presence of the notary and a witness before the will is signed.

When a testator due to physical problems, disease or illiteracy is not capable to read a will personally

- its text shall be voiced for him by a witness in the presence of a notary
- and a note to that effect shall be made in the will with an indication of the reasons why the testator was not able to read his will personally.

When a notarized will is drawn up in the presence of a witness, the surname, name and place of the witness' permanent residence must be indicated in a will. The same details must be included in a will with regard to a person who signed the will instead of a testator.

In the cases where witnesses must be present during compilation, drawing up, signing or attesting a will, the following may not be such witnesses, nor may they sign a will instead of a testator:

- ▀ the notary or any other person who attests a will;
- ▀ the person for whose benefit a will is drawn up or a testamentary gift was made, a spouse of such a person, his children, parents, grandchildren, great-grandchildren or heirs of testator by law;
- ▀ citizens who have limited capability;
- ▀ illiterate and other persons who cannot read a will;
- ▀ persons who have been sentenced for perjury.



A trust administrator of estate shall be appointed by a local notary where inheritance is opened pursuant to one or several heirs' request by law. An heir by law, who disagrees with the appointment of the estate administrator or with the appointment of the given administrator, shall have the right to challenge the appointment of the estate administrator in the court procedure.

An estate trust administrator shall exercise the powers, provided for with regard to an executor of a will, so long as it does not otherwise ensue from special considerations of inheriting by law.

An estate trust administrator shall have the right to compensation at the expense of the estate of appropriate costs associated with the protection of the estate and its management; and also to a fee, unless it is otherwise stipulated by his agreement with heirs.

A SECRET WILL

- At a testator's discretion, a will shall be notarized without a notary's perusal of its contents
- A secret will, under the fear of its invalidity must be written with a testator's own hand and it must be signed by the testator in the presence of two witnesses and a notary, sealed in an envelope on which the witnesses shall affix their signatures. An envelope signed by witnesses shall be sealed in the presence of the witnesses and notary into another envelope, onto which the notary shall affix his notarization note.



3 Issue of certificate of right to inheritance

Notaries receiving an advice of opening of inheritance shall be obliged to notify the heirs whose place of residence or work they know accordingly. If the place of residence or work of heirs or legatees is unknown, the notary shall advise the opening of inheritance through mass media.

A local notary where inheritance is opened, pursuant to the request of an heir shall be obliged to issue to him/her a certificate of inheritance.

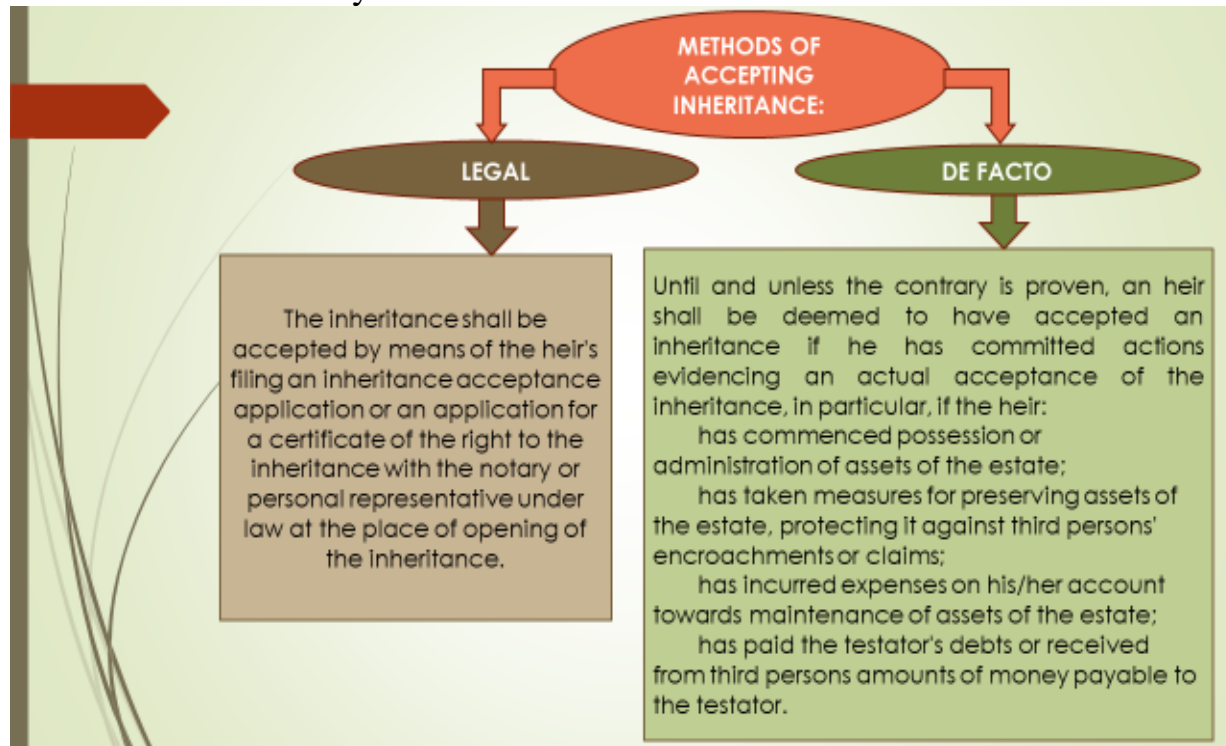
Term of issue of certificate of inheritance

- The certificate inheritance shall be issued upon expiry of six months from the day when inheritance was opened.



- When inheriting either by will or by law, certificates may be issued prior to the expiry of the specified period, provided a notary has reliable information that aside the persons who applied to obtain a certificate, there are no more heirs with regard to a given property or the entire inheritance

N.B. The issuance of a certificate of inheritance shall be suspended if there is an heir conceived but not yet born before his birth.



Procedure of issue of certificate of right of inheritance

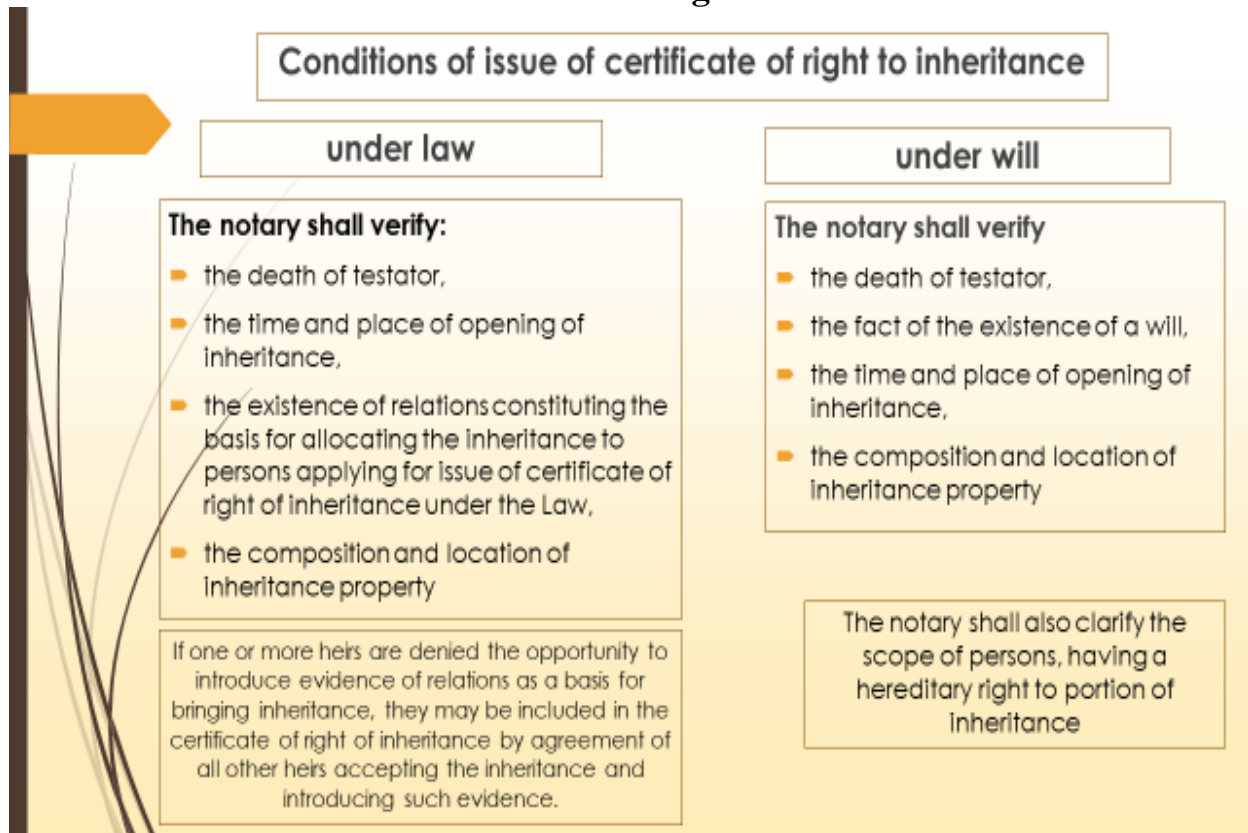
Certificates of right of inheritance shall be issued to heirs accepting the inheritance, in accordance with Kazakh civil legislation regulations. **The certificate** of the right to

inheritance **shall be issued to all heirs together or to each separately**, depending on their desire for each hereditary property.

When a certificate of right to inheritance of is issued to guardianship and trusteeship authorities in the name of a ward of court or minor or disabled heir at the place of residence of heir for the protection of his/her property interest, the notary shall advise accordingly.

Certificates of right of inheritance shall be issued to the authorized state body when property is transferred by right of inheritance to the state.

Conditions of issue of certificate of right to inheritance



Right to refuse an inheritance

The heir is entitled to refuse an inheritance within the period of six months from the opening of the inheritance. If there are good reasons that period may be extended by the court, however not more than for two months.

A refusal from the inheritance shall be carried out by way of submission by an heir of an application to a notary in the place of opening the inheritance.

The refusal from an inheritance **through a representative** shall **be possible** where the power for such a refusal is specifically stipulated in the power of attorney.

The refusal from an inheritance may not be subsequently renounced or revoked.

In the case of a refusal of an inheritance, an heir shall have the right to indicate that he/she repudiates it for the benefit of other persons from among heirs by will or by law of any category, who are called upon inheritance on right of representation.

The refusal of the inheritance for the benefit of heirs who are deprived of the inheritance by their testator **shall not be allowed.**

The fact of being a dependant:

- If a person who considers himself to be a dependant of the testator requests a certificate of inheritance by law, the notary checks the fact and duration of the dependant's stay by a court decision that has entered into force to establish the fact of being a dependant, and in his absence explains the procedure for applying to the court to establish the fact of being a dependant of the testator.



On the basis of applications for refusal from the inheritance or acceptance of inheritance or the issuance of a certificate of the right to inheritance, a hereditary case is started and a serial number is assigned. All subsequent applications from other heirs, including additional ones, are also registered in **the Book of Records of Hereditary Cases**, in the form provided for in the **Rules of Notarial Clerical Correspondence**. On all applications, the date of their receipt is indicated, while retaining the number of the hereditary case assigned to the first application received.

In the hereditary case, documents submitted by the heirs are kept, on the basis of which a certificate of the right to inheritance is issued.

Questions:

- 1 How can you define the concept “inheritance”?
- 2 What are the grounds of inheritance?
- 3 What shall not be included into the composition of the legacy?
- 4 How can you define the concept “will”?
- 5 How can you define the concept “secret will”?
- 14 What rights does the testator have?
- 15 Who is the trust administrator of estate and how he can be appointed?
- 16 What are the methods of accepting of inheritance?
- 17 What is the procedure of issue of certificate of right of inheritance?
- 18 What are the conditions of issue of certificate of right to inheritance under law?

- 19 What are the conditions of issue of certificate of right to inheritance under will?
20 What does the right to refuse an inheritance mean?

Recommended sources

- 46 Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
- 47 Kembaev Zh. Introduction to the Law of Kazakhstan, the Netherlands, 2012
- 48 The president of the Human rights center “Rectum ESSE” M. Amirova's performance at the International conference “15 years to a private notariate of Kazakhstan: achievements and problems” [www.almaty-notary.kz/vystuplenie - m.amirovoy---prezident](http://www.almaty-notary.kz/vystuplenie_m.amirovoy---prezident)
- 49 Kashurin I.N. Notariat in the legal system of the Russian Federation. Author's abstract of Candidate of science in Law, 2005.26.
- 50 Alenova A. Actual problems of the organization of notarial business and notariate functioning in the Republic of Kazakhstan. www.ug.zanmedia.kz/index.php?option=com_content&task=view&id=221&Itemid=3
- 51 Buribayev Ye.A., November, 8, 2013. Statement of question of need of number of private notaries' restriction. www.zakon.kz/4585308-postanovka-voprosa-o-neobkhodimosti.html/
- 52 The consolidation of final information of territorial notary chambers for 2013 year. Notary bulletin. 2014.1:13-35.

Topic 5 Fulfillment of executive notes and other notarial actions

Purpose: to acquaint with the fulfillment of executive notes and other notarial actions, such as acceptance of money on deposit, transfer of declarations, provision of evidence and so on.

Content:

- 1 Fulfillment of executive notes
- 2 Acceptance of money on deposit
- 3 Transfer of declarations
- 4 Acceptance of documents and security papers for storage
- 5 Provision of evidence
- 6 Execution of marine protests

1 Fulfillment of executive notes

In order to collect money or claim other movable property from the debtor, the notary shall make **an executive note** on the document establishing the debt, or issue a relevant resolution.

The executive note may be put on a copy of the document establishing the debt, provided that the original is presented, in which the corresponding note is made.

Based on the executive note or the relevant resolution, debt collection shall be carried out according to the following indisputable requirements:

- 1) on fulfillment of an obligation based on a notarized transaction;
- 2) on fulfillment of an obligation based on a written transaction, the deadline for which has arrived and non-fulfillment of the obligation is recognized by the debtor, including in response to a claim sent to the recoverer in the pre-trial settlement of the dispute;
- 3) on fulfillment of an obligation based on a protest of a bill of non-payment, non-acceptance and non-dating of an acceptance made by a notary;
- 4) on the recovery of the leased asset in accordance with the leasing agreement or the laws of the Republic of Kazakhstan;
- 5) on foreclosure on the subject of pledge after the expiration of the loan repayment period imposed by the pawnshop to the debtor-pledger;
- 6) on the collection of debt from owners of premises (apartments) who evade participation in mandatory expenses for the maintenance of the common property of the condominium object, approved by the Law of the Republic of Kazakhstan "On housing relations", except for the claims for the recovery of additional costs;
- 7) on the collection of debts on the basis of public contracts for actually consumed services (electricity, gas, heat, water supply and others), as well as other contracts for services in accordance with the established tariffs, the due date for which has arrived;

8) on the collection of rental payments due to non-payment within the deadlines established by the lease agreement;

9) on the collection of accrued but not paid wages to the employee and other payments.

Based on the executive note, penalties (fines), interest, if any, shall not be collected.

If for the claim on which the executive note is issued, the legislation of the Republic of Kazakhstan establishes a different limitation period, the executive note shall be issued within this period.

if no more than three years have passed from the day the right to claim (statement) arose.

**EXECUTIVE NOTE
SHALL BE MADE:**

if the submitted documents confirm the indisputability of the debt or other liability of the debtor to the collector;

Executive note must contain:

- surname and initials, position of a notary making an executive note;
- the name of the recoverer, his date of birth, place of residence or location, individual identification number, details of the legal entity, business identification number;
- the name of the debtor, his date of birth, place of residence or location, individual identification number (if known to the applicant), details of the legal entity, business identification number;
- designation of the period for which collection is carried out;
- designation of the amount to be collected or items to be claimed;
- designation of the amount of state duty or payment of notarial acts of a private notary paid by a recoverer;
- the date (year, month, day) of making the executive note;
- the number under which the executive note is registered in the register;
- the signature and seal of the notary who has made the executive note;
- the deadline and procedure for filing an application to cancel the executive note.



Procedure of collection under executive note

Collection under the executive note shall be carried out in the manner established by the legislation of the Republic of Kazakhstan on enforcement proceedings.

An executive note may be presented for forcible execution within three years from the date of its execution, unless otherwise provided by law.

The restoration of the missed deadline for presentation of the executive note shall be made in accordance with the civil procedural legislation of the Republic of Kazakhstan.

After fulfillment of the executive note or issuance of a relevant resolution, the notary shall, not later than next working day, deliver or send a copy to the debtor at the e-mail address or at the place of residence (location) or registration of the debtor using means of communication, ensuring the registering of the delivery.

A copy of the executive note or a relevant resolution shall be deemed received if it is sent to the debtor:

- 1) to the email address specified in the contract concluded between the parties;
- 2) at the last known place of residence by registered letter with notification of its delivery, including receipt by one of the adult family members, another person living with the person at the specified address;
- 3) using other means of communication that provide for the registering of delivery.

In case of return of the notification with a note about the impossibility of handing it to the addressee, the recipient in connection with the refusal to accept it, a copy of the executive note or the relevant resolution shall be considered sent properly.

The debtor shall have the right, within ten working days from the day of receipt of a copy of the executive note or a relevant resolution, to send to the notary who has made the executive note or issued the relevant resolution, the objections to the stated demand in writing with a notice.

The debtor's objection must contain reasons for disagreeing with the stated requirement.

Issuance of an executive note to a recoverer

Upon receipt of a notification about delivery of a copy of the executive note to the debtor and if no objection is received from the debtor within the prescribed period, the notary shall issue to the recoverer an executive note for its presentation to execution. A copy of the executive note issued to the recoverer shall remain in the production of a notary.

Cancellation and contestation of an executive note or relevant resolution

The notary shall issue a decision on cancellation of the executive note or a relevant resolution not later than three working days from the date of receipt of the objection to the stated claim.

The decision to cancel the executive note or a relevant resolution shall not be subject to challenge.

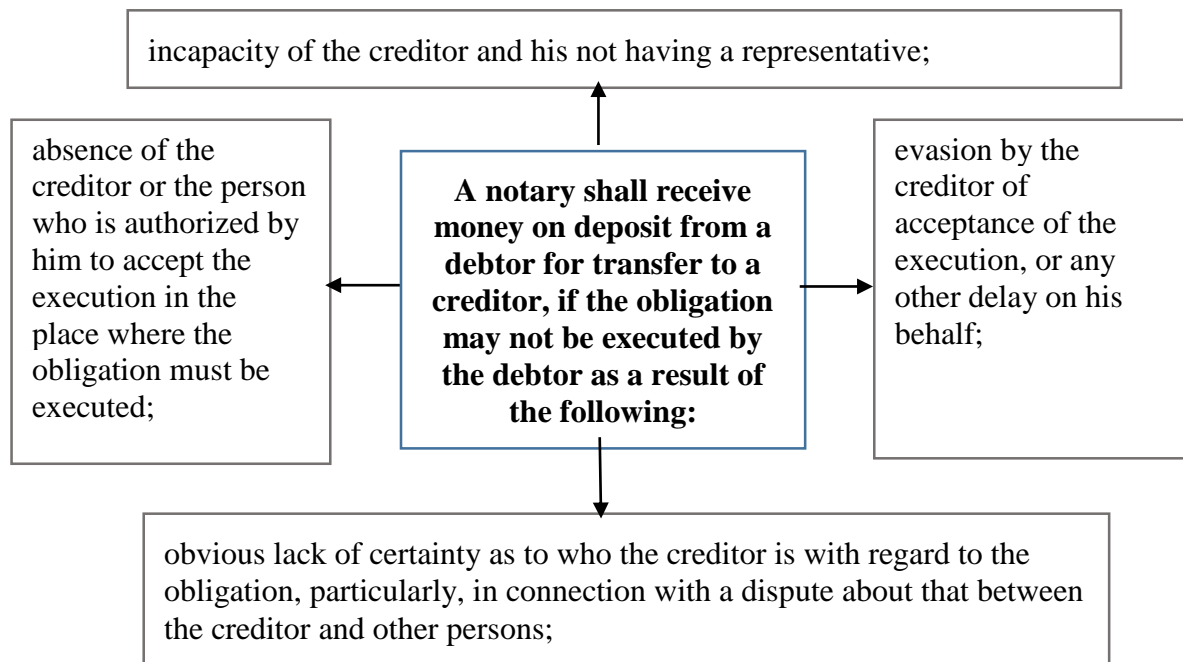
A copy of the resolution to cancel the executive note or a relevant resolution not later than the next working day after their delivery must be handed over or sent to the recoverer, the debtor in accordance with Article 92-6 of the Law on Notaries.

In the event that, by a resolution of a notary, the made executive note or a relevant resolution on the objection of the debtor has not been canceled, they shall be challenged in court.

2 Acceptance of money on deposit

A notary shall receive money on deposit from a debtor for transfer to a creditor in cases provided for by legislation.

The notary shall notify the creditor of the receipt of money and, at his request, issue him the money due. If the deposit was made in accordance with the procedure established by part two of paragraph 1 of Article 291 of the Civil Code of the Republic of Kazakhstan, the notary shall issue money to the creditor in the manner established by the agreement between its parties.



Money shall be accepted on deposit by the notary at the place of fulfilment of obligations. The seizure, foreclosure and suspension of expenditure operations on bank accounts where the money of individuals and legal entities is deposited on the terms of a notary deposit, shall not be allowed. Money that is in a notary deposit shall not be the property of the notary and (or) his income.

Refund of money to the person who deposited it shall be allowed:

- 1) with the written consent of the person in whose favor the contribution has been made;
- 2) by a court decision;

3) if one of the parties does not fulfill its obligations, if the possibility of a refund is provided by agreement of the parties.

3 Transfer of declarations

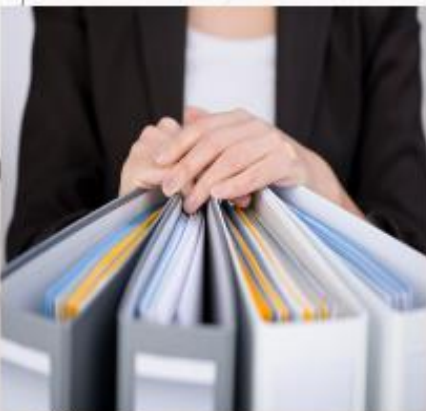
Transfer of declarations



- 1. Transfer of declarations of individuals and legal entities to other individuals and legal entities shall be personally carried out by the notary on receipt or by post with return notification. Declarations may also be transferred by fax machine, computer network or other technical facilities.
- 2. The expenses linked with use of technical facilities for transfer of declarations shall be paid by the person at whose request the notarial action is carried out.
- 3. At the request of person filing the declaration, a certificate of transfer of declaration shall be issued to him/her.

4 Acceptance of documents and security papers for storage

Acceptance of documents and security papers for storage



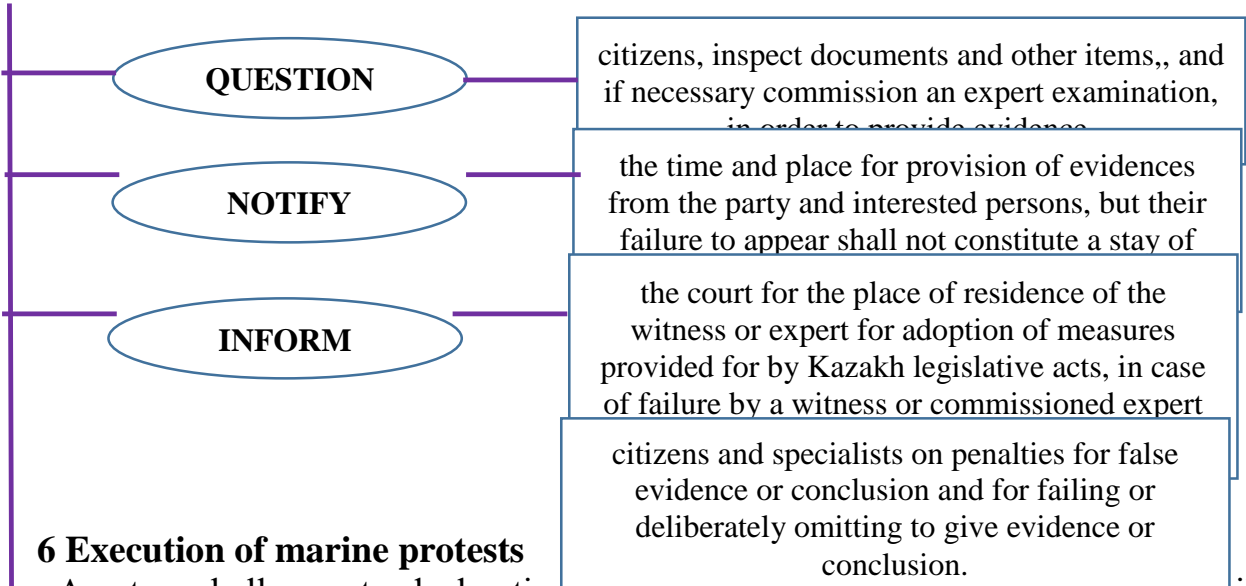
- A notary shall accept documents and security papers listed in an inventory for storage. One copy of the inventory shall be remained by the notary, another copy shall be issued to the person surrendering the documents and security papers for storage.
- A notary may accept documents and security papers without inventory if they are properly packed (packing shall be under the seal of the notary, signed by him/her and the person surrendering the documents and security papers). In these cases a notary shall be responsible for safety of packing.
- A certificate shall be issued to the person surrendering the documents and security papers.
- Documents and security papers accepted for storage shall be returned to the person surrendering them for storage or legally to an authorized body on presentation of certificate and its inventory or by a court decision

5 Provision of evidence

A notary shall provide the evidence necessary in a case arising in a court or other component body at the request of the interested persons, if there are grounds for considering that presentation of the evidence will be impossible or difficult in the future.

A notary shall not provide evidence in a case that at the time when the interested persons apply to the notary is already in the court or other competent body

In order to provide evidence notary shall



6 Execution of marine protests

A notary shall accept a declaration by a ship's captain of an event occurring while the ship is sailing or in dock, if this is a basis for specifying the ship owner's property requirements in order to provide evidence for protection of the ship holder's rights and legal interests.

A notice of marine protest shall contain a description of circumstances of occurrence and the measures adopted by the captain for protecting the property entrusted to him/her.

A ship's captain shall be obliged to present a ship's journal and certified extract from the ship's journal confirming the circumstances listed in the notice of marine protest, in accordance with merchant shipping legislation, together with a notice or not later than seven calendar days from the date of port call or from the date of the event if it occurred in a port.



Deadline for declaring marine protest

A notice of marine protest shall, in accordance with merchant shipping legislation, be filed within twenty-four hours of the ship's arrival in port.

If the event triggering the need for the notice of marine protest occurred in the port, the protest shall be made within twenty-four hours of occurrence.

If notice of protest cannot be issued within the established period, the reason for this shall be specified in the notice of marine protest.

Compilation of marine protest act

A notary shall compile a marine protest act and certify it with his/her own signature and seal on the basis of the captain's declaration and materials from the ship's journal, at the request of the captain and where possible, not less than two witnesses from the list of crew.

Questions:

- 1 How can you define the concept "executive note"?
- 2 What information must the executive note contain?
- 3 What is the procedure of collection under executive note?
- 4 What are the features of acceptance of money on deposit?
- 5 Shall the refund of money to the person who deposited it be allowed?
- 6 What are the features of transfer of declarations?
- 7 What are the features of acceptance of documents?
- 8 What are the features of security papers for storage?
- 9 What are the features of provision of evidence?
- 10 What are the features of execution of marine protests?

Recommended sources:

1. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
2. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
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9. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.

10. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Practical classes

Topic 1: The main world notary systems. Notaries: the general provisions.

Purpose: to consolidate knowledge of notaries as a special system of protection of subjective civil rights, to define its tasks and functions in modern conditions, as well as the main world notary systems

Contents:

1. The concept and tasks of a notaries. Notaries history.
2. Fundamental principles of the Latin type notarial system
3. Concept, mission and structure of the International Union of Notaries ((UINL)
4. Differences between the Latin type notarial system and notaries in common law countries.
5. Notarial activities and their guarantees in the Republic of Kazakhstan. Principles of notarial activity.
6. Legislation of the Republic of Kazakhstan on notaries.
7. Subject and system of the "Notaries of the Republic of Kazakhstan " course.

Questions:

1. What is a notaries?
2. What tasks do notaries face in modern conditions?
3. What is notarial activity?
4. List the principles of notarial activity.
5. What are the basic principles of the Latin notaries?
6. What are the main differences between the Latin type notarial system and notary system in common law countries?
7. What is the International Union of Notaries (UINL)?
8. What is notary law?

9. Give a description of the Law of the Republic of Kazakhstan "On Notaries." (the structure, relations are regulated by this law)?

10. What does the subject and system of the course "Notary of the Republic of Kazakhstan" include?

Recommended sources:

11. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>

12. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf

13. Zhaskayrat M., Ilyassova G., Kussainova Notarial Activity in the Republic of Kazakhstan: Problems and Development Prospects.// Life Science Journal 2014;11(9) <http://www.lifesciencesite.com>

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Topic 2: Legal status of notary and notary association. Notarial activities carried out by notaries and authorized civil servants.

The purpose: to form knowledge about the notary system as a special system for protecting subjective civil rights, to determine the status of notaries, to consider the legal position of other subjects of notarial activity.

Contents:

1. Notary system in Kazakhstan. Notary structure.
2. Notary association and its powers.
3. Method and conditions of certification for the right to carry out notarial activities.
4. Licence to carry out notarial activity.
5. Activity area of notary. Notarial district.
6. Rights and obligations of notary. Legal status of the civil servants, authorized to carry out notarial activities.
7. Payment for notarial activities.
8. Compulsory Civil Liability Insurance of Private Notaries: general provisions
9. Responsibility of notaries and civil servants, authorized to carry out notarial activities. Appeal of notarial activities.

Questions:

1. What is the notary system in Kazakhstan?
2. What is a Notary association?
3. What are the main rights of a notary?
4. What are the main obligations of a notary?
5. Which persons, along with notaries, have the right to perform notarial actions?
6. What are the features of the status of officials authorized to carry out notarial activities?
7. What are the features of the legal situation of clerks and trainees of notary?
8. What are the differences between a notary in private practice and state notary office?
9. Which authorities have the right to control of notary activity?
10. What is the role of the judicial body in regulating notarial activities?

Recommended sources:

17. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
18. The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435.// <http://adilet.zan.kz/eng/docs/Z030000435>
19. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
20. Zhaskayrat M., Ilyassova G., Kussainova Notarial Activity in the Republic of Kazakhstan: Problems and Development Prospects.// Life Science Journal 2014;11(9) <http://www.lifesciencesite.com>
21. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
22. Об утверждении критериев оценки степени риска и проверочных листов в сфере нотариальной деятельности. Совместный приказ Министра юстиции Республики Казахстан от 28 декабря 2015 года № 649 и и.о. Министра национальной экономики Республики Казахстан от 30 декабря 2015 года № 833. Зарегистрирован в Министерстве юстиции Республики Казахстан 31 декабря 2015 года № 12698 // <http://adilet.zan.kz/rus/docs/V1100007100>
23. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
24. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Topic 3 Basic rules for carrying out notarial activities.

Purpose: to consolidate knowledge of the concept of notarial activities, to understand the criteria for classification of notarial actions, to study the types of notarial activities, the basic rules for carrying out notarial activities.

Contents:

1. The concept of notarial activities and criteria for their classification.
2. Place of notarial actions. Restriction of the territory of notary activity.
3. Timing of performance of notarial activities. Postponement and suspension of notarial actions.
4. Identification of applicant for notarial action. Clarification of capacity of individuals and legal capacity of entity involved in transactions
5. Procedure for signature of notarial documents. Refusal to carry out notarial action. Registration of notarial activities.
6. Issue of duplicate of notarial certified document.

Questions:

1. How is the rule on the place and time of the notarial action determined?
2. What is the territory of notary's activity?
3. When carrying out any notarial actions, should the territory of the notary's activity be observed?
4. What is the basis for postponement and suspension of notarial actions?
5. In what order is the identity of the applicant for the notarial action established?
6. How is the legal capacity of the applied individuals and the legal capacity of the legal entities involved in the transactions clarified?
7. In what order are notarial documents signed?
8. What requirements should the texts of notarized documents meet?
9. What are the restrictions on the right to carry out notarial activities?
10. In which cases is a duplicate of notarial certified document issued?

Recommended sources:

25. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
26. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
27. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
28. The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435. // <http://adilet.zan.kz/eng/docs/Z030000435>
29. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf

30. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>

31. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.

32. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Topic 4 Certificate of transactions. Issuance of certificates of ownership for share in general joint property.

Purpose: to consolidate knowledge of the basic rules for the certification of transactions, and issuance of certificates of ownership for share in general joint property.

Contents:

1. Value of notarial certificate of transactions. General transaction certification rules. Requirements applicable to texts of certified transactions and certified documents.
2. Procedure for certification of contracts.
3. Features of certification of property alienation and pledge documents subject to registration
4. Certificate of powers of attorney and consents.
5. Issue of certificate of right of inheritance of share in joint property.
6. Issue of certificate of right to inheritance of a share in common property on application of surviving spouse.

Questions:

1. What is a transaction? What transactions does the notary certify?
2. What are the general rules for certifying transactions?
3. What is the procedure for certifying contracts?
4. What is a power of attorney?
5. What are the terms of the power of attorney?
6. What are the conditions for certifying consents?
7. What documents do you need to submit to certify the contract for the sale of an apartment?
8. What documents do you need to submit to certify the contract for the lease of an apartment?
9. What is the procedure for issuing a certificate of right to inheritance of a share in common property?

Recommended sources:

33. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
34. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
35. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
36. The Civil Code of the Republic of Kazakhstan (General Part) dated 27 December, 1994, has been amended for the 2021 // https://online.zakon.kz/Document/?doc_id=1017157#activate_doc=2
37. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
38. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
39. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
40. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Topic 5 Certification of accuracy of copies of documents and extracts from them, authenticity of signature and accuracy of translation. Certification of facts.

Purpose: to consolidate knowledge about the basic rules for certification of accuracy of copies of documents and extracts from them, authenticity of signature and accuracy of translation, as well as the certification of fact.

Contents:

1. Procedure for certification of accuracy of copies of documents.
2. Procedure for making an extract from a document and certification its accuracy.
3. Features of certification of authenticity of signature on document.
4. Certification of accuracy of translation.
5. Types of facts subject to notarial certification.
6. Certificates of the fact that a citizen is alive: grounds and procedure
7. Certificates of the fact that a citizen is in a particular place: grounds and procedure.
8. Features of certification of time of presentation of documents.

Questions:

1. What are the conditions for certification the accuracy of copies of documents and extracts from them?

3. What should a notarized copy include?
4. How is the document extracted?
5. Is a copy of the document authenticated?
6. In which cases does the notary attract a translator when testifying to the fidelity of the translation?
7. What documents can confirm the authority of the translator?
8. How is the text of the document translation posted?
9. What facts are notarized?
10. What are the grounds for certifying that a citizen is alive?
11. What is the procedure for certifying the fact that a citizen is alive?
12. What are the grounds for certifying that a citizen is in a particular place?
13. What is the procedure for certifying the fact that a citizen is in a particular place?
14. What are the grounds for certifying the time of presentation of documents?

Recommended sources:

41. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
42. Rules for notarial actions by notaries, dated 31 January 2012, № 31//<http://adilet.zan.kz/rus/docs/V1200007447>
43. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
44. The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435.// <http://adilet.zan.kz/eng/docs/Z030000435>
45. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
46. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
47. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
48. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Topic 6 Certification of marriage and family contracts and notarization of hereditary rights of citizens.

Purpose: to consolidate knowledge of the basic rules for the certification of contracts and agreements between family members, and notarization of hereditary rights of citizens.

Contents:

7. Procedure for certification of marriage contract.
8. Procedure for certification of alimony agreement.
9. Certification matrimonial property sharing agreement.
10. Features of notarial certification of various types of wills.
11. Procedure for change and revocation of wills
12. Notification of heirs and legatees on opening of inheritance
13. Acceptance of applications for renunciation of inheritance or issue of certificate of right to inheritance
14. Places, terms and procedure of issue of certificate of right of inheritance
15. Conditions of issue of certificate of right to inheritance.

Questions:

1. What is a marriage contract?
2. In what order is a marriage contract certified?
3. What is an alimony agreement?
4. In what order is an alimony agreement certified?
5. What is a matrimonial property sharing agreement?
6. In what order is a matrimonial property sharing agreement certified?
7. What are the features of notarial certification of wills?
8. Can the will be changed and cancelled?
9. What are conditions of issue of certificate of right to inheritance under will?
10. What are conditions of issue of certificate of right to inheritance under law?
11. What are the places of issue of certificate of right of inheritance?
12. What are the terms of issue of certificate of right of inheritance?
13. What is the procedure of issue of certificate of right of inheritance?

Recommended sources:

49. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
50. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
51. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
52. The Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family dated 26 December, 2011, has been amended by the 2021 // https://online.zakon.kz/Document/?doc_id=31583872#activate_doc=2
53. The Civil Code of the Republic of Kazakhstan (Special Part) dated 01 July, 1999, has been amended for the 2021 // https://online.zakon.kz/Document/?doc_id=1049893#activate_doc=2
54. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf

55. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>

56. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.

57. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Topic 7 Fulfillment of executive notes. Other notarial activities.

Purpose: to consolidate knowledge of the basic rules for the fulfillment of executive notes, as well as for the provision of evidence, acceptance of documents and security papers for storage, execution of protest of bill and other notarial actions.

Contents:

16. Fulfillment of executive notes: terms and content
17. Procedure of collection under executive note
18. Cancellation and contestation of an executive note or relevant resolution
19. Transfer of declarations by individuals and legal entities. Acceptance of money on deposit.
20. Provision of evidence.
21. Acceptance of documents and security papers for storage
22. Execution of protest of bill
23. Execution of marine protests.

Questions:

3. What are the terms and content of the executive notes?
4. What is the procedure of collection under executive note?
5. What are the deadlines for presentation of an executive notes?
6. What are the grounds and procedure for cancellation and contestation of an executive note or relevant resolution?
7. What are the conditions for refund of money to the person who deposited it?
8. What is the procedure of acceptance of documents and security papers for storage?
9. What are the features of provision of evidence necessary in a case arising in a court or other component body?
10. What are the actions of the notary to provide evidence?
11. What is an execution of protest of bill?
12. What is an of marine protests?

Recommended sources:

58. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
59. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
60. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
61. The Civil Code of the Republic of Kazakhstan (General Part) dated 27 December, 1994, has been amended for the 2021 // https://online.zakon.kz/Document/?doc_id=1017157#activate_doc=2
62. The Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family dated 26 December, 2011, has been amended by the 2021 // https://online.zakon.kz/Document/?doc_id=31583872#activate_doc=2
63. The Civil Code of the Republic of Kazakhstan (Special Part) dated 01 July, 1999, has been amended for the 2021 // https://online.zakon.kz/Document/?doc_id=1049893#activate_doc=2
64. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
65. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
66. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
67. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Practical classes

Topic 2: Legal status of notary and notary association. Notarial activities carried out by notaries and authorized civil servants.

The purpose: to form knowledge about the notary system as a special system for protecting subjective civil rights, to determine the status of notaries, to consider the legal position of other subjects of notarial activity.

Content:

10. Notary system in Kazakhstan. Notary structure.
11. Notary association and its powers.
12. Method and conditions of certification for the right to carry out notarial activities.
13. Licence to carry out notarial activity.
14. Activity area of notary. Notarial district.

15. Rights and obligations of notary. Legal status of the civil servants, authorized to carry out notarial activities.

16. Payment for notarial activities.

17. Compulsory Civil Liability Insurance of Private Notaries: general provisions

18. Responsibility of notaries and civil servants, authorized to carry out notarial activities. Appeal of notarial activities.

Questions:

1. What is the notary system in Kazakhstan?

2. What is a Notary association?

3. What are the main rights of a notary?

4. What are the main obligations of a notary?

5. Which persons, along with notaries, have the right to perform notarial actions?

6. What are the features of the status of officials authorized to carry out notarial activities?

7. What are the features of the legal situation of clerks and trainees of notary?

8. What are the differences between a notary in private practice and state notary office?

9. Which authorities have the right to control of notary activity?

10. What is the role of the judicial body in regulating notarial activities?

Recommended sources:

68. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>

69. The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435.// <http://adilet.zan.kz/eng/docs/Z030000435>

70. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf

71. Zhaskayrat M., Ilyassova G., Kussainova Notarial Activity in the Republic of Kazakhstan: Problems and Development Prospects.// Life Science Journal 2014;11(9) <http://www.lifesciencesite.com>

72. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>

73. Об утверждении критериев оценки степени риска и проверочных листов в сфере нотариальной деятельности. Совместный приказ Министра юстиции Республики Казахстан от 28 декабря 2015 года № 649 и и.о. Министра национальной экономики Республики Казахстан от 30 декабря 2015 года № 833. Зарегистрирован в Министерстве юстиции Республики Казахстан 31 декабря 2015 года № 12698 // <http://adilet.zan.kz/rus/docs/V1100007100>

74. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.

75. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Practical classes

Topic Basic rules for carrying out notarial activities.

Purpose: to consolidate knowledge of the concept of notarial activities, to understand the criteria for classification of notarial actions, to study the types of notarial activities, the basic rules for carrying out notarial activities.

Content:

7. The concept of notarial activities and criteria for their classification.
8. Place of notarial actions. Restriction of the territory of notary activity.
9. Timing of performance of notarial activities. Postponement and suspension of notarial actions.
10. Identification of applicant for notarial action. Clarification of capacity of individuals and legal capacity of entity involved in transactions
11. Procedure for signature of notarial documents. Refusal to carry out notarial action. Registration of notarial activities.
12. Issue of duplicate of notarial certified document.

Questions:

1. How is the rule on the place and time of the notarial action determined?
2. What is the territory of notary's activity?
3. When carrying out any notarial actions, should the territory of the notary's activity be observed?
4. What is the basis for postponement and suspension of notarial actions?
5. In what order is the identity of the applicant for the notarial action established?
6. How is the legal capacity of the applied individuals and the legal capacity of the legal entities involved in the transactions clarified?
7. In what order are notarial documents signed?
8. What requirements should the texts of notarized documents meet?
9. What are the restrictions on the right to carry out notarial activities?
10. In which cases is a duplicate of notarial certified document issued?

Recommended sources:

76. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>

77. Rules for notarial actions by notaries, dated 31 January 2012, № 31//<http://adilet.zan.kz/rus/docs/V1200007447>
78. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
79. The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435.// <http://adilet.zan.kz/eng/docs/Z030000435>
80. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
81. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
82. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
83. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Practical classes

Topic Certificate of transactions. Issuance of certificates of ownership for share in general joint property.

Purpose: to consolidate knowledge of the basic rules for the certification of transactions, and issuance of certificates of ownership for share in general joint property.

Content:

24. Value of notarial certificate of transactions. General transaction certification rules. Requirements applicable to texts of certified transactions and certified documents.
25. Procedure for certification of contracts.
26. Features of certification of property alienation and pledge documents subject to registration
27. Certificate of powers of attorney and consents.
28. Issue of certificate of right of inheritance of share in joint property.
29. Issue of certificate of right to inheritance of a share in common property on application of surviving spouse.

Questions:

1. What is a transaction? What transactions does the notary certify?
2. What are the general rules for certifying transactions?
3. What is the procedure for certifying contracts?
4. What is a power of attorney?
5. What are the terms of the power of attorney?

6. What are the conditions for certifying consents?
7. What documents do you need to submit to certify the contract for the sale of an apartment?
8. What documents do you need to submit to certify the contract for the lease of an apartment?
9. What is the procedure for issuing a certificate of right to inheritance of a share in common property?

Recommended sources:

84. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
85. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
86. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
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88. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
89. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
90. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
91. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Practical classes

Topic: Certification of accuracy of copies of documents and extracts from them, authenticity of signature and accuracy of translation. Certification of facts.

Purpose: to consolidate knowledge about the basic rules for certification of accuracy of copies of documents and extracts from them, authenticity of signature and accuracy of translation, as well as the certification of fact.

Content:

1. Procedure for certification of accuracy of copies of documents.
2. Procedure for making an extract from a document and certification its accuracy.
3. Features of certification of authenticity of signature on document.
4. Certification of accuracy of translation.

5. Types of facts subject to notarial certification.
6. Certificates of the fact that a citizen is alive: grounds and procedure
7. Certificates of the fact that a citizen is in a particular place: grounds and procedure.
8. Features of certification of time of presentation of documents.

Questions:

1. What are the conditions for certification the accuracy of copies of documents and extracts from them?
3. What should a notarized copy include?
4. How is the document extracted?
5. Is a copy of the document authenticated?
6. In which cases does the notary attract a translator when testifying to the fidelity of the translation?
7. What documents can confirm the authority of the translator?
8. How is the text of the document translation posted?
9. What facts are notarized?
10. What are the grounds for certifying that a citizen is alive?
11. What is the procedure for certifying the fact that a citizen is alive?
12. What are the grounds for certifying that a citizen is in a particular place?
13. What is the procedure for certifying the fact that a citizen is in a particular place?
14. What are the grounds for certifying the time of presentation of documents?

Recommended sources:

92. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
93. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
94. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
95. The Law of the Republic of Kazakhstan On Compulsory Civil Liability Insurance of Private Notaries dated 11 June, 2003 No. 435. // <http://adilet.zan.kz/eng/docs/Z030000435>
96. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
97. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
98. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
99. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Practical classes

Topic Certification of marriage and family contracts and notarization of hereditary rights of citizens.

Purpose: to consolidate knowledge of the basic rules for the certification of contracts and agreements between family members, and notarization of hereditary rights of citizens.

Content:

30. Procedure for certification of marriage contract.
31. Procedure for certification of alimony agreement.
32. Certification matrimonial property sharing agreement.
33. Features of notarial certification of various types of wills.
34. Procedure for change and revocation of wills
35. Notification of heirs and legatees on opening of inheritance
36. Acceptance of applications for renunciation of inheritance or issue of certificate of right to inheritance
37. Places, terms and procedure of issue of certificate of right of inheritance
38. Conditions of issue of certificate of right to inheritance.

Questions:

13. What is a marriage contract?
14. In what order is a marriage contract certified?
3. What is an alimony agreement?
4. In what order is an alimony agreement certified?
5. What is a matrimonial property sharing agreement?
6. In what order is a matrimonial property sharing agreement certified?
7. What are the features of notarial certification of wills?
8. Can the will be changed and cancelled?
9. What are conditions of issue of certificate of right to inheritance under will?
10. What are conditions of issue of certificate of right to inheritance under law?
11. What are the places of issue of certificate of right of inheritance?
12. What are the terms of issue of certificate of right of inheritance?
13. What is the procedure of issue of certificate of right of inheritance?

Recommended sources:

100. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
101. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>

102. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>

103. The Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family dated 26 December, 2011, has been amended by the 2021 // https://online.zakon.kz/Document/?doc_id=31583872#activate_doc=2

104. The Civil Code of the Republic of Kazakhstan (Special Part) dated 01 July, 1999, has been amended for the 2021 // https://online.zakon.kz/Document/?doc_id=1049893#activate_doc=2

105. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf

106. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>

107. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.

108. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

Practical classes

Topic Fulfillment of executive notes. Other notarial activities.

Purpose: to consolidate knowledge of the basic rules for the fulfillment of executive notes, as well as for the provision of evidence, acceptance of documents and security papers for storage, execution of protest of bill and other notarial actions.

Content:

39. Fulfillment of executive notes: terms and content
40. Procedure of collection under executive note
41. Cancellation and contestation of an executive note or relevant resolution
42. Transfer of declarations by individuals and legal entities. Acceptance of money on deposit.
43. Provision of evidence.
44. Acceptance of documents and security papers for storage
45. Execution of protest of bill
46. Execution of marine protests.

Questions:

15. What are the terms and content of the executive notes?
16. What is the procedure of collection under executive note?

17. What are the deadlines for presentation of an executive notes?
18. What are the grounds and procedure for cancellation and contestation of an executive note or relevant resolution?
19. What are the conditions for refund of money to the person who deposited it?
20. What is the procedure of acceptance of documents and security papers for storage?
21. What are the features of provision of evidence necessary in a case arising in a court or other component body?
22. What are the actions of the notary to provide evidence?
23. What is an execution of protest of bill?
24. What is an execution of marine protests?

Recommended sources:

109. Law of the Republic of Kazakhstan On Notaries, dated 14 July 1997, No. 155. // <http://adilet.zan.kz/eng/docs/Z970000155>
110. Rules for notarial actions by notaries, dated 31 January 2012, № 31 // <http://adilet.zan.kz/rus/docs/V1200007447>
111. Rules for notarial clerical correspondence dated 31 January 2012, № 32 // <http://adilet.zan.kz/rus/docs/V1200007445>
112. The Civil Code of the Republic of Kazakhstan (General Part) dated 27 December, 1994, has been amended for the 2021 // https://online.zakon.kz/Document/?doc_id=1017157#activate_doc=2
113. The Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family dated 26 December, 2011, has been amended by the 2021 // https://online.zakon.kz/Document/?doc_id=31583872#activate_doc=2
114. The Civil Code of the Republic of Kazakhstan (Special Part) dated 01 July, 1999, has been amended for the 2021 // https://online.zakon.kz/Document/?doc_id=1049893#activate_doc=2
115. Deontology Code (Code of Ethics) of Georgian Notaries // https://www.notary.ge/res/docs/sakanonmdeblo/axali_aktebi/eng/Deontology-2013.pdf
116. Требования к помещению нотариуса, утвержденные Приказом Министра юстиции Республики Казахстан от 31 января 2012 года № 29 // <http://adilet.zan.kz/rus/docs/V1200007444>
117. Новгуманова Г.С. Нотариат РК. Учебное пособие. Костанай: КГУ им. А. Байтурсынова, 2011 - 150с.
118. Идрышева С.К. Нотариат Республики Казахстан: Учебное пособие. Жеті-жарғы, 2013.- 248 с.

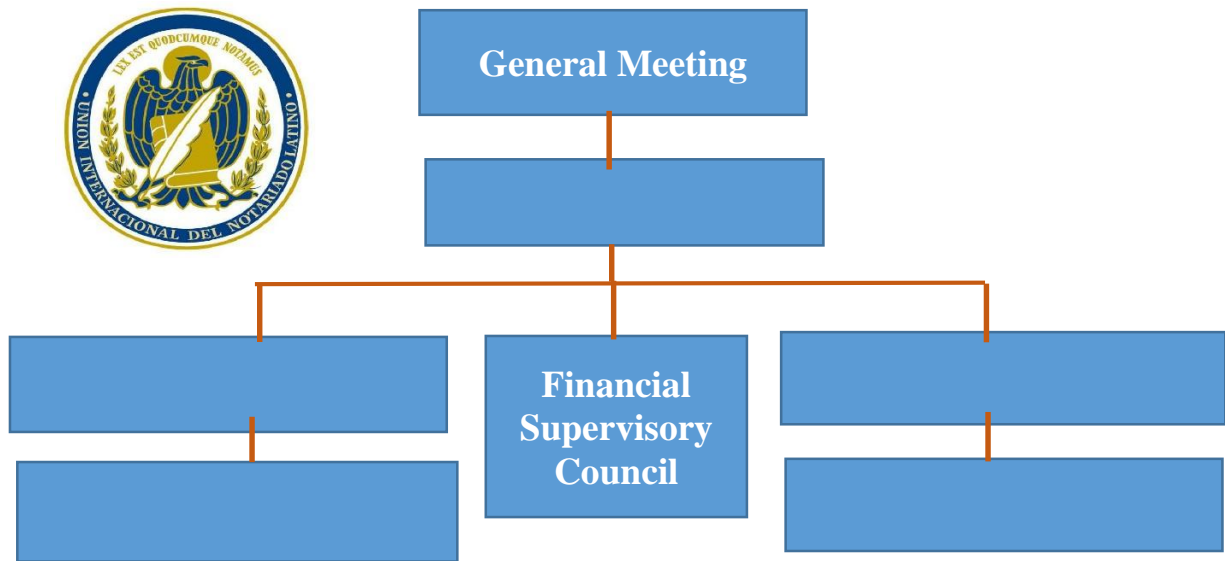
**Materials on student individual work
on the course “Notaries of the Republic of Kazakhstan”
Module 1. Organization and legal basis of notarial activity
Student individual work (1-3 weeks)**

1. Continue an English-Russian glossary.


ORGANIZATION AND LEGAL BASIS OF NOTARIAL ACTIVITY		
№	TERM	DEFINITION
1	The Kazakhstan Notary Profession	
	Нотариат в Республике Казахстан	
2	Notarial activity	
	Нотариальная деятельность	
3	The unified notarial information system	
	Единая нотариальная информационная система	
4	The International Union of Notaries (UINL)	
	Международный союз латинского нотариата	



2. Add the scheme with missing elements.



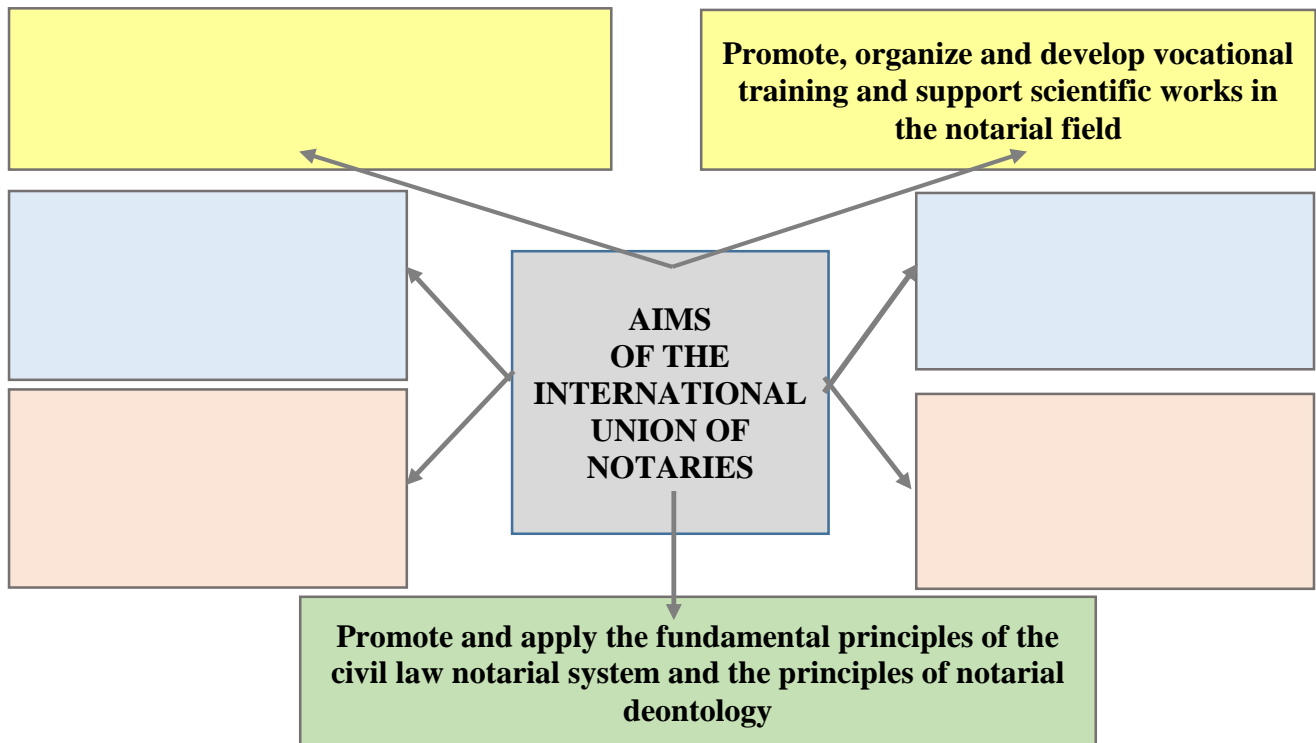
3. Read the topic “Concept, mission and structure of the International Union of Notaries” from the lecture “The main world notary systems. Notaries: the general provisions.” and decide whether these statements are true or false. If the statement is false, correct it.

	1. The International Union of Notaries retains its original logo and acronym “UINL”	True
	2 The International Union of Notaries established at the first International Congress held in New York on 2nd October 1948	
	3 The International Union of Notaries is a non-governmental organization	
	4 The International Union of Notaries is established to promote, co-ordinate and develop the duties and activities of Lawyers in the whole world.	
	5. The statutory office of the International Union of Notaries is in New York (USA)	
	6. The administrative office of the International Union of Notaries is in Rome (Italy).	
	7. The General Meeting is the supreme body of the International Union of Notaries.	
	8. The President is the official representative of the International Union of Notaries as well as the guarantor of its unity.	
	9. The Financial Supervisory Council is the executive and governing body of the International Union of Notaries as well as the guarantor of its unity.	
	10. One of the aims of the International Union of Notaries is promote and apply the fundamental principles of the civil law notarial system and the principles of notarial deontology	

4. Match the line.



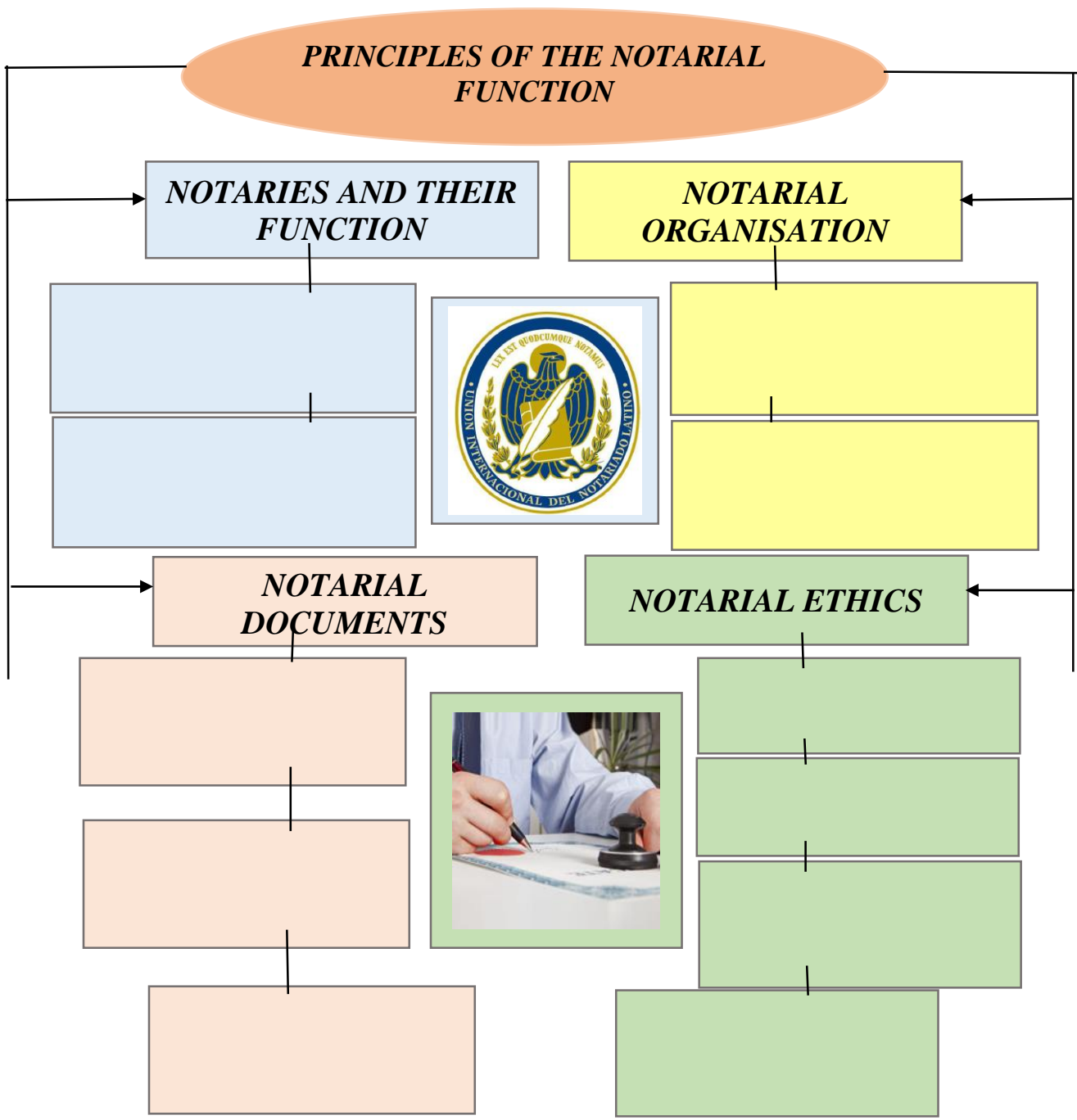
5. Add the scheme with missing elements.



6. Read the text below and add the scheme with missing elements.

PRINCIPLES OF THE NOTARIAL FUNCTION FOR ALL MEMBERS OF UNIL


- *Although Notaries have official powers they are required to act both impartially and independently, outside any State hierarchy.*
- *Notaries have sole responsibility for their own draftsmanship. They are free to accept or reject any proposal submitted to them and to make any amendments that they deem suitable by agreement with the parties.*
- *The law also determines the location of all Notaries' offices so as to ensure a fair distribution throughout the whole nation.*
- *Notarized deeds, which may be concerned with any kind of legal transaction, are deeds that are certified by a Notary. Their authenticity is based on the signature, date and content of the document. They are kept by the Notary in his archives.*
- *Notaries have a duty to act in good faith and with integrity towards those who request their services, towards the State and towards their colleagues.*
- *Notaries are professional lawyers and public officials appointed by the State to confer authenticity on judicial deeds and contracts contained in documents drafted by them and to advise persons who call upon their services.*
- *Notaries are bound by the ethical rules of their profession at both national and international level.*
- *Parties to a notarized deed are entitled to copies of the original kept by the Notary. Authenticated copies have the same standing as an original. Notaries can issue ordinary copies to persons who, under national law, have a legitimate interest in ascertaining their content.*
- *Choice of Notary is a matter for the parties alone.*
- *Notaries must be members of a collegiate body. A single organization consisting exclusively of Notaries represents the whole body of Notaries in every country.*
- *The law of each State determines the disciplinary code that applies to Notaries, who are to be under the constant supervision of their public authorities and collegiate bodies.*



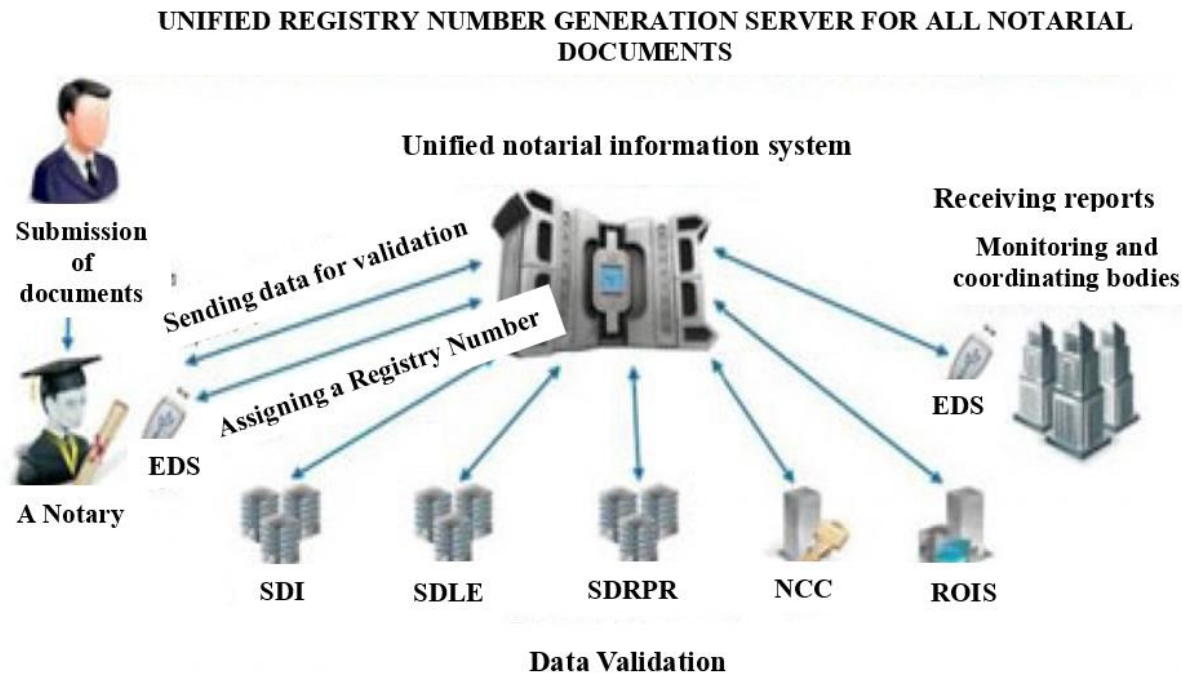
7. Fill empty lines in the table.

STRUCTURE OF THE LAW ON NOTARIES	
SECTION 1 ORGANIZATION AND LEGAL BASIS OF ACTIVITIES OF NOTARIES	SECTION 2 NOTARIAL ACTIVITIES AND RULES FOR ITS PROVISION
Chapter 1	Chapter 6
Chapter 2 Legal status of notary (art. 6 -25)	Chapter 7
Chapter 3	Chapter 8
Chapter 4	Chapter 9 Issue of certificate of right to inheritance (art. 60 -72)
Chapter 5	Chapter 10
	Chapter 11
	Chapter 12
	Chapter 13
	Chapter 14
	Chapter 14-1 Fulfillment of executive notes (art. 92-1 -92-8)
	Chapter 15
	Chapter 16
	Chapter 17
	Chapter 18

8. Read Article 3 of the Law On Notaries and decide whether these statements are true or false. If the statement is false, correct it.

	1. Notarial activity is a business activity.	False
	2 Notarial activity is carrying out of notarial activities provided for by this Law and other Kazakh legislative acts, by the notary	
	3 Notarial activity in the Republic of Kazakhstan shall be based on the principles of legality, independence and impartiality	
	4 Ensuring secrecy of notarial activities is not obligatory for persons no longer working as notaries.	
5. Responsibility of confidentiality of notarial activities shall extend to trainees and clerks of notaries		
6. Information on notarial acts and documents shall be issued at the written request of the written request of any person who has applied to the notary		
7. Legal entities and civil servants must send the notary information and documents necessary for carrying out notarial activities, not later than ten calendar days from the date of the notary's demand		

9. Describe the Unified Notary Information System based on the scheme



Acronyms and terms used in the scheme

Acronym	Term in English	Term in Russian
SDI	State database "Individuals"	Государственная база данных "Физические лица"
SDLE	State database "Legal entities"	Государственная база данных "Юридические лица"
SDRPR	State database "Real Property Register"	Государственная база данных «Регистр недвижимости»
NCC	National Certification Centre	Национальный удостоверяющий центр
ROIS	Registry Office Information System	Информационная система «ЗАГС»
EDS	Electronic digital signature	Электронная цифровая подпись
-	Single registry number generation server for all notarial documents	Единый сервер генерации реестровых номеров для всех нотариальных документов
-	Submission of documents	Подача документов
-	Sending data for validation	Отправка данных на проверку
-	Assigning a Registry Number	Присвоение реестрового номера
-	Receiving reports	Получение отчетности
-	Monitoring and coordinating bodies	Контролирующие и координирующие органы
-	Data Validation	Проверка данных


**Materials on student individual work
on the course “Notaries of the Republic of Kazakhstan”
Module 1. Organization and legal basis of notarial activity
Student individual work (4-6 weeks)**

1. Continue an English-Russian glossary.

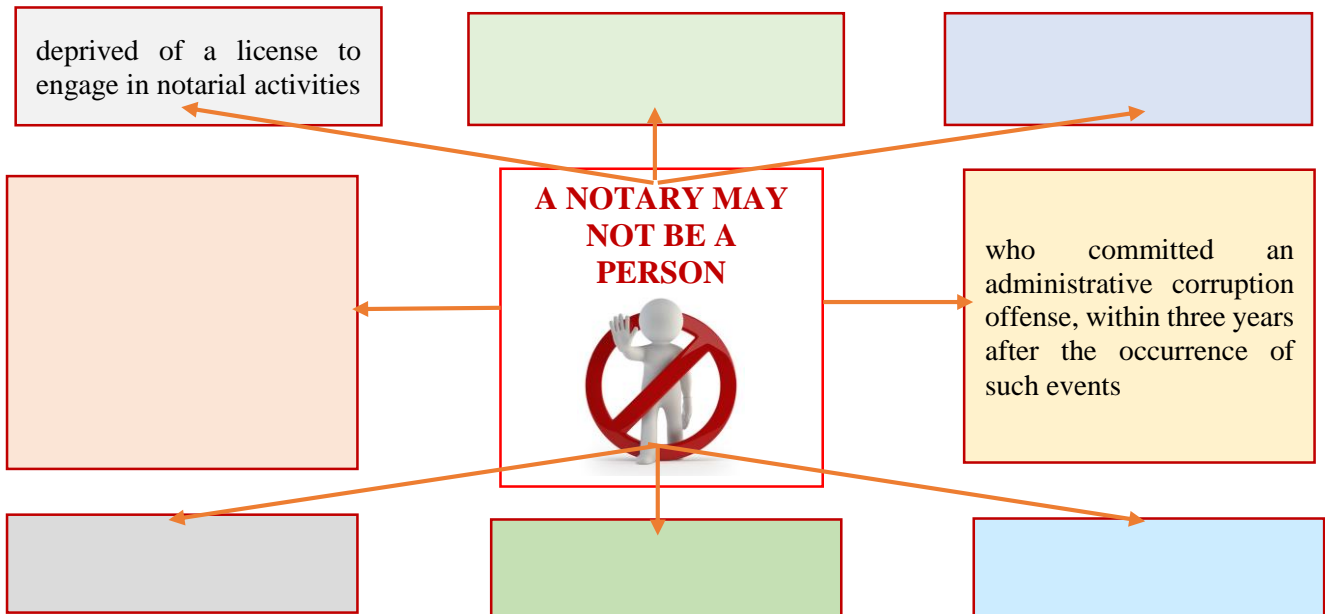
ORGANIZATION AND LEGAL BASIS OF NOTARIAL ACTIVITY		
№	TERM	DEFINITION
1	Notary in private practice	
	Нотариус, занимающийся частной практикой	
2	State notary office	
	Государственная нотариальная контора	
3	Notarial district	
	Нотариальный округ	
4	Disciplinary commission	
	Дисциплинарная комиссия	
5	Notary association	
	Нотариальная палата	



2. Make a table.

 NOTARY IN THE REPUBLIC OF KAZAKHSTAN		
1	Citizenship	
2	Age	
3	Education	
4	Work experience	
5	Internship	
6	Certification	

3. Read Article 6 of the Law on Notaries and add the scheme with missing elements.



4. Read Article 7 of the Law on Notaries and complete the sentences with words and phrases from the box.



the state notary association; trainees; professional knowledge; a notarial chamber; ten working days; Ministry of Justice; practical skills; legal; more than two; a compulsory condition; five years; program of professional preparation; experience; three years; agreement; extra time; notarial activities; a license; a report.

Internship for the right to engage in notarial activity

Notary may have clerks and _____.

Notary trainees may be citizens of the Republic of Kazakhstan with a higher _____ education.

Trainees shall undergo internships with notaries, having at least _____ of _____ in notarial activity.

A person applying for the right to engage in notarial activity shall conclude an internship with _____.

The purpose of the internship shall be the acquisition by the trainee of _____ and _____ in performing notarial acts, organization of the work of a notary for the subsequent obtaining of _____ to engage in _____.

Not _____ trainees at the same time may undergo training with a notary.


Training shall be carried out according to unified _____ of trainees, confirmed by order of the Kazakh _____ by agreement with _____.

At the end of the internship, the notary shall prepare _____ that reflects the training program taken by the trainee, which is approved by the notarial chamber within _____. In case of incomplete mastering of the vocational training program by the trainee, the trainee shall be given _____.

The internship report shall be valid for _____ after its approval.

Completion of the professional training programme shall be _____ of training.

5. Read Articles 7-1, 7-2 of the Law on Notaries and decide whether these statements are true or false. If the statement is false, correct it.

	1. The certification commission of justice for the right to carry out notarial activity shall consist of seven members: two notaries, including the dean of the notarial chamber, two representatives of territorial body of justice, a legal scholar and two maslikhat deputies	True
	2 Representatives of mass media may not attend the session of commission of justice certification for the right to carry out notarial activity.	
	3 A person applying for the right to engage in notarial activity, after completing an internship, shall send an application at the place of residence to the appropriate attestation commission of justice	
4. Refusal of certification may not be appealed against before a court according to the procedure established by the Law		
5. Certification shall be conducted by the certification commission of justice for the right to carry out notarial activity as and when necessary, but at least once every month.		
6. Certification consists of two stages: 1) passing a computer test on awareness of Kazakh legislation; 2) oral test on exam papers.		
7. According to the results of certification, the certification commission of justice for the right to carry out notarial activity shall issue a well-grounded decision on whether or not to certificate not later than the day following certification		
8. The decision of the certification commission shall be effective for five years from the date of issue.		
9. Decisions of the certification commission of justice may not be appealed against before a court according to the procedure established by the Law.		
10. During certification, the applicant may use any information, specialist and other literature, communication tools, or notes.		
11. Applicants excluded from certification may send a repeat application for certification according to the procedure provided by this Law, upon expiry of three months from the date of issue of decision by the certification commission of justice for the right to carry out notarial activity.		

6. Read the text below and make a table.

THE GROUNDS FOR SUSPENSION AND TERMINATION OF NOTARY LICENSE


- recognition of a notary as totally or partly incapacitated for work, according to the procedure established by legislation;
- approval by the prosecutor of the indictment against the notary in the criminal case, the protocol on the criminal misconduct and the decision to send the criminal case to the court under the relevant article of the criminal law, the completion of the pre-trial investigation by the conclusion of the procedural agreement in the manner prescribed by part four of Art. 617 of the Criminal Procedural Code of the RK;
- initiation of action proceeding for the revocation of a license to engage in notarial activities;
- the license is lost
- failure of the notary to inform the territorial body of justice within one month about the change in his last name, first name, patronymic (if any);
- violation by a notary of the territory of activity determined to him in accordance with this Law;
- filing of application by the notary's own volition;
- changing of citizenship of notary, or his/her departure to a permanent place of residence outside Kazakhstan;
- violation by a notary of the legislation of the Republic of Kazakhstan in performance of notarial acts that entailed a violation of the rights and legitimate interests of the state, individuals and legal entities;
- impossibility of fulfilment by the notary of professional duties for health reason (subject to medical report);
- the actual absence of the notary's premises at the address indicated in the notification of the notary about the beginning of the notarial activities;
- non-compliance of a notary with the requirements of paragraph 4 of Art. 15 of the Law On Notaries;
- enactment of a court conviction for a crime in respect of a notary;
- non-compliance with the restrictions provided for in Art. 19 of the Law On Notaries;
- if the notary has not started practical notarial activities after three months from the date of notification of the beginning of the notarial activities;
- decree to terminate criminal case with non-rehabilitating grounds in relation to the notary;
- recognition of a notary as missing or declared dead
- non-compliance of a notary with the requirements of subp.11) of par.1 of Art. 18 of the Law On Notaries;
- death of notary.

<i>THE GROUNDS FOR</i>	
<i>SUSPENSION OF NOTARY LICENSE</i>	<i>TERMINATION OF NOTARY LICENSE</i>


Note: In addition to the general grounds provided for by the laws of the Republic of Kazakhstan, the notary license shall be suspended for the period:

- 1) of engaging in entrepreneurial or other paid activity, except for the cases provided for by the laws of the Republic of Kazakhstan;
- 2) military service;
- 3) failure by a notary to exercise its powers on the basis of the application, which indicates the period of suspension.

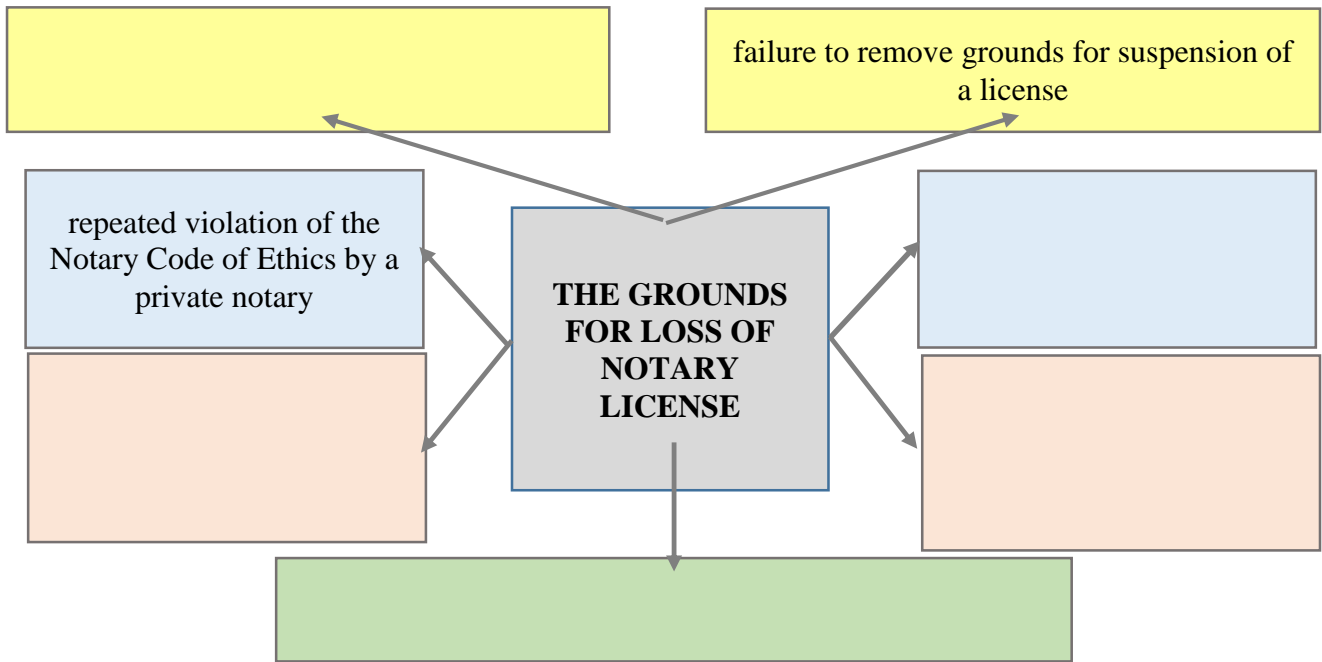
7. Read Articles 17, 18 of the Law On Notaries and match the line.

<p>RIGHTS</p> 	<ul style="list-style-type: none">• produce drafts of contracts, applications and other documents;• keep under seal of secrecy information made known to them in the context of professional activity;• to improve professional qualifications• provide consultation on issues of fulfilment of notarial activities;• comply with professional ethics;• be elected (appointed) by the arbitrator in the arbitration proceedings• practice a scientific, educational and creative activity;• refuse to carry out notarial activity that contravenes Kazakh legislation;• conduct conciliation procedures;• prepare copies of documents and abridged versions of them;• explain rights and obligations to citizens and legal entities, and warn of consequences of performed notarial activities so that lack of legal information cannot be used to their detriment;
<p>OBLIGATIONS</p>	

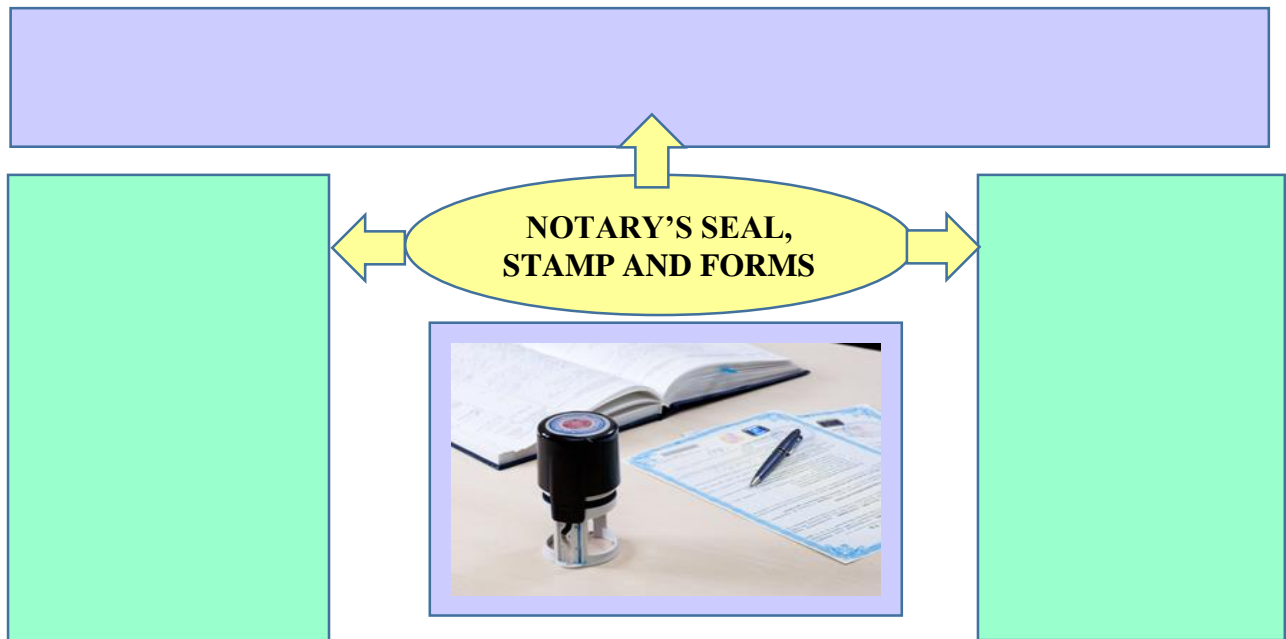
Note:

	<p><u>Notaries may not:</u></p> <ol style="list-style-type: none">1) carry on business activities;2) provide intermediary services during the completion, amendment and dissolution of a treaty;3) perform notarial duties in cases of election of representative body by deputy;4) perform their duties without a compulsory notary's civil liability insurance contract;5) use a facsimile or transfer seal or electronic digital signature to another person, except when sending a seal to the territorial body of justice for the period of suspension of notary's license;6) to perform activities outside the location of its premises, except for the cases provided for by this Law. <p><i>Notaries in private practice may not be in working relationships as employees, unless otherwise provided by the Law on Notaries</i></p>
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8. Read Article 11 of the Law on Notaries and add the scheme with missing elements.



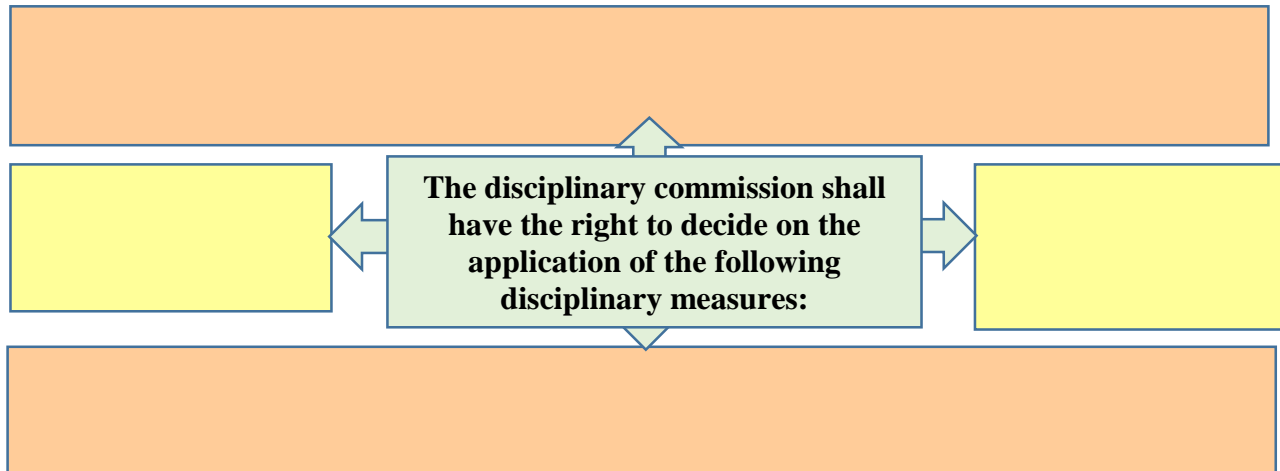
9. Read Article 22 of the Law on Notaries and add the scheme with missing elements.



10. Read Article 24-1 of the Law On Notaries and decide whether these statements are true or false. If the statement is false, correct it.

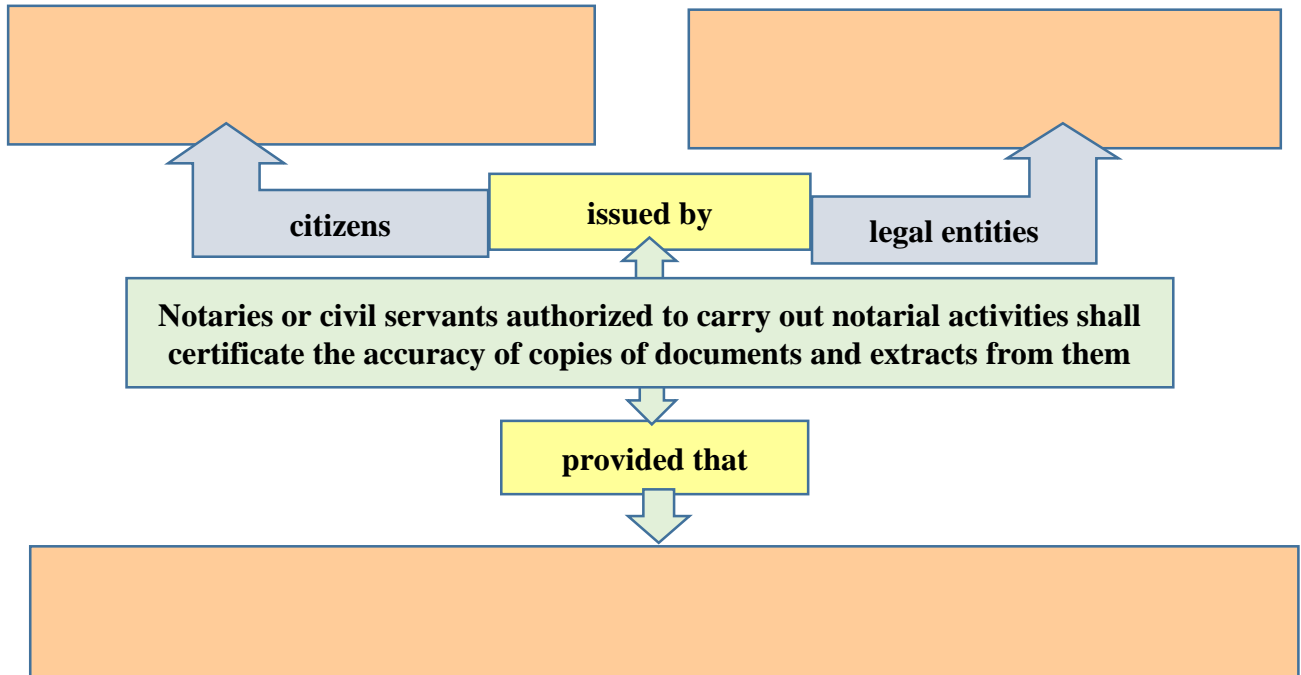
	<p>1. The body for considering appeals, complaints about violation by members of the notarial chamber of the requirements of the legislation of the Republic of Kazakhstan, the Notary Code of Ethics, the charter of the notarial chamber, the conditions for membership in the notarial chamber (hereinafter referred to as the complaint) shall be the disciplinary commission</p>	<p>True</p>
<p>2 The complaint shall be considered no later than one month from the date of its receipt.</p>		
<p>3. When considering complaints, the disciplinary commission shall not be obligated to invite to its meetings the persons who filed the complaints, as well as the members of the notarial chamber in respect of which the complaint is being considered.</p>		
<p>4. If the judicial authorities submit a recommendation on initiation of disciplinary proceedings, its consideration shall be carried out with the participation of a representative of the prosecutor's office.</p>		
<p>5. Only one disciplinary sanction may be imposed for a notary, committing a disciplinary offense.</p>		
<p>6. The decisions provided for by subp. 1) and 2) of par.3 of the art.24-1 shall be made by a majority of votes of the members of the disciplinary commission and shall enter into force on the day they are made by the said body.</p>		
<p>7. Decisions of the disciplinary commission of the notarial chamber may be challenged by members of the notarial chamber only in the Republican notarial chamber.</p>		

11. Read Article 24-1 of the Law on Notaries and add the scheme with missing elements.




**Materials on student individual work
on the course “Notaries of the Republic of Kazakhstan”
Module 2. Notarial activities and rules for its provision
Student individual work (7-9 weeks)**

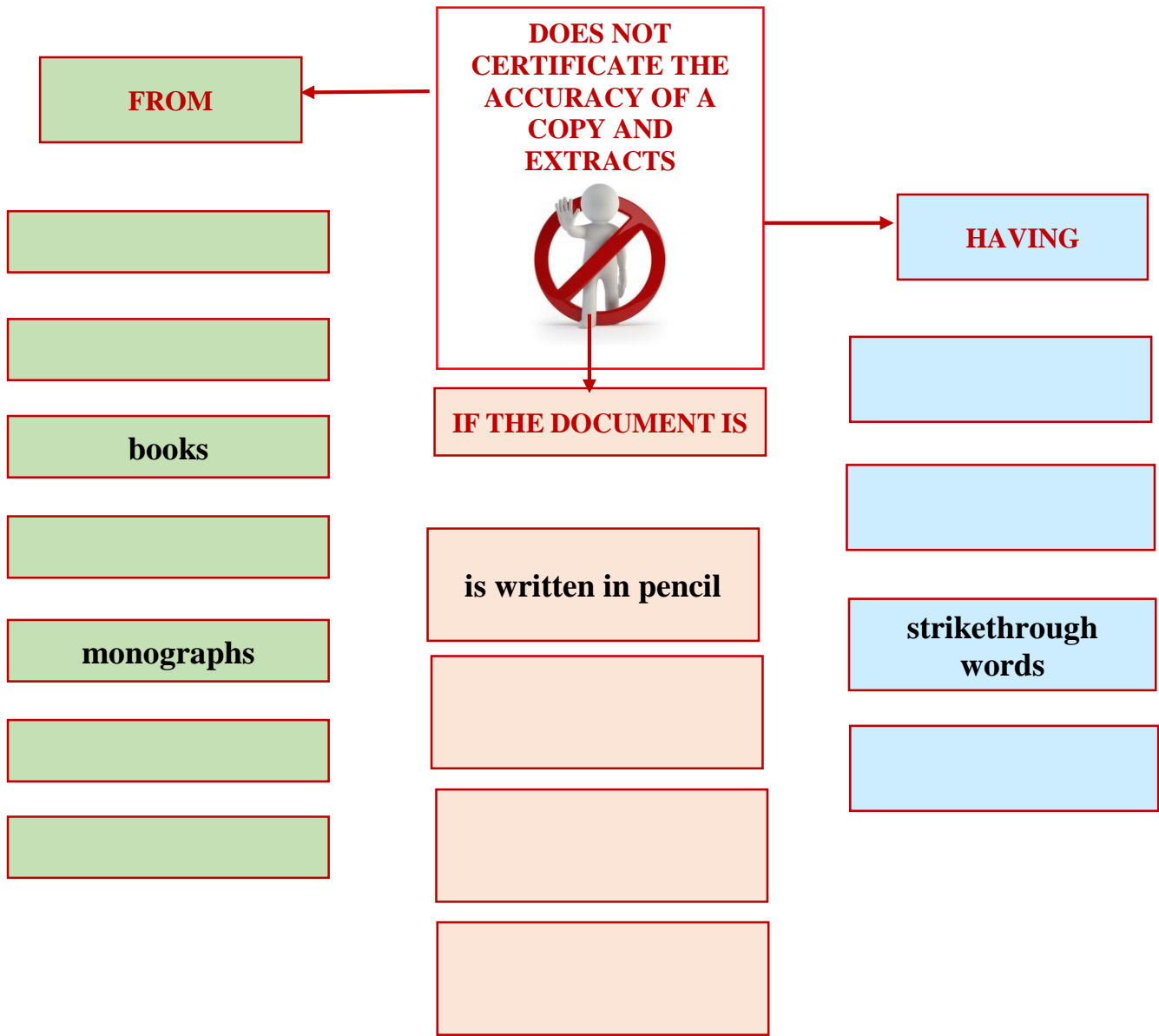
1. Read Articles 76, 77 of the Law on Notaries and Items 167, 175, 176 of the Rules for notarial actions by notaries and add the scheme with missing elements.



2. Read Item 174 of the Rules for notarial actions by notaries and make a table.

	ACCURACY OF EXTRACTS MAY BE CERTIFIED ONLY IF THE DOCUMENT FROM WHICH THE EXTRACT IS MADE	
1	CONTAINS THE	
2	IS PERFORMED BY	

3. Read Items 168, 170 of the Rules for notarial actions by notaries and add the scheme with missing elements.



Note:

	<p>It is not permitted to certify accuracy of copies of documents submitted by legal entities certified by facsimile.</p>
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4. Read Items 171, 172, 176, 177 of the Rules for notarial actions by notaries and complete the sentences with words and phrases from the box.



issued by the legal entity; copy of the document;
 notarized or issued; signatures of officials; of copies
 from copy; exact text; legal entity's headed paper;
 notary certification statement; notarially certified; decrypted
 text; original document; letterhead of the legal entity;
 notarial actions.

Certification of accuracy of copy of document

The notarized copy must contain the _____ of the original document, an indication of the presence of _____, as well as the _____ of the seal on which the document is attached. The _____, signature and imprint of his seal shall be affixed on the copy.


A _____ and an extract from it on several sheets shall be produced in accordance with the requirements of paragraph 21 of the Rules for _____ by notaries.

The accuracy of the copy of the document is certified only if the copy of the document is previously _____ by the legal entity from which the _____ comes.

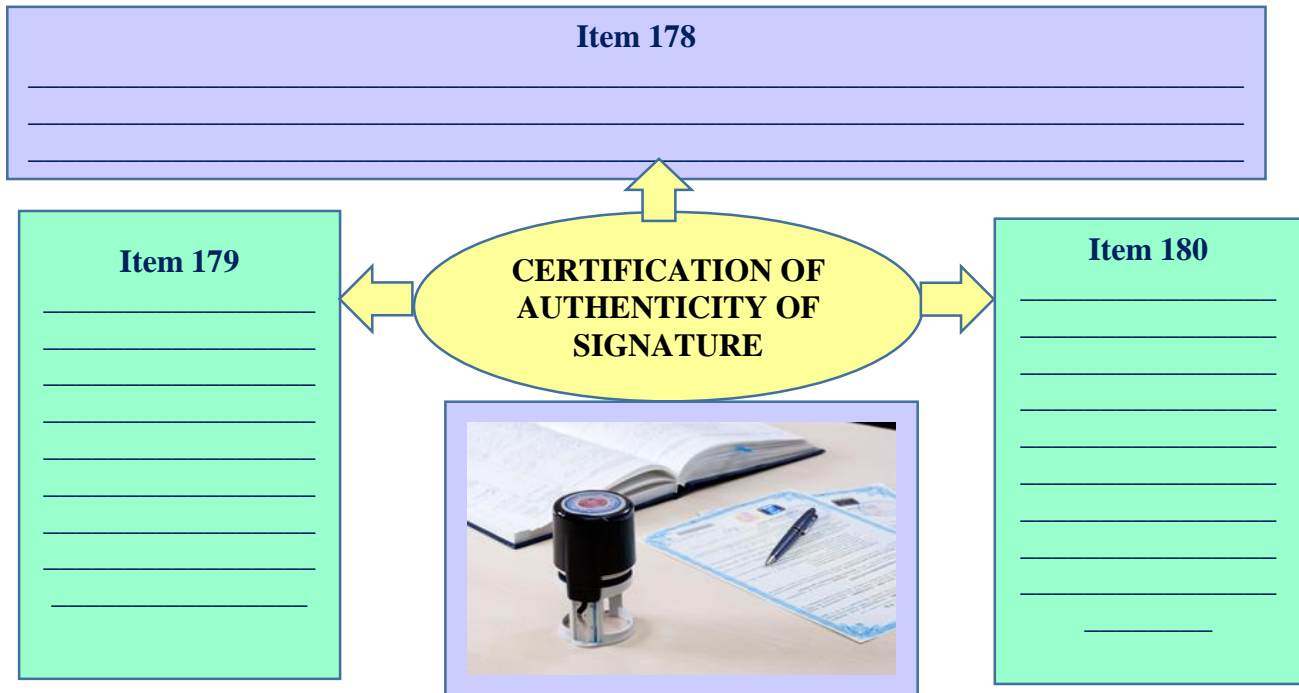
In the latter case, a copy of the document must be made on the _____, sealed with its seal and bear a note that the original document is held by the issuing entity.

The rules for certification of accuracy _____ of document shall be certified by the notary provided the accuracy of the copy is _____ or the copy document is _____ that issued the original document. In the latter case the copy document shall be made on this _____ and sealed and mention that the legal entity holds the original document.

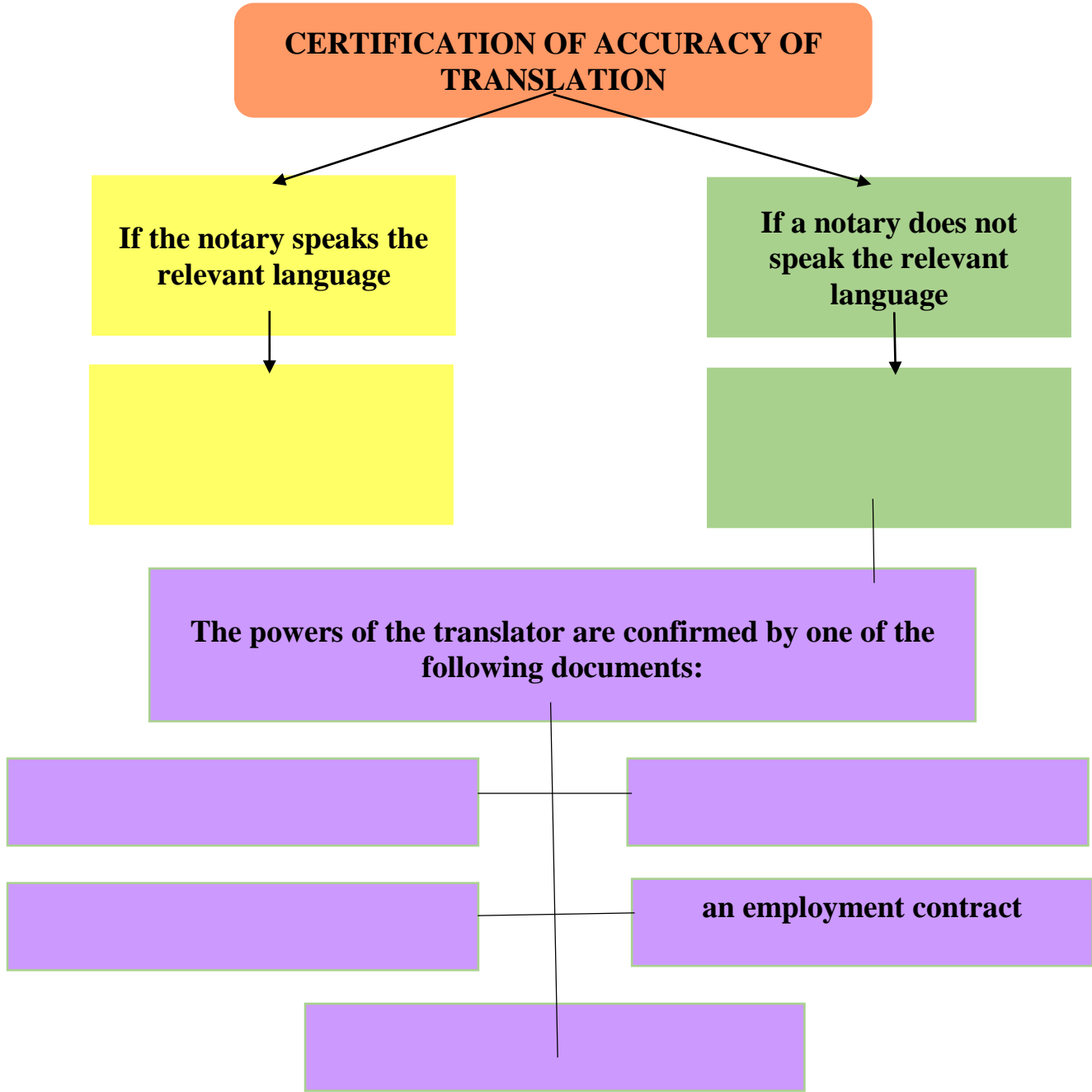
5. Read Item 174 of the Rules for notarial actions by notaries and decide whether these statements are true or false. If the statement is false, correct it.

EXTRACTS FROM THE FOLLOWING DOCUMENTS ARE CARRIED OUT BY PHOTOCOPYING OR SCANNING:	
	passport of a citizen of the Republic of Kazakhstan
	military registration card

6. Read Items 178, 179, 180 of the Rules for notarial actions by notaries and add the scheme with missing elements.



7. Read Article 80 of the Law on Notaries and Item 182 of the Rules for notarial actions by notaries and add the scheme with missing elements



8 Read Items 183, 184 of the Rules for notarial actions by notaries and make a table.

FEATURES OF CERTIFICATION OF ACCURACY OF TRANSLATION FROM ONE LANGUAGE TO ANOTHER	
If document issued by official institutions of foreign states	
When performing a notarial action (certification of a transaction, certification of accuracy of a copy), translation into another language is also performed at the same time	
Notarial actions are performed in compliance with copyright	

**Materials on student individual work
on the course “Notaries of the Republic of Kazakhstan”
Module 2. Notarial activities and rules for its provision
Student individual work (10-12 weeks)**

1 Read § 2. “Treaty regime of property of spouses” of the Code of the Republic of Kazakhstan On Marriage (Matrimony) and Family and add the scheme with missing elements.

the agreement of _____

CONCEPT

MARRIAGE CONTRACT

FORM

MAY NOT

shall be concluded _____

restrain _____

govern _____

provide _____

and other conditions which are inconsistent with fundamental principles of matrimonial legislation of the Republic of Kazakhstan

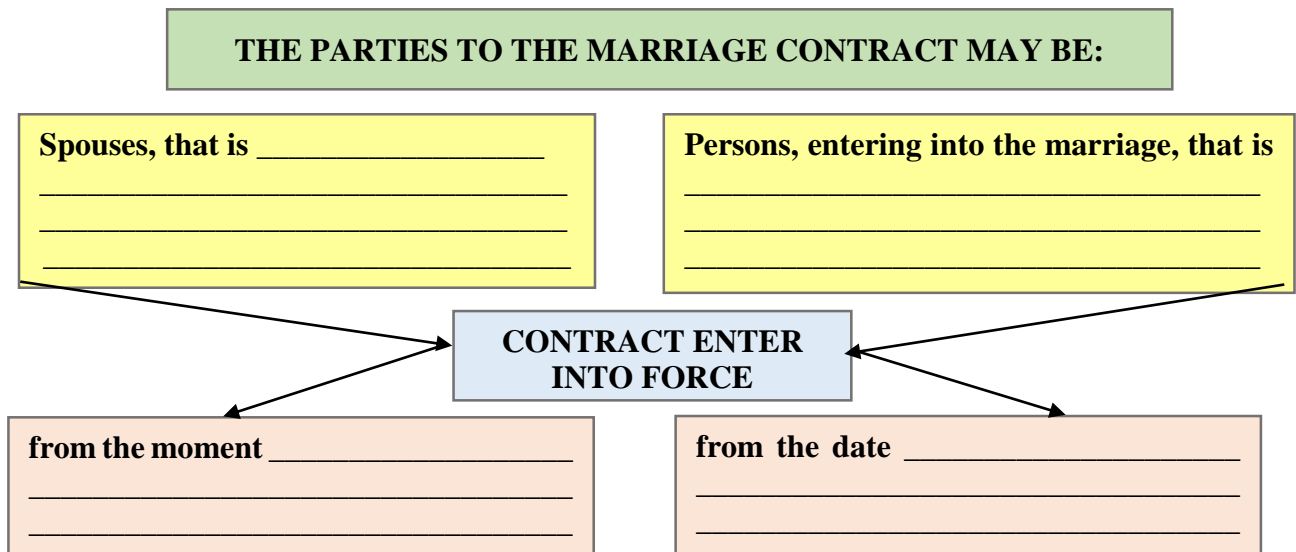


MARRIAGE CONTRACT

2 Read § 2. “Treaty regime of property of spouses” of the Code of the Republic of Kazakhstan On Marriage (Matrimony) and Family and make a table.


IN THE MARRIAGE CONTRACT, SPOUSES SHALL HAVE THE RIGHT	
TO CHANGE	TO DETERMINE

3 Read § 2. “Treaty regime of property of spouses” of the Code of the Republic of Kazakhstan On Marriage (Matrimony) and Family and add the scheme with missing elements.



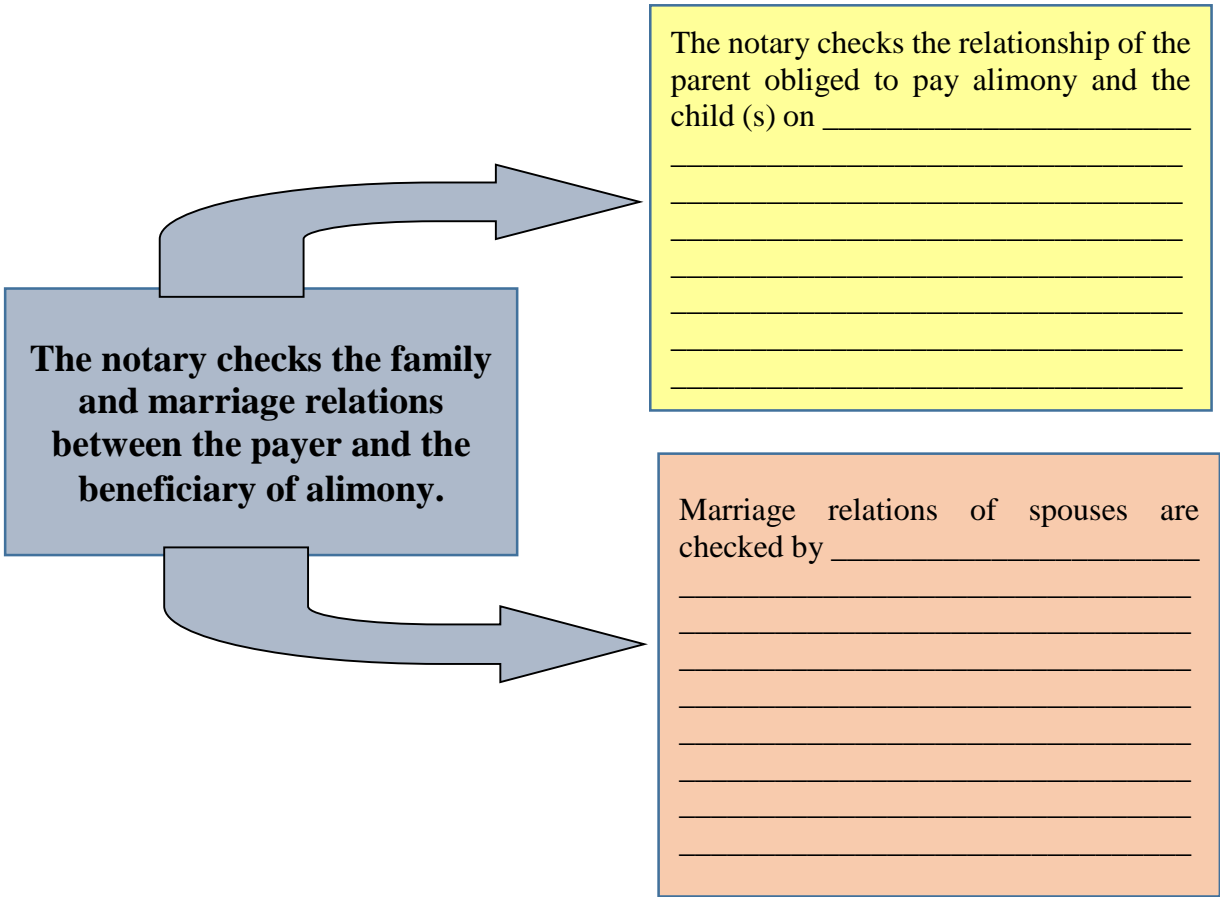
Persons declared incapacitated by the court, as well as persons who do not have full legal capacity, may not be subjects of the marriage contract. The conclusion of a marriage contract between persons in marriage in fact (cohabitation) and former spouses is prohibited

4 Read Chapter 22. “Agreement on alimony payment” of the Code of the Republic of Kazakhstan On Marriage (Matrimony) and Family and make a table.

		AGREEMENT ON ALIMONY PAYMENT
1	Concept	
2	Form	
3	Amount of alimony	
5	Methods and procedure for alimony payment	
6	Persons liable to pay alimony and persons entitled to claim it	



5 Read Item 85-3 of the Rules for Notarial Actions by Notaries and add the scheme with missing elements.



6 Read Section 6 of the Civil Code of the Republic of Kazakhstan and match the line.

BASIC CONCEPTS OF INHERITANCE LAW

1 A will

A the transfer of property of a deceased person (testator) to another person (persons) who is a heir (are the heirs)

2 Heirless property

B the day of the person's death, and in case of announcement of the person's death - the day of entry into force of the court decision on the announcement of the person's death if another date is not indicated in the decision of the court.

3 Testamentary refusal (legatum)

C the last place of residence of a testator shall be the place of opening the inheritance, and if it is unknown then the place of opening the inheritance

4 Inheritance

D an expression of will of a citizen with regard to distribution of property he (she) has in the case of his (her) death

5 Hereditary transition

E the testator shall have the right to entrust to a heir by will the execution at the expense of inheritance of any obligation (testamentary refusal) for the benefit of one or several persons (recipients of refusals), who shall acquire the right to claim execution of a testamentary refusal

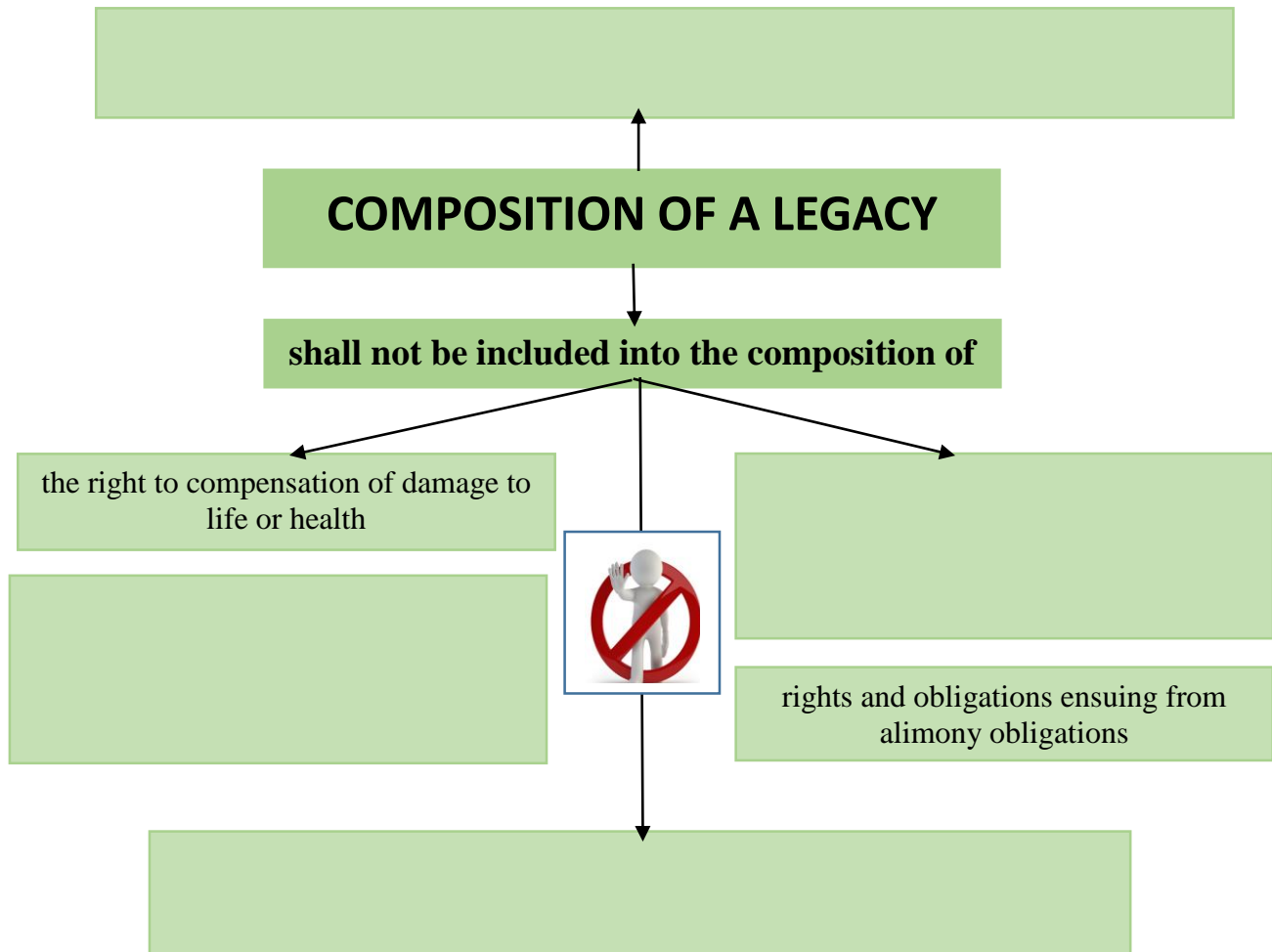
6 The date of opening of inheritance


F where there are neither heirs by will nor by law, nor where none of heirs has the right to inherit, or where all of them refused from inheritance, the property shall be recognized as such property.

7 Place of opening of inheritance


G if an heir called upon to inherit by will or by operation of law dies after the opening of the inheritance without having accepted it within the established term, the right of accepting his/her entitlement shall pass to his/her legal heirs, or if all assets of the estate have been left by will, to his/her heirs by will

7 Read Article 1040 of the Civil Code of the Republic of Kazakhstan and add the scheme with missing elements.

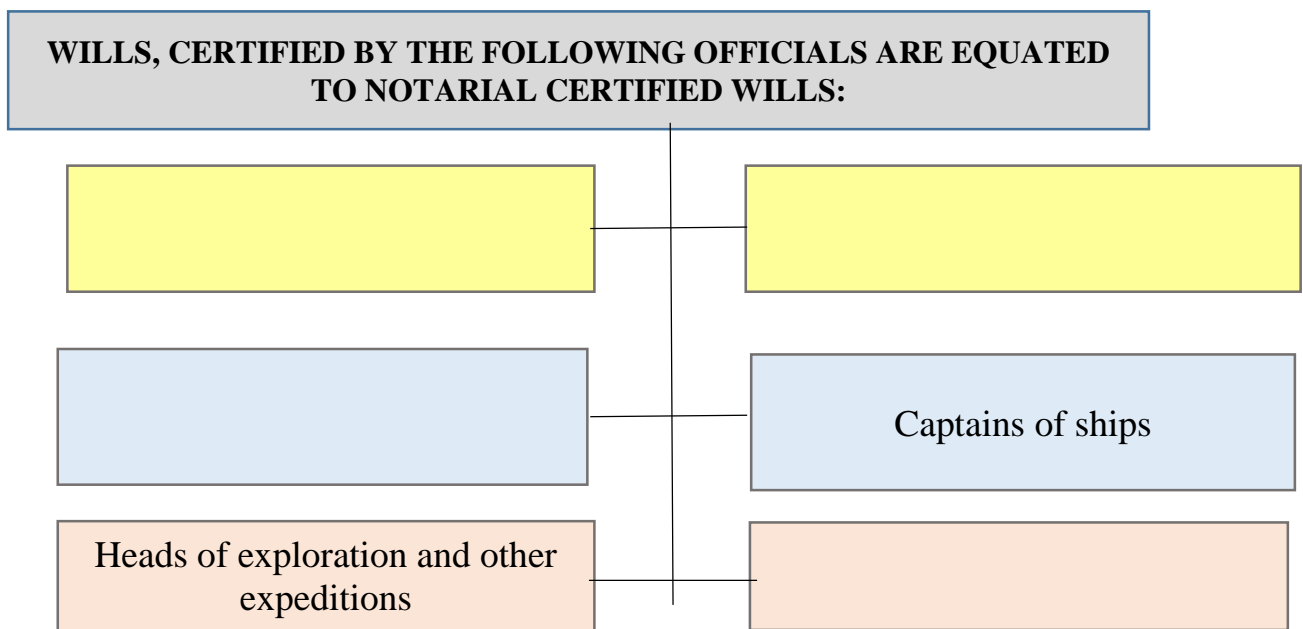


	<p>Personal non-property rights and other non-material benefits, which belonged to the testator, may be exercised and protected by heirs.</p>
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8 Read Part 7 of the Rules for Notarial Actions by Notaries and decide whether these statements are true or false. If the statement is false, correct it.

	1. The will shall be created by a person who had his/her full dispositive capacity as of the time when it was created	True
	2 The will should be executed in person. The will cannot be created through a representative.	
	3 The testator shall be free to revoke and amend the drawn up will at any moment after executing it, but he/she shall be obliged to indicate reasons for the revocation or amendment.	
	5. When the will is written down from the words of the testator by a notary, usual technical devices may be used (typewriter, personal computer etc.).	
	6. The will certified by a notary should be written down by a notary from the words of the testator in the presence of a witness.	
	7 No one shall be entitled to certify a will other than a notary	
	8 At the testator's discretion, the will shall be attested by a notary without a notary's perusal of its contents (secret will).	

9 Read Article 1052 of the Civil Code of the Republic of Kazakhstan and add the scheme with missing elements.



10 Read Part 11 of the Rules for Notarial Actions by Notaries and complete the sentences with words and phrases from the box.



six months; reliable information; mass media;
together; guardianship and trusteeship authorities;
heir; authorized state body; right of inheritance; to
notify; state; by law; by will;
separately; property interest.

Issue of certificate of right to inheritance

Notaries receiving an advice of opening of inheritance shall be obliged _____ the heirs whose place of residence or work they know accordingly. If the place of residence or work of heirs or legatees is unknown, the notary shall advise the opening of inheritance through _____.

A local notary where inheritance is opened, pursuant to the request of an _____ shall be obliged to issue to him/her a certificate of inheritance.

The certificate inheritance shall be issued upon expiry of _____ from the day when inheritance was opened.

When inheriting either _____ or _____, certificates may be issued prior to the expiry of the specified period, provided a notary has _____ that aside the persons who applied to obtain a certificate, there are no more heirs with regard to a given property or the entire inheritance

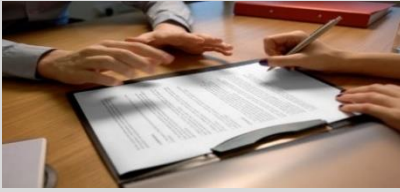
Certificates of _____ shall be issued to heirs accepting the inheritance, in accordance with Kazakh civil legislation regulations. The certificate of the right to inheritance shall be issued to all heirs _____ or to each _____, depending on their desire for each hereditary property.

When a certificate of right to inheritance of is issued to _____ in the name of a ward of court or minor or disabled heir at the place of residence of heir for the protection of his/her _____, the notary shall advise accordingly.

Certificates of right of inheritance shall be issued to the _____ when property is transferred by right of inheritance to the _____.

11 Read Part 11 of the Rules for Notarial Actions by Notaries and match the line.

METHODS OF ACCEPTING INHERITANCE:



LEGAL

the heir has commenced possession or administration of assets of the estate

the heir has paid the testator's debts or received from third persons amounts of money payable to the testator

applying for inheritance acceptance by the heir

the heir has incurred expenses on his/her account towards maintenance of assets of the estate

applying for an inheritance certificate from the heir

the heir has taken measures for preserving assets of the estate, protecting it against third persons' encroachments or claims

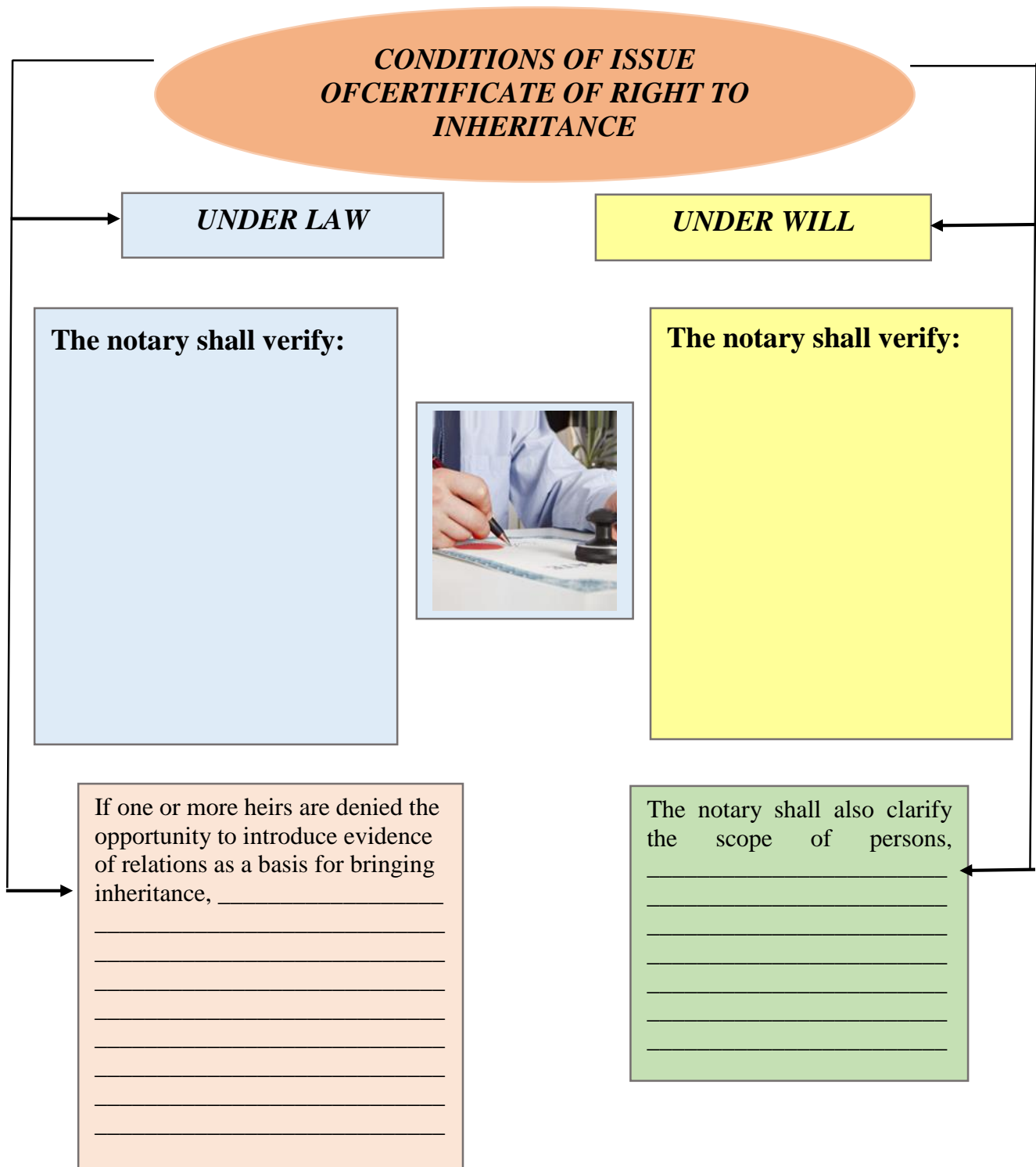
DE FACTO



12 Read Part 7 of the Rules for Notarial Actions by Notaries and decide whether these statements are true or false. If the statement is false, correct it.

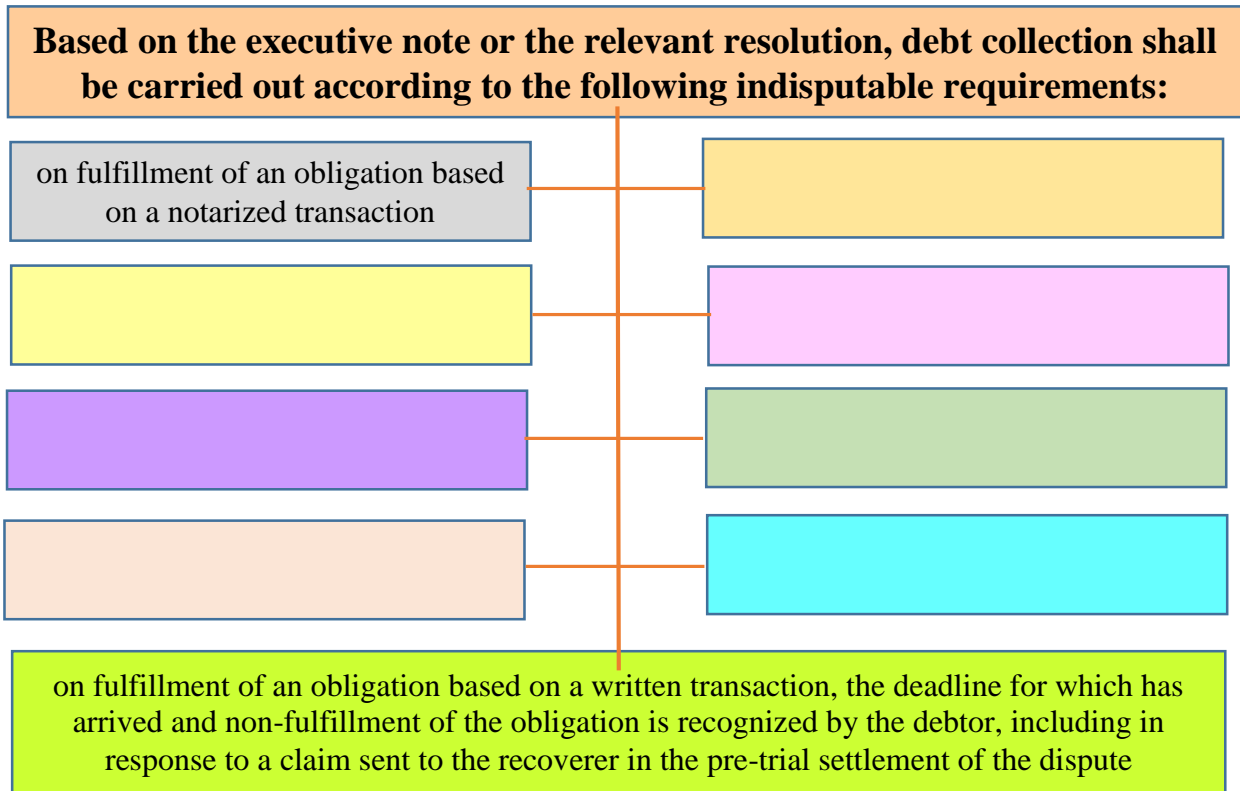
	1. The heir is entitled to refuse an inheritance within the period of six months from the opening of the inheritance.	True
	2 If there are good reasons that period may be extended by the court, however not more than for six months.	
	3 A refusal from the inheritance shall be carried out by way of submission by an heir of an application to a notary in the place of opening the inheritance.	
	5. The refusal from an inheritance through a representative is prohibited	
	6. The refusal from an inheritance may be subsequently renounced or revoked	
	7 In the case of a refusal of an inheritance, an heir shall have the right to indicate that he/she repudiates it for the benefit of other persons from among heirs by will or by law of any category, who are called upon inheritance on right of representation.	
	8 The refusal of the inheritance for the benefit of heirs who are deprived of the inheritance by their testator shall be allowed.	

13 Read Part 11 of the Rules for Notarial Actions by Notaries and add the scheme with missing elements.

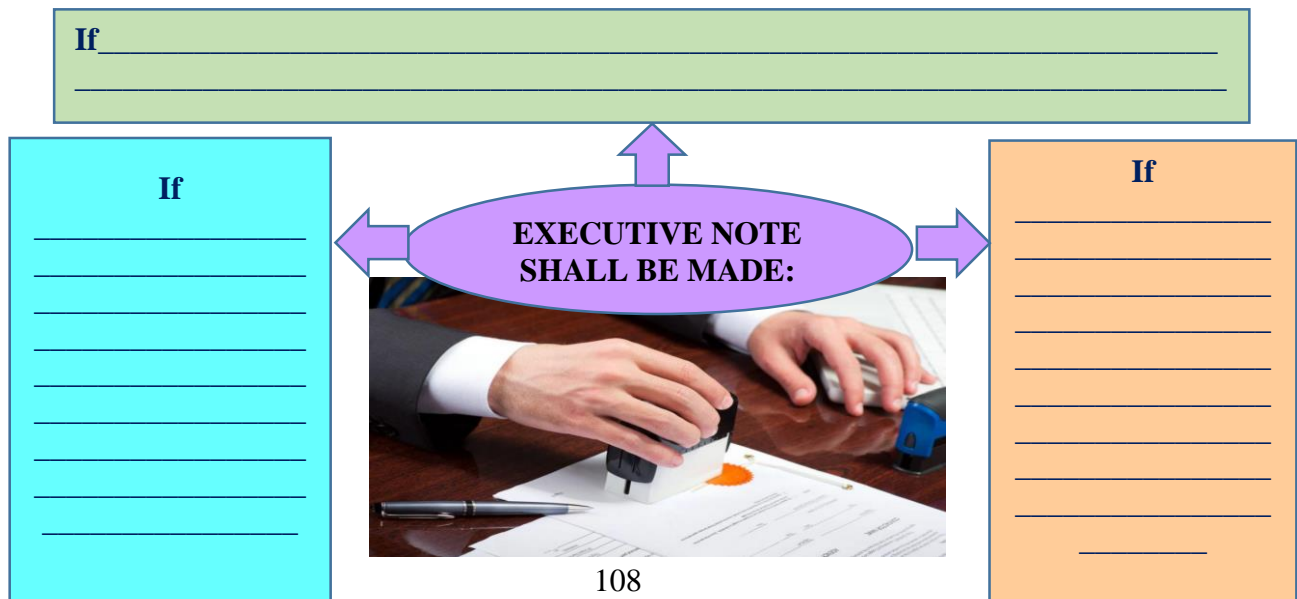


**Materials on student individual work
on the course “Notaries of the Republic of Kazakhstan”
Module 2. Notarial activities and rules for its provision
Student individual work (13-15 weeks)**

1. Read Article 92-1 of the Law On Notaries and add the scheme with missing elements.



2. Read Article 92-2 of the Law On Notaries and add the scheme with missing elements.



3. Read the text below and fill empty lines in the table.

Fulfillment of executive notes

Collection under the executive note shall be carried out in the manner established by the legislation of the Republic of Kazakhstan on enforcement proceedings.

An executive note may be presented for forcible execution within three years from the date of its execution, unless otherwise provided by law.

The restoration of the missed deadline for presentation of the executive note shall be made in accordance with the civil procedural legislation of the Republic of Kazakhstan.

Upon receipt of a notification about delivery of a copy of the executive note to the debtor and if no objection is received from the debtor within the prescribed period, the notary shall issue to the recoverer an executive note for its presentation to execution.

A copy of the executive note issued to the recoverer shall remain in the production of a notary.

The notary shall issue a decision on cancellation of the executive note or a relevant resolution not later than three working days from the date of receipt of the objection to the stated claim.


The decision to cancel the executive note or a relevant resolution shall not be subject to challenge.

A copy of the resolution to cancel the executive note or a relevant resolution not later than the next working day after their delivery must be handed over or sent to the recoverer, the debtor in accordance with Article 92-6 of this Law.

In the event that, by a resolution of a notary, the made executive note or a relevant resolution on the objection of the debtor has not been canceled, they shall be challenged in court.

Procedure of collection under executive note	
Deadlines for presentation of an executive note	
Issuance of an executive note to a recoverer	
Cancellation and contestation of an executive note or relevant resolution	

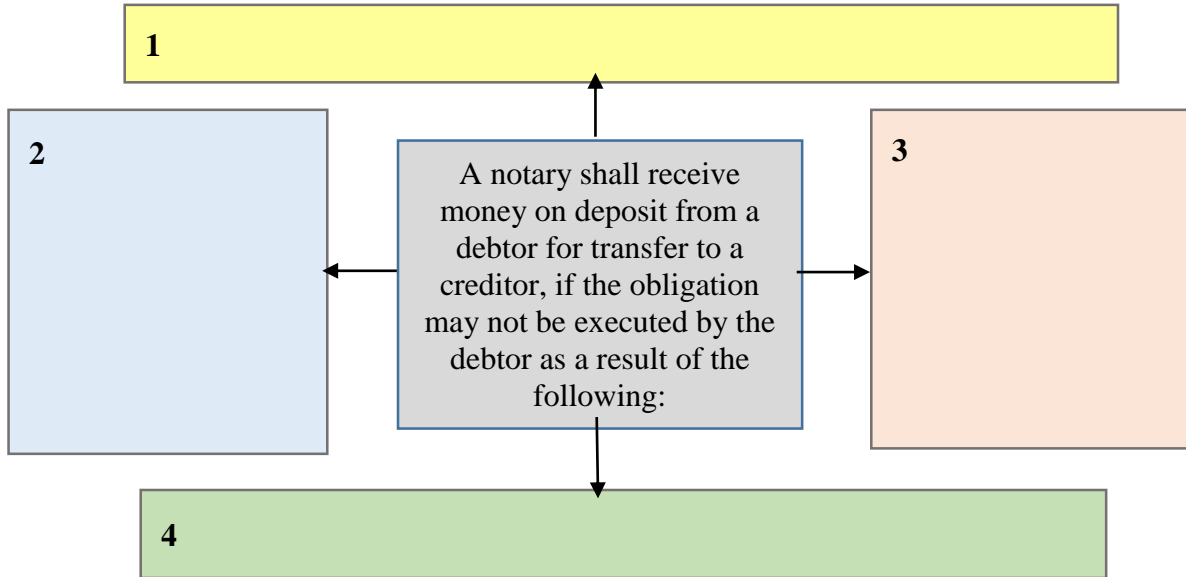
4. Read Article 92-3 of the Law On Notaries and complete the sentences



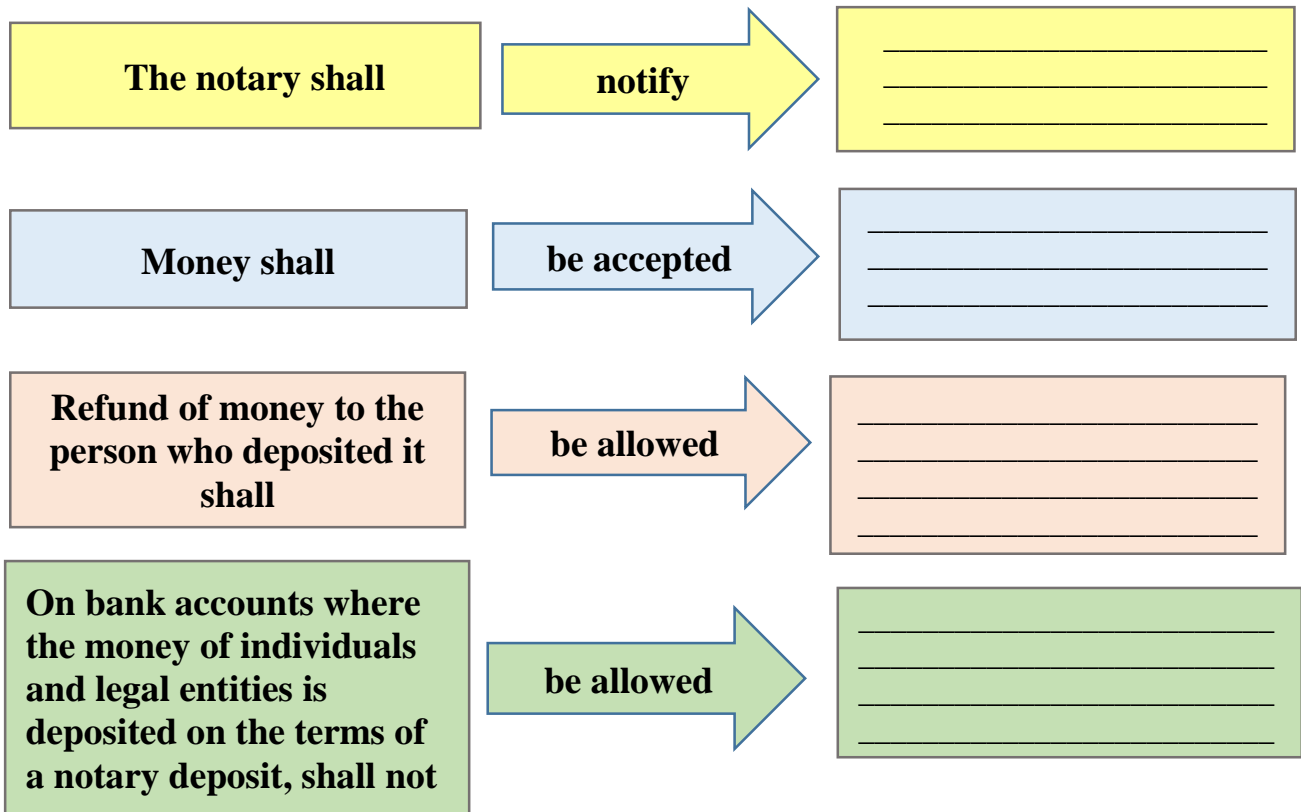
Executive note must contain:

- surname and initials, position of a _____ making an executive note;
- the name of the _____, his date of birth, place of residence or location, individual identification number, details of the _____, business identification number;
- the name of the _____, his date of birth, place of residence or location, individual identification number (_____), details of the legal entity, business identification number;
- designation of the period for which _____;
- designation of the _____ to be collected or items to be claimed;
- designation of the amount of _____ or payment of notarial acts of a private notary paid by a recoverer;
- the date (year, month, day) of _____;
- the number under which the executive note is _____;
- the signature and seal of _____ who has made the executive note;
- the _____ and _____ for filing an application to cancel the executive note.

5. Read Article 291 of the Civil Code of the Republic of Kazakhstan and add the scheme with missing elements.



6. Read Articles 85, 86 of the Law On Notaries and add the scheme with missing elements.



7. Read Articles 84 of the Law On Notaries and complete the sentences.

Transfer of declarations



- 1. Transfer of declarations of individuals and _____ to other individuals and legal entities shall be personally carried out by the notary on _____ or by _____ with _____. Declarations may also be transferred by fax machine, _____ or other technical _____.
- 2. The expenses linked with use of technical facilities for _____ shall be paid by the person _____ the notarial action is _____.
- 3. At the request of _____, a _____ of transfer of declaration shall be _____ to him/her.

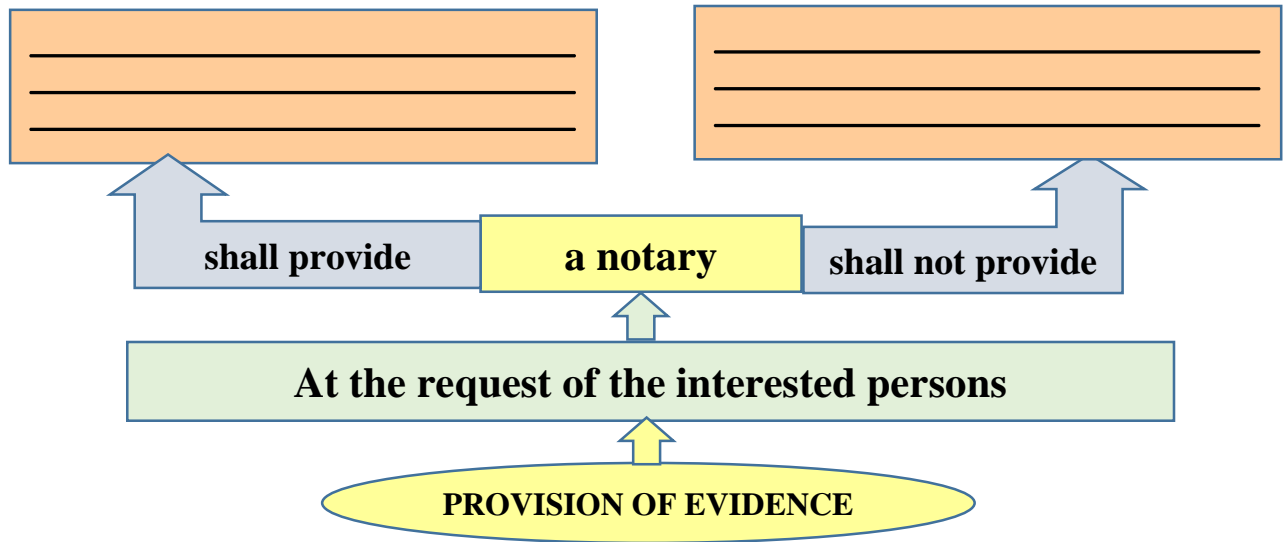
8. Read Articles 93, 94 of the Law On Notaries and complete the sentences.

Acceptance of documents and security papers for storage

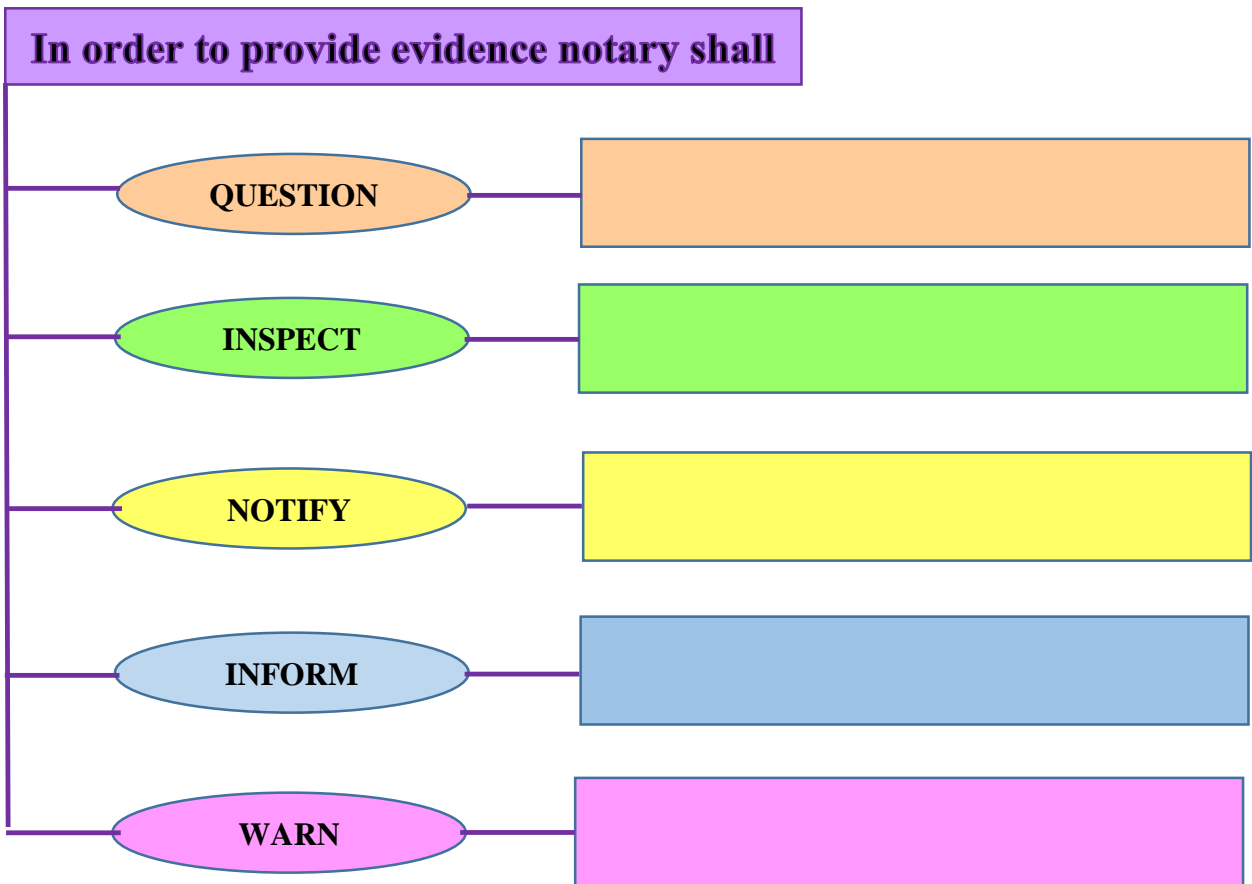


- A notary shall accept documents and _____ listed in an inventory for _____. One copy of the _____ shall be remained by the notary, another copy shall be issued to the person _____ the documents and security papers for _____.
- A notary _____ documents and security papers without _____ if they are properly packed (packing shall be under the _____, signed by him/her and the person surrendering the documents and security papers). In these cases a notary shall be responsible for _____.
- A certificate shall be issued to the _____ the documents and security papers.
- Documents and security papers accepted for storage shall be _____ to the person surrendering them for storage or legally to an _____ on presentation of certificate and its inventory or by a _____.

9. Read Articles 98 of the Law On Notaries and add the scheme with missing elements.



10. Read Articles 99 of the Law On Notaries and add the scheme with missing elements.



11. Read Chapter 16 “Execution of marine protests” of the Law On Notaries and complete the sentences with words and phrases from the box.



ship holder's; marine protest; ship's journal; port call; need for the notice; property requirements; sailing or in dock; reason for this; marine protest act; circumstances of occurrence; two witnesses; ship's captain; be issued; list of crew; twenty-four hours; merchant shipping.

Execution of marine protests

A notary shall accept a declaration by a _____ of an event occurring while the ship is _____, if this is a basis for specifying the ship owner's _____ in order to provide evidence for protection of the _____ rights and legal interests.

A notice of marine protest shall contain a description of _____ and the measures adopted by the captain for protecting the property entrusted to him/her.

A ship's captain shall be obliged to present a _____ and certified extract from the ship's journal confirming the circumstances listed in the notice of _____, in accordance with _____ legislation, together with a notice or not later than seven calendar days from the date of _____ or from the date of the event if it occurred in a port.

A notice of marine protest shall, in accordance with merchant shipping legislation, be filed within _____ of the ship's arrival in port.

If the event triggering the _____ of marine protest occurred in the port, the protest shall be made within twenty-four hours of occurrence.

If notice of protest cannot _____ within the established period, the _____ shall be specified in the notice of marine protest.

A notary shall compile a _____ and certify it with his/her own signature and seal on the basis of the captain's declaration and materials from the ship's journal, at the request of the captain and where possible, not less than _____ from the _____.

Materials on control and an assessment of educational achievements of students

The examination questions

1. The world legal systems and the main world notary systems
2. The International Union of Notaries.
3. History of notaries and the Kazakhstan model of notaries
4. Kazakhstan Notary Profession. Notarial activity and its guarantees
5. Notarial clerical correspondence. Unified notarial information system
6. Notary in the Republic of Kazakhstan, their rights, obligations and restrictions of their activities.
7. Activity area of notary.
8. Responsibility of notaries and civil servants, authorized to carry out notarial activities
9. Clerks and trainees of notary.
10. Certification for the right to carry out notarial activities
11. License to carry out notarial activity. Termination of notary license
12. Suspension and loss of notary license
13. Notary in private practice. Insurance of activity of private notary
14. Legal status of Notarial association: concept, types and their powers
15. Charter of notary association and regulatory bodies of notary association
16. Control of notary activity
17. Notarial activities carried out by notaries and authorized civil servants
18. Basic rules for carrying out notarial activities
19. The concept and types of transaction
20. Certificate of transactions: general provisions
21. Certification of property alienation contracts.
22. Certificate of transactions by disposal of the common property of the spouses
23. Features of the alienation of real estate located on a land plot
24. Features of the alienation of the vehicle
25. Notarization of powers of attorney
26. Notarization of consents
27. Inheritance: the concept, grounds, the time and place of inheritance opening.
Composition of a legacy
28. Will: concept, types. Features of the notarial certification of wills.
29. Methods of accepting inheritance. Issue of certificate of right to inheritance under law and under will.
30. Certification of marriage contract.
31. Certification of agreement on alimony payment.
32. Issuance of certificates of ownership for share in general joint property
33. Certification of accuracy of copies of documents and extracts from them
34. Certification of authenticity of signature and accuracy of translation

35. Certification of facts
36. Transfer of declarations by individuals and legal entities
37. Acceptance of money on deposit
38. Execution of protest of bill
39. Acceptance of documents and security papers for storage
40. Execution of marine protests
41. Provision of evidence
42. Application of norms of law of other states by notary. International treaties.
43. Collecting money or recovering other movable property from a debtor. Terms of execution of executive note and its content.
44. Procedure of collection under executive note.
45. Issuance of an executive note to a recoverer. Cancellation and contestation of an executive note or relevant resolution.