

# The Functional Authority of the Regional Supervisory Assembly (MPD) on the Notary Profession Post Application of Law Number 2 Year 2014 Concerning Amendment to Law Number 30 Year 2004 Concerning Notary Position

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**Abstract.** As per Article 1 point 1 of Regulation No. 30 of 2004 on the Place of a Public accountant, a Public accountant in Indonesia is a public authority who is approved to make real deeds and different specialists. The state gives legitimate means to defend the interests of the lawful local area, for example, Regulation No. 30 of 2004 on Public accountant Positions, which directs the power and job of public accountants and approves management by the Local Administrative Board (MPD), which encourages the job of legal officials as open authorities. The law was subsequently altered by Regulation No. 2 of 2014 on Alterations to Regulation No. 30 of 2004 on Public accountant Positions. The Local Administrative Committee (MPD) has useful power over the turn of events and management of the Public accountant calling in view of Regulation Number 30 of 2004 concerning the Place of a Public accountant, on the grounds that the position, capability, job and authority of a Public accountant as a public authority is an essential public position, connected with legitimate activities there is a relationship regulation for the overall population. The strongest evidence for legal actions that require ratification before a Notary is the so-called Authentic Deed, which is the result of the Notary's work. Notary work necessitates prudence, thoroughness, and accuracy, as well as regular inspection of all letters as state documents. One of the practical specialists keeping the section of Regulation No. 2 of 2014, which made changes to Regulation No. 30 of 2004 relating to the Place of a Public accountant, the assessment or request of a legal official, and the taking of a copy of the Minutes of Deed or potentially a letter to support the legal cycle, specialists, public examiners, or judges to look for endorsement from the Local Administrative Chamber (MPD), whose authority is vested in the Legal official Privileged Committee (MKN) .

**Keywords:** functional authority; Regional Supervisory Council (MPD); notary

## 1 Introduction

Law and order depends on the basic beliefs of truth and equity in Indonesia, a country established on law and order that guarantees sureness, request, and legitimate security. Legal relationships between people in various fields of state community behavior that are based on agreements that have formal and contractual legitimacy between parties and are no longer determined based on trust-based habits can be done more definitively and formally on a context-by-context basis. the actual deed, which is regarded as having legal force, contains the contract.

In each lawful relationship, genuine deeds assume a significant part as the most grounded and most complete proof. It is trusted that debates can be stayed away from through a genuine deed that plainly frames freedoms as well as expectations, guarantees lawful conviction, and both.

In Indonesia, in light of Regulation Number 30 of 2004 concerning the Place of a Legal official, Article 1 point 1 expresses that a Legal official is a public authority who is approved to make genuine deeds and different specialists. For certain legal actions, notary products also have executorial power and the power to serve as formal, material evidence. Law Number 30 of 2004 on Notary Positions, which governs Notaries' authority and role, as well as their supervision by institutions authorized to supervise, fosters Notaries' status as public officials. Regulation Number 2 of 2014 on Alterations to Regulation Number 30 of 2004 on Public accountant Positions, changes the law. The state gives lawful means.

From this point of view, the notary profession requires supervision, examination, and direction, as outlined in Law No. 30 of 2004, which was subsequently corrected by Regulation No. 2 of 2014, Revisions to Regulation No. 30 of 2004 In regards to Public accountant Positions. articles regarding the matter of Public accountant management. The Legal official Administrative Board, whose presence is represented by Article 69, is the authority-holding association;

- (1) In a Regency or City, the Regional Supervisory Council is formed.
- (2) The participation of the Territorial Administrative Chamber comprises of the components alluded to in Article 67 section (3).  
(2a) A joint Provincial Administrative Gathering might be shaped for a few Rules/Urban communities in the event that the quantity of Legal officials in a Regime or City isn't corresponding to the quantity of individuals from the Local Administrative Board.
- (3) The individuals alluded to in section 2 will choose the Seat and Appointee Administrator of the Local Administrative Chamber.
- (4) The term of office of the director, agent executive, and individuals from the Local Administrative Chamber is 3 (three) years, and might be reappointed.
- (5) At least one secretary is delegated at the Territorial Administrative Chamber Meeting to help the Provincial Administrative Board.”

This paper's issue is formulated as follows: What demeanor does the Provincial Administrative Gathering (MPD's) Useful Authority have toward the Public accountant Calling observing the death of Regulation No. 2 of 2014, which alters Regulation No. 30 of 2004 with respect to the Public accountant Position?

## **2 Theoretical and Conceptual Framework**

### **Theoretical Framework**

#### **a. State Law theory**

The territory of Indonesia is a lawful state with power in the possession of individuals. This is expressed in Article 1 section (3) and passage (2) of the 1945 Constitution of the Republic of Indonesia. A protected state is a state in light of the law (*rechtsslaat*) with an administration in view of a constitution or fundamental regulation.

According to Stahl, the rule of law is characterized by four elements, namely:

1. Recognize and protect human rights;
2. To safeguard these common liberties, state organization should be founded on the *Trias Politica* hypothesis;

3. The law (Wetmatig Bestuur) serves as the basis for the government's operations. And
4. Assuming that in completing its obligations under the law the public authority actually disregards common freedoms (government impedance in an individual's confidential life), there is a managerial court that will determine it.

Indonesia as a state of law, then in carrying out its authority based on state law has 3 (three) basic principles that must be upheld and carried out by every citizen, as well as its officials, namely:

1. The rule of law;
2. Equality before the law;
3. Law enforcement in ways that are not against the law.

#### **b. Authority theory**

The two terms are frequently used interchangeably. Power typically manifests itself in the form of a relationship in which "one party rules and the other is ruled" In the field of public regulation, the expression "authority" or "authority" is every now and again utilized. In any case, the two really vary from each other.

Authority is a proper power that comes from chief or regulatory power conceded by regulation or governing body. As a result, it refers to the authority of a particular group of people, a particular sector of the government, or particular governmental operations. whereas only a portion of the authority is discussed in the authority. All parties with legal legitimacy as defined by the existing laws and regulations have the authority to issue orders and command obedience.

The extent of public activity or the power of the public authority incorporates the position to pursue government choices (bestuur) with regards to completing errands and the circulation of the essential power specified parents in law and guidelines. Authority likewise incorporates the position to come to conclusions about the public authority.

Competence and authority have different meanings. The term "authority" refers to the formal power that derives from the law, while "authority" is a depiction of power, demonstrating that any legitimate subject who is conceded authority by regulation is approved to do acts inside that power.

When it comes to carrying out actual (real) actions, making arrangements, or making decisions, the authority possessed by government organs (institutions) is always based on the authority obtained from the constitution through attribution, delegation, and mandate. On the basis of the constitution (UUD), the term "attribution" refers to the initial authority. It is essential to emphasize the delegation of authority to other government agencies when discussing delegation of authority. There is no appointment of expert in the order; in any case, the people who are commanded are expected to follow up for the order provider's benefit. The authority who is given an order names one more authority to complete the command (required).

Attribution is the power given to an organization organ (foundation) or state establishment by a free regulative body. Assignment is the exchange of power from an establishment's attribution position to another foundation so that the delegator (the organization that has given the power) can test the expert for his benefit. In the command, be that as it may, there is no exchange of power; rather, the command provider (the mandator) can simply decide or make a move for the order. For the power to be real, it should be founded on the current lawful arrangements (the constitution).

#### **2. Conceptual**

In order to facilitate understanding of perceptions in matters related to the authority and position of Notaries, and Supervision, Examination and Guidance carried out by the Notary

Regional Supervisory Council (MPD) based on Law Number 30 of 2004 concerning Notary Positions, conceptually related to the legal legitimacy of the profession of Notary Positions as Officials In general, to avoid differences, some operational definitions of the terms are presented as follows.

- a. A legal official is a public authority who is approved to sign a bona fide deed as long as other public authorities are not precluded from doing as such.
- b. The UUJN alludes to the power of a public accountant in view of his calling as a bona fide deed producer and the quick and dynamic improvement of local area needs. Normally, legitimate relations need assurance, request, and lawful insurance with the center of truth and equity.
- c. Deed, as shown by Article 1868 of the Normal Code which confirms that: A lawfully restricting deed is one that is executed by or within the sight of public authorities with power where it was executed.
- d. According to Article 1 Number 7 of Regulation No. 30 of 2004 In regards to the Place of a Public accountant (UUJN), these are the accompanying: A certified deed executed as per this regulation's structure and methodology is known as a "Public accountant Deed."
- e. The position of the deed is a letter as evidence that is stamped, which contains the events that structure the reason of a right or a comprehension, which was created utilizing the beginning deliberately for check.

### **3 Discussion**

#### **Functional Authority of the Regional Supervisory Council (MPD) over the Notary Profession**

##### **a. The Role of Notaries in Indonesia**

The power and capability of legal officials in their jobs as open authorities in Indonesia are vigorously directed by Regulation No. 30 of 2004 in regards to Public accountant Positions, which was subsequently changed by Regulation No. 2 of 2014 concerning Corrections to Regulation No. 30 of 2004 concerning Public accountant Positions.

A Public accountant's position and obligations envelop legitimate authenticity for the sake of state power — that is, the ability to do specific lawful activities.

As indicated by Article 15 section 1 of Regulation No. 2 of 2014 of the Republic of Indonesia, which changes Regulation No. 30 of 2004 in regards to the Place of a Legal official Connected with the Power, Public accountants are approved to make genuine deeds in regards to all activities, arrangements, and arrangements that are expected by regulations and guidelines as well as wanted by closely involved individuals to be expressed in a credible deed. They can likewise ensure the assurance of the date the deed was made, store the deed, and give grosse, duplicates, and citations of the deed. all of that as long as the formation of the deeds isn't delegated or banned to various specialists or others determined by guideline.

##### **b. Notary Deed Position**

In view of the arrangements of the Demonstration that a deed is a genuine deed:

- a. If the form is determined by law.
- b. The deed is made by or before a public official.
- c. Made in the area of authority and the official who made the deed.

For certain legal actions, notary products also have executorial powers that have perfect evidence strength and the power of formal, material evidence. In each lawful relationship that individuals have in their lives, certified deeds assume a significant part as the most grounded

and most complete proof. Genuine deeds are supposed to keep away from questions and obviously characterize expectations in different business connections.

**c. Regional Supervisory Council (MPD) Notary**

The Public accountant Local Administrative Chamber (MPD) was laid out by a request for Regulation No. 30 of 2004 in regards to the Place of a Public accountant and as per Article 3 of the Clergyman of Regulation and Common liberties of the Republic of Indonesia's Guideline Number: M.02.PR.08. 10 of 2004 in regards to the Public accountant Administrative Board's Authoritative Construction, Work Methodology, Arrangement and Excusal Techniques, and Assessment Systems.

As per Regulation No. 30 of 2004 Concerning Public accountant Positions and Guideline of the Pastor of Regulation and Basic liberties of the Republic of Indonesia, the Public accountant Provincial Administrative Board's main goal is to administer, create, and inspect Public accountants. Number: Announcement of the Priest of Regulation and Basic freedoms of the Republic of Indonesia Number: M.02.PR.08.10 of 2004 with respect to Organization Technique for Arrangement of Individuals, Excusal of Individuals, Authoritative Design, Work Methods, and Methodology for Assessment of the Public accountant Administrative Gathering M.39-PW.07.10 of 2004 relating to the Legal official Administrative Committee's Execution Rules.

As per Article 69 section 4 of Regulation No. 30 of 2004 Concerning Public accountant Positions, the Public accountant Local Administrative Board's term of office is a long time from the date of introduction;

**a. Legal basis**

The legal basis for the authority of the Notary Regional Supervisory Council is as follows.

1. Law Number 30 of 2004 concerning the Position of a Notary;
2. Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, and Law Number 30 of 2004 concerning Notary Positions.
3. Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.02.PR.08.10 of 2004 concerning Procedures for Appointment of Members, Dismissal of Members, Organizational Structure, Work Procedures and Procedures
4. Examination of the Notary Supervisory Board.

Number of the Announcement of the Republic of Indonesia's Priest of Regulation and Basic freedoms: M.39-PW.07.10 of 2004: Rules for the Public accountant Administrative Gathering to Continue in Satisfying Their Obligations

**b. MPD Notary Functional Authority**

First and foremost, the Legal official Provincial Administrative Committee had the power to force specific punishments on Public accountants who were found to have broken the Legal official's liabilities. As per the levels of the Administrative Chamber (MPD, MPW, and MPP) and their particular specialists, the main association approved to oversee, analyze, and force sanctions on Public accountants is the Public accountant Territorial Administrative Gathering.

The Provincial Administrative Committee's power is laid out by Article 66 of Regulation No. 30 of 2004 in regards to Public accountant Positions, otherwise called the contracted UUNJ:

- (1) Investigators, public prosecutors, or judges with the approval of the Regional Supervisory Council (MPD) are permitted to participate in the judicial process:
  - a. from the Notary's Depository, make a photocopy of the Deed's Minutes and any documents attached to them or the Notary Protocol;
  - b. summon the Public accountant to the assessment of the legally approved archive or the Public accountant Convention that is in the Public accountant's ownership.
- (2) An official report of the submission is made by taking a photocopy of the documents or Minutes of Deed mentioned in paragraph (1), letter a.  
Therefore, investigators, public prosecutors, and judges cannot summon or request a Notary in a criminal case without the MPD's approval.

**c. Notary Supervisory Council as State Administrative Position**

The Administrative Gathering is likewise situated as a State Organization Office or Position since it gets designation from an organization or position that is domiciled as a State Organization or Position on the grounds that the Clergyman's situation as a State Organization or Position does government undertakings in light of the relevant regulations and guidelines.

Thus, the functional authority of the MPD does not carry out its task of looking for (criminal) elements to lead a Notary with qualifications to participate or assist in committing a criminal act or activity. However, this authority is intended so that the MPD always provides guidance, examination, and supervision of the performance of the Notary profession.

A Decree, which is a written determination, is the final outcome of the MPD investigation. The Decree is personal, concrete, and final, and it has legal ramifications. Concrete means that the thing that is decided is not something abstract; in this instance, the thing that is decided is a specific deed that the Notary in question examined with the MPD. By "individual," we mean that the decision is addressed solely to the name of the Notary in question rather than to the general public or anyone else.

It is definitive and final because it does not require approval from other parties or higher institutions, which can have legal repercussions for the Notary in question. As a result of the application of Article 66 of the UUN, such provisions only apply to the MPD Decree.

**Utilitarian Power of the Territorial Administrative Committee (MPD) on the Public accountant Calling after the Order of Regulation Number 2 of 2014 concerning Changes to Regulation Number 30 of 2004 concerning the Place of Legal official**

**a. Authority of the Notary Supervisory Council (MPD)**

The Legal official Administrative Board has the position to hold a conference to inspect the substance of the article:

1. There is a supposed infringement of the Implicit set of rules;
2. There are charges of infringement of the execution of the obligations of a Legal official Public;
3. The way of behaving of Public accountants beyond doing their obligations as Legal officials which can obstruct or influence the execution of the Legal official's obligations.

The Administrative Chamber has the position to oversee public accountants in view of the power of the Designation, specifically the Clergyman appoints the errand of legal official management to the Administrative Committee. Designation authority is a power that

begins from the appointment of an Administration organ (Clergyman) to another organ (Administrative Board) in light of legal guidelines, where obligation and responsibility are moved to those given the designation of power (Administrative Committee), consequently the provider of the assignment of power (Pastor) can never again utilize that authority besides after a disavowal by complying with the standard of *contraries actus*.

**b. The power of the useful Provincial Administrative Gathering which is managed under the arrangements of Regulation No. 2 of 2014 concerning Revisions to Regulation No. 30 of 2004 concerning Public accountant Positions incorporates;**

The power of the Local Administrative Committee after the order of Regulation No. 2 of 2014 concerning Corrections to Regulation No. 30 of 2004 concerning the Place of Public accountant according to Article 66 changes, specifically:

1. Notary MPD does not have the authority to approve. The authority to approve the summons of a Notary for the purpose of investigation, then transfers to the Notary Honorary Council or abbreviated as MKN.
2. Notary supervision after the enactment of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions.
3. The authority of the MPD based on Law Number 30 of 2004 concerning the Position of Notary remains the main task that becomes its obligation unless it does not have the authority as referred to in Article 66 which is transferred to MKN.
4. Furthermore, according to Article 1 point 6 of Law Number 2 of 2014 states: "The Notary Supervisory Council is hereinafter referred to as the Supervisory Council is a body that has the authority and obligation to carry out guidance and supervision of Notaries". From these two general restrictions, likenesses and contrasts can be tracked down between the Public accountant Privileged Gathering and the Legal official Administrative Committee. The similarity is that they both carry out notary development.

As indicated by Article 67, passage (5) of the UUJN, the Administrative Board has the power to complete an extensive administrative capability on the way of behaving of a Legal official and the execution of a Public accountant's situation. According to Article 70 of the UUJN, such supervision is periodic, regular, and regular, such as the annual inspection of the Notary protocol. This is intended to hold legal officials back from committing errors. Despite the fact that there have been no bad things to say from individuals from the overall population who have utilized the administrations of a Legal official, oversight is done. Meanwhile, the Legal official Privileged Gathering has the position to coordinate in case of a public grumbling or a legitimate issue including the gatherings.

Subsequently, the Public accountant Administrative Board (MPN's) capability keeping the entry of Regulation No. 2 of 2014, which made changes to Regulation No. The motivation behind Public accountant Positions Act No. 30 of 2004 is to regulate and direct public accountant execution, including the utilization of the Public accountant Set of principles and UUJN. protests from the overall population, with the goal that the Public accountant Administrative Board (MPN's) obligations and authority are deterrent in nature, specifically to hold Legal officials back from having lawful issues.

#### **4 Conclusion**

Prior to the passing of Law No. 2 of 2014, which made changes to Law No. Based on Law No. 30 of 2004 regarding Notary Positions, the Regional Supervisory Council (MPD) has the functional authority to supervise, foster, and examine the Notary profession. It can also approve or disapprove at the request of the police, prosecutors, and other institutions of the judicial system. As a result, the Notary Supervisory Council (MPD, MPW, and MPP) is granted functional authority in the context of fostering, monitoring, and periodic inspections, which are implicit in nature as a form of legal protection for the profession. This institutional authority is based on Law Number 30 of 2004 concerning Notary Positions. Public Notary.

What's more, the MPD's useful power adhering to the entry of Regulation No. 2 of 2014, which made changes to Regulation No. Specialists, public investigators, or judges should look for endorsement from the Legal official Privileged Board or MKN prior to leading an assessment or request of a public accountant, taking a copy of the Minutes of Deed, or joining a letter to the Minutes of Deed with the end goal of the legal cycle. Observing the death of Regulation No. 2 of 2014, which made changes to Regulation No. The Public accountant Administrative Chamber (MPDN) doesn't have the power to give or keep endorsement under Area 30 from getting 2004 relating to the Legal official Position. Subsequently, Public accountants' obligations as open authorities will go on to the surprise of no one, except for not practicing the useful power framed in Article 66, which was recently administered by Regulation No. 30 of 2004 Concerning Public accountant Positions.

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