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MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE

National Aviation University

Educational and Research Institute of Law

Department of Criminal Law and Process

APPROVED

Rector

\_\_\_\_\_\_\_\_\_\_\_\_

«\_\_\_»\_\_\_\_\_\_\_\_\_\_2018



# Quality Management System

**SYLLABUS**

**on**

## **«Preparation of Notarial Procedural Documents»**

### Field of Study: 08 “Law”

### Speciality: 081 “Law”

Educational Professional Program: “Jurisprudence”

Year of Study – 2 Semester – 4

Classroom Sessions – 34 Examination – 4 semester

Self-study – 71

Total (hours/ECTS credits) – 105/3.5

Index СB – 9-081/17-3.11

**QMS NAU S 13.01.03-01-2018**

### The Syllabus on «Preparationof Notarial Procedural Documents» is based on the educational and professional program and Bachelor Curriculum № CB-9-081/17 for Speciality 081 “Law” Educational Professional Program “Jurisprudence” and correspondent normative documents.

Developed by

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Discussed and approved by the Graduate Department Speciality 081 “Law” Educational Professional Program “Jurisprudence” – The Commercial, Air аnd Space law Departament, Minutes № \_\_\_ of " " 2018.

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Discussed and approved by the Scientific – Methodological – Editorial Board of the Educational and Research Institute of Law, Minutes № \_\_ of “\_\_\_\_” \_\_\_\_ 2018.

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| AGREED  Director of the Educational and  Research Institute of Law  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ I. Sopilko  "\_\_\_\_\_"\_\_\_\_\_\_\_\_\_\_2018 | Director of the Institute  of Innovative Technologies and Leadership  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ K. Babikova  "\_\_\_\_\_"\_\_\_\_\_\_\_\_\_\_2018 |
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Document level – 3b

The planned term between the revisions – 1 year

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**1. INTRODUCTION**

The educational curriculum " Preparationof Notarial Procedural Documents " is developed on the basis of "Methodological Guidelines for the Development and Design of Educational and Work Curriculum Programs of disciplines", put into effect by the order of 16.06.2015. №37 / order.

Discipline " Preparationof Notarial Procedural Documents " is assigned to a group of criminal-law disciplines studying offenses and measures to combat them. The training of a highly skilled specialist – a lawyer is impossible without the knowledge of theoretical and practical knowledge in the field of practice of the implementation of the notarial process.

Discipline " Preparationof Notarial Procedural Documents " is a systematic course designed to serve the expansion and consolidation of legal knowledge among students.

The purpose of studying the discipline " Preparationof Notarial Procedural Documents " – the acquisition of students basic knowledge in the field of the notarial process, obtaining skills and skills in the field of protection and protection of property and personal non-property rights and protected by law interests of citizens.

Studying the course Preparationof Notarial Procedural Documents " implies that as a result, each student must:Know:

- sources of the notarial process;

- main areas of notarial activity in the protection and protection of the rights of individuals and legal entities;

- principles of notarial proceedings;

- Place of the notarial process in the legal system of Ukraine;

- professional rights and duties of the notary;

- organizational construction of the notarial process in Ukraine;

- the competence of notarial bodies and officials regarding the commission of notarial acts;

- general rules for the commission of notarial acts;

- peculiarities of the commission of certain types of notarial acts.

Be able to:

- to orient in the system of legislation of Ukraine on a notary and to find in it the necessary norm for a particular case;

- to analyze normative acts concerning notarial activity and apply them in their practical activity;

- to interpret the norms of the Law of Ukraine "On Notary";

- to perform notarial acts;

- draft agreements and applications;

- to make copies of documents and extracts from them;

- to give an explanation on the issues of notarial acts and consultations of a legal nature;

- to solve practical problems that arise in applying the rules of law to specific practical situations and to draw up the relevant documents;

- roz`yasnyuvaty persons who applied for notary actions, their rights and responsibilities, and warn of the effects exerted notarial acts.

The educational material of the discipline is structured on a modular basis and consists of one training module, namely, " Preparationof Notarial Procedural Documents ", which is a logically complete, relatively independent, integral part of the academic discipline, the mastering of which involves modular control work and analysis of the results of its implementation.

The academic discipline " Preparationof Notarial Procedural Documents " is based on the knowledge of such disciplines as: "Theory of state and law", "Legal deontology", "Notary of Ukraine", "Organization of judicial and law enforcement agencies", "Civil law" and others.

Knowledge and skills received by a student during the study of this discipline are used further in the study of many of the following disciplines of vocational training of a specialist with basic and complete higher education.

**2. CONTENT OF EDUCATIONAL DISCIPLINE**

**2.1. MODULE # 1 « Preparation of notarial procedural documents »**

**Theme 2.1.1. Organizational basis for the activities of the notary in Ukraine**

Contents, subject and tasks of notarial activity. Basic terms and concepts of the notary process: "notarial process", "notarial procedure", "notarial proceedings", "notarial action", etc. Basic functions of the theory of the notarial process. Methods of legal regulation of the notarial process. The essence and classification of the principles of the activities of the notary's bodies: the legality, the principle of observance of the secrecy of notarial acts, the principle of assistance in the exercise of rights and legitimate interests, the principle of the language of notarial proceedings, the principle of dispositivity and the validity of notarial acts.

**Theme 2.1.2. Notarial process**

Concept of the notarial process and its characteristic features, structural content. Elements of the notarial process: subjects, stages and proceedings. Subjects of the notarial process and their classification. System and competence of notarial bodies. Notarial acts committed in state notary offices. Competence of a private notary. Notarial acts committed by officials of local self-government bodies and consular offices of Ukraine, as well as competence of officials regarding the certification of wills and powers of attorney equal to notarized certificates. The procedure for appointment and dismissal of a notary's office. Stages of the notarial process: compulsory and additional. Types of notarial proceedings. The subject of notarial activities in these types of notarial proceedings. Contents of the stage of infringement of the notarial case. The content of the stage of preparation for the commission of a notarial act and consideration of the case on the merits. Concept and system of principles of the notarial process. Qualification commissions of the notary. Internship of persons who intend to engage in notarial activities. The procedure for issuing a certificate on the right to engage in notarial activities and the grounds for its cancellation. Notarial record keeping and reporting.

**Theme 2.1.3. General rules for notarial acts**

Place and time of notarial acts. Grounds for refusal to perform notarial acts. Procedure for challenging notarial acts and refusals to perform them. Establishing the identity of a citizen who applied for a notarial act. Verification of the legal capacity and capacity of the persons who enter into transactions. Verification of authenticity of signatures on documents. Requirements for documents to be submitted for the performance of notarial acts. Notarial acts. Limitation in the right to perform notarial acts. Notarial office work. Issue of duplicate documents. Payment for ongoing notarial acts.

**Theme 2.1.4. Certificate of undisputed facts**

Basic rules of certification of transactions. Content, significance, legal consequences of transactions. Procedure for the certification of transactions regarding the disposal of a share of real property in joint ownership. General rules for the certification of transactions concerning the alienation of immovable property. Features of the certificate of rent contracts, life support, marriage contract, mortgage contracts, wills, powers of attorney, facts. The legal significance of verifying the copies of documents and excerpts from them, certifying the authenticity of the signature on the documents, the correctness of the translation. Cases and procedure for acceptance of cash and securities deposits. Rules of the act of maritime protest.

**Theme 2.1.5. Certificate of indisputable rights**

Basic rules of certification of transactions. Content, significance, legal consequences of transactions. Procedure for the certification of transactions regarding the disposal of a share of real property in joint ownership. General rules for the certification of transactions concerning the alienation of immovable property. Features of the certificate of rent contracts, life support, marriage contract, mortgage contracts, wills, powers of attorney, facts. The legal significance of verifying the copies of documents and excerpts from them, certifying the authenticity of the signature on the documents, the correctness of the translation. Cases and procedure for acceptance of cash and securities deposits. Rules of the act of maritime protest.

**Theme 2.1.6. Notarial acts aimed at providing executive power documents**

Enforcement of executive inscriptions. Terms of execution of the executive inscription. The procedure for collecting indebtedness in an indisputable order by an executive inscription. Contents of the executive inscription as a notarial act. Protesting promissory notes. Procedure for protesting a promissory note in non-payment, non-acceptance, not dated acceptance. Presentation of checks to the payment and a certificate of non-payment of checks.

**Theme 2.1.7. Notary and the protection of private rights**

Notarial protection of property rights. Grounds for acquiring and termination of property rights: primary and derivative (transactions, privatization). Notarial protection of binding rights. Bank guarantee. Bond and I types: direct mortgage (mortgage), indirect (mortgage) collateral for goods in circulation, securities collateral, collateral in foreign trade turnover. Notarial protection of hereditary rights. Notarial protection of family rights. The object of notarial protection: property rights, the right of joint property of the spouses, the right of personal and private property of the wife and husband, the rights of spouses in keeping.

**3. BASIC CONCEPTS OF GUIDANCE ON THE SUBJECT**

**3.1. List of references**

Basic literature

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3.1.2. Про нотаріат: Закон України від 2 вересня 1993 р. №3425-ХІІ //ВВРУ. – 1993. - №39.

3.1.3. Цивільний кодекс України від 16 січня 2003 р. – К.: Атака. – 2003. – 416с.

3.1.4. Сімейний кодекс України від 10 січня 2002 р. //ВВРУ. – 2002. - №21-22.

3.1.5. Земельний кодекс України від 25 жовтня 2001 р. //ВВРУ. – 2002. - №3-4. Консульський статут України / Затверджено Указом Президента України 2 квітня 1994 року № 127/94 // Фурса С.Я., Фурса Є.І. Нотаріат в Україні. Теорія і практика: навч. посіб. – К.: А.С.К., 2001.

3.1.6. Інструкція про порядок вчинення нотаріальних дій нотаріусами України /Затверджено наказом Міністерства юстиції України від 2 березня 2004 року. // ВВРУ. - 2004. - № 38.

3.1.7. Інструкція про порядок обчислення та справляння державного мита /Затверджено наказом Міністерства юстиції України від від 22 квітня 1993 р. //Законодавство України про нотаріат. Бюлетень законодавства і юридичної практики України. – К.: Юрінком Інтер. - 1998. - № 5. - С. 204-214.

3.1.8. Порядок ведення та заповнення реєстрів для реєстрації нотаріальних дій. / Затверджено наказом Міністерства юстиції України від 15 липня 2003 року №87/5.

3.1.9. Порядок зберігання та ведення реєстраційних справ приватними нотаріусами. / Затверджено наказом Міністерства юстиції України від 29 грудня 2008 року №2315/5.

3.1.10. Декрет Кабінету Міністрів України “Про державне мито” від 21.01.1993 № 7-93.

3.1.11. Інструкція про порядок вчинення нотаріальних дій нотаріусами України, затв. 03.03.2004 № 20/5.

3.1.12. Інструкція про порядок вчинення нотаріальних дій посадовими особами виконавчих комітетів сільських, селищних, міських Рад народних депутатів, затв. Наказом МЮ України від 25.08.1994 № 22/5.

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3.1.14. Положення про державний нотаріальний архів, затв. наказом МЮ України від 07.02.1994 № 8/5.

3.1.15. Положення про порядок видачі свідоцтв про право на заняття нотаріальною діяльністю, затв. Наказом МЮ України від 20.01.1994 № 3/5.

**3.2 Additional literature**

3.2.1. Гулєвська Г. Аналіз зарубіжного досвіду державного регулювання нотаріальною діяльністю та пріоритети запозичення в Україні // Підприємництво, господарство і право. – 2003. – № 7. – С. 57-61

3.2.2. Доброльожа В. Нотаріальна практика в аспекті нового Земельного кодексу України // Нотаріат для вас. – 2012. – Червень (№ 6). – С. 4-6

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**АРКУШ ПОШИРЕННЯ ДОКУМЕНТА**

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**АРКУШ ОБЛІКУ ЗМІН**

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**УЗГОДЖЕННЯ ЗМІН**

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