

## RATIO LEGIS PHRASE "MANDATORY" IN GOVERNMENT REGULATION ON LAND DEED MAKING OFFICER AS PROTOCOL RECIPIENT

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### Abstrak

Frasa “wajib” dalam peraturan pemerintah mengenai Pejabat Pembuat Akta Tanah sebagai penerima protokol memiliki implikasi hukum yang signifikan dalam menentukan hakikat kewajibannya. Penelitian ini menggunakan metode yuridis normatif dengan menganalisis norma hukum melalui penafsiran undang-undang, peraturan, dan doktrin hukum yang relevan. Data dikumpulkan melalui studi pustaka menggunakan bahan hukum primer, sekunder, dan tersier. Tujuan penelitian adalah mengevaluasi sejauh mana istilah “wajib” membebankan tugas yang mengikat kepada Pejabat Pembuat Akta Tanah dalam menerima dan mengelola protokol. Hasil penelitian menunjukkan bahwa frasa “wajib” mencerminkan kewajiban hukum yang bersifat imperatif berdasarkan teori positivisme hukum. Namun, dari perspektif kepastian hukum, peraturan tersebut kurang jelas dalam mendefinisikan mekanisme prosedural sehingga menimbulkan ketidakseragaman penerapan di antara Pejabat Pembuat Akta Tanah. Ketidakjelasan ini menjadi tantangan dalam menegakkan praktik yang seragam dan berpotensi mengurangi efektivitas peraturan tersebut.

**Kata Kunci:** *Wajib, Pejabat Pembuat Akta Tanah, Protokol, Positivisme Hukum, Kepastian Hukum.*

### Abstract

The phrase “mandatory” in government regulations regarding Land Deed Officials as protocol recipients has significant legal implications in determining the nature of their obligations. This study employs a normative juridical method by analyzing legal norms through interpretation of laws, regulations, and relevant legal doctrines. Data were collected through literature review using primary, secondary, and tertiary legal materials. The

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study aims to evaluate the extent to which the term “mandatory” imposes binding duties on Land Deed Officials in receiving and managing protocols. Findings indicate that the term “mandatory” reflects an imperative legal obligation based on legal positivism theory. However, from the legal certainty perspective, the regulation lacks clarity in defining procedural mechanisms, resulting in inconsistent implementation among Land Deed Officials. This ambiguity poses challenges in enforcing uniform practices and potentially reduces the regulation's effectiveness.

**Keywords:** Mandatory, Land Deed Officials, protocol, legal positivism, legal certainty.

## INTRODUCTION

A Land Deed Official is a "public official authorised to draw up authentic deeds concerning specific legal actions related to land rights or Ownership Rights to Strata Title Units," as stipulated in Article 1, point 1 of Government Regulation No. 37 of 1998 on the Regulation of the Office of Land Deed Officials. As a public official, a Land Deed Official is a person appointed by the government who has the duty and authority to provide services to the public in a specific field, particularly in relation to land affairs (Eko, 2019). The presence of Land Deed Official in Indonesia is influenced by land registration activities, as mandated by Article 19, paragraph (1) of the Basic Agrarian Law No. 5 of 1960 on Basic Agrarian Regulations, which states that "in order to guarantee legal certainty, the government shall carry out land registration throughout the territory of the Republic of Indonesia in accordance with provisions regulated by Government Regulation" (Meyssalina Manuria Isabella Aruan, 2022). In relation to land registration, Land Deed Official have the authority to draw up deeds for legal actions, including sale and purchase, exchange, grants, capital contribution (inbreng), division of joint rights, granting of building use rights or usage rights over ownership rights, granting of mortgage rights, and power of attorney to encumber mortgage rights (Wardani & Iriantoro, 2021).

The role of Land Deed Official is crucial in ensuring legal certainty and legal protection in the field of land affairs, particularly as a preventive measure through the signing of authentic deeds before a Land Deed Official as an authorised official. An authentic deed drawn up by a Land Deed Official serves as conclusive evidence and may be used as a consideration in court proceedings. It is also possible that a Land Deed Official may become involved in legal disputes if a deed they have drawn up becomes the subject of litigation (Yetniwati et al., 2021). The deeds created by Land Deed Official for specific legal actions concerning the transfer of land rights



are of paramount importance in ensuring legal certainty and security of land rights, which are evidenced by certificates issued by the National Land Agency as strong proof of ownership of land rights (Ayu et al., 2021).

In conclusion, the ratio legis of the phrase "Mandatory" in Government Regulation on the Land Deed Making Officer (PPAT) as a protocol recipient signifies that this provision is binding and cannot be disregarded. This obligation aims to ensure continuity in land administration, preventing legal uncertainty in the recording and transfer of land documents. By incorporating the element of compulsion in this regulation, every appointed PPAT as a protocol recipient is required to fulfil their duties in accordance with the established legal provisions. Furthermore, the use of the term "Mandatory" in government regulation reflects the state's effort to uphold legal certainty for officials involved in the process of land deed creation. This is essential to maintain the integrity and professionalism of PPATs while preventing potential abuses of authority. In the context of land law, the continuity of document storage and archiving by protocol recipient PPATs is crucial to ensuring reliable and legally recognised access to land data (Aqmadea Eshafia et al., 2024; Vianney Bagus Raditya et al., 2024; Zaki Mahfuz Ridha et al., 2024).

Thus, the ratio legis of the phrase "Mandatory" in this regulation is not merely an administrative rule but an instrument designed to establish legal stability in the land sector. Compliance with this provision will support more transparent and accountable land governance. Therefore, the implementation of this regulation should be reinforced through strict supervision and an evaluation mechanism to ensure that every PPAT carries out their obligations in accordance with the applicable legal framework. Additionally, there is no clear regulation on sanctions for Land Deed Official who have been appointed but refuse to accept the Land Deed Official Protocol from their predecessors. This creates a normative gap, as there are no provisions addressing penalties for an appointed Land Deed Official who declines to accept or manage the Land Deed Official Protocol. Considering the absence of regulations specifying the obligations of the appointed Land Deed Official or land office regarding the Land Deed Official Protocol beyond the duty to accept it this situation is disadvantageous for new officials receiving the protocol. Therefore, based on the issues outlined above, the author is interested in further examining this matter (Imtihani & Nasser, 2024; Obrien Kaawoan et al., 2024; Pramadanty et al., 2024).



## LITERATURE REVIEW

This research applies the theory of legal certainty and legal protection to analyse the imperative nature of the word "mandatory" in Article 29, paragraph (1) of Government Regulation No. 37 of 1998. The theory of legal certainty, rooted in legal positivism, emphasises that laws must be clear, predictable, and consistently applied to avoid ambiguity in legal interpretation. In the context of this regulation, the mandatory obligation imposed on the appointed Land Deed Official (PPAT) ensures that land administration remains orderly and that the transfer of the PPAT protocol is conducted without dispute. Legal certainty guarantees that the obligations of the PPAT are not subject to arbitrary discretion, thereby preventing legal vacuums and ensuring the continued management of land documents in a structured manner (Lutfiah et al., 2024).

Furthermore, the theory of legal protection is employed to examine how this regulation safeguards public interests and individual rights. Legal protection entails the state's duty to ensure that individuals are not disadvantaged by legal uncertainties or administrative negligence. By mandating the PPAT to accept the protocol, the regulation prevents the loss or mismanagement of essential land documents, ensuring that landowners and other stakeholders retain uninterrupted access to their legal records. This approach aligns with the broader objective of maintaining a fair and just legal system that prioritises the security of property rights and administrative continuity.

In this study, both theories are essential in demonstrating that the regulation serves not only as an administrative provision but also as a legal instrument that upholds justice and order. The theory of legal certainty ensures that the obligation imposed on the PPAT is binding and enforceable, while the theory of legal protection highlights the necessity of this provision in preventing potential legal disputes and protecting public interests. Together, these theories provide a strong foundation for evaluating the importance of the "mandatory" nature of this legal obligation within Indonesia's land administration system.

A Land Deed Official, in carrying out their primary duties, has the authority to draw up authentic deeds concerning all legal actions as determined by statutory regulations. The deeds made by a Land Deed Official are authentic and legally accountable. Article 1868 of the Indonesian Civil Code defines an authentic deed as "a deed drawn up in the form



prescribed by law, by or before a public official authorised to do so, in the place where the deed is made"(ISTIGHFARIN, 2021). This means that if a dispute arises concerning a Land Deed Official, the court is not required to examine the truth of its contents, the date of its signing, or the authenticity of the signatures of the parties involved.

In the preparation of authentic deeds related to land, a Land Deed Official is obliged to store and maintain the documents and records attached to the deed, which form part of the Land Deed Official Protocol (Rahman, 2019). Article 1, point 5 of Government Regulation No. 24 of 2016, which amends Government Regulation No. 37 of 1998 on the Regulation of the Office of Land Deed Officials, defines the Land Deed Official Protocol as "a collection of documents that must be stored and maintained by the Land Deed Official, consisting of deed registers, original deeds, supporting records, report archives, agendas, and other correspondence." A Land Deed Official must keep and maintain the first sheet of the deed and the records that form the basis of the deed's creation, as they are part of the Land Deed Official Protocol. Even after the completion of administrative processes, these documents remain state archives that must be properly managed. Therefore, their storage must be orderly, and the transfer of the Land Deed Official Protocol must be conducted in the presence of the Head of the Land Office of the respective Regency/Municipality. The protocol is then handed over to the designated Land Deed Official in the relevant jurisdiction. If no designated Land Deed Official is available, the Land Deed Official Protocol is submitted to the Head of the Local Land Office, as stipulated in Article 27, paragraph (4) of Government Regulation No. 24 of 2016. Before the handover, the completeness of the Land Deed Official Protocol must be thoroughly examined

However, in practice, various issues often arise due to the negligence of Land Deed Official (Toto Sugihyanto et al., 2022), particularly in recording deeds in the deed register, which is later reported to the Land Office. Other common issues include the improper storage of the Land Deed Official Protocol, leading to damage or loss of original deeds. Such negligence can create legal problems in the future for the recipient Land Deed Official. Furthermore, if a Land Deed Official ceases to hold office and no designated recipient is available, the Head of the Provincial Land Office will appoint a Land Deed Official to receive the protocol. Article 29, paragraph (1) of Government Regulation No. 37 of 1998 states that a Land Deed Official appointed by the Head of the Provincial Land Office is obligated to accept the Land Deed Official Protocol from the outgoing Land Deed Official. Despite this provision, Government Regulation No. 37 of 1998 only regulates the transfer process of the Land Deed Official Protocol





without providing legal certainty regarding responsibility if the appointed Land Deed Official refuses to accept the protocol.

This study exhibits significant differences compared to previous research conducted by Agus Novitriandi, Azwar Achamad, and Marwan. Agus Novitriandi's study (Novitriandi, 2019), entitled Supervision of the Protocol of Land Deed Officials Who Have Passed Away in Padang City, focuses on the implementation of supervision and the process of transferring the PPAT protocol from a deceased PPAT to the receiving PPAT in Padang City. The primary focus of this research is on the supervisory mechanism concerning the protocol transfer process following a PPAT's passing. Meanwhile, this study emphasises the ratio legis of the provision stating that a PPAT appointed by the Head of the National Land Agency is obliged to accept the protocol of a PPAT who has ceased to serve. Thus, this research provides a more in-depth analysis of the legal basis of this obligation and its relevance to the principle of legal certainty (Taufiq et al., 2024).

Azwar Achamad (Achamad, 2021), in his study titled The Legal Force of the Land Deed Official's Deed Not Stored in the Protocol of the Land Deed Official, discusses the validity of a PPAT deed that is not stored in the PPAT protocol and the responsibility of the PPAT receiving the protocol. Although this study also touches on aspects of accountability, the present research specifically examines the limitations of the liability of the PPAT receiving the protocol (Anggriani et al., 2023). The key issue investigated is whether a PPAT who receives a protocol can be deemed responsible for any deficiencies or errors contained within the received protocol. Therefore, this study contributes by defining the extent of legal obligations imposed on a PPAT receiving the protocol, both in administrative contexts and in the domains of civil and criminal law (Raditya, 2024).

Marwan's research (Marwan, 2019), entitled The Responsibility of the Head of the Regional Office of the National Land Agency Regarding PPAT Protocols Controlled by Heirs, focuses on the legal implications and responsibilities of the Head of the Regional Office of the National Land Agency concerning PPAT protocols still held by heirs. In contrast, this study concentrates on the legal standing of the obligation imposed on a PPAT appointed by the Regional Office of the National Land Agency to accept the protocol of a PPAT who has ceased to serve. The fundamental difference lies in the subject of responsibility under examination: while Marwan's research highlights the role of the Head of the Regional Office of the National Land Agency, this study delves deeper into legal certainty and the obligations of the PPAT receiving the protocol.

The novelty of this research lies in its analysis of the absence of regulatory sanctions for a PPAT who has been appointed but refuses to



accept the protocol of a former PPAT. This study seeks to address the normative gap regarding the legal consequences for a PPAT receiving the protocol who is unwilling to fulfil their duties. The urgency of this research is particularly high, as, in practice, the lack of clarity concerning sanctions for PPATs who refuse to accept protocols can lead to significant legal and administrative issues. Without legal certainty, the transfer of PPAT protocols may encounter obstacles, resulting in ambiguity regarding the status of the deeds contained within them. Therefore, this research aims to provide clearer legal recommendations to establish a more orderly and equitable land administration system.

## RESEARCH METHODS

The normative legal research used in this study is based on an analysis of applicable legal norms, with a focus on the conceptual framework underlying certain regulations. This study relies on secondary data that includes primary, secondary, and tertiary legal materials. Legal research has several approaches in research methods. The approach is used by the author as a way to obtain information from various sources regarding the legal issues that will be answered. This research uses normative legal research, so several approaches can be used such as the statute approach and the conceptual approach (Marzuki, 2010). Primary legal materials in this study are related to the meaning of the mandatory phrase contained in Article 29 paragraph (1) of Government Regulation Number 37 of 1998, concerning the Regulation of the Position of Land Deed Making Officials. Secondary legal materials, such as books and journals, are used to provide theoretical perspectives and support understanding of legal politics and workers' rights. Meanwhile, tertiary legal materials, such as the Great Dictionary of the Indonesian Language (Lukman, 1991), function as support to clarify the terminology used.

The legal material collection technique is a method used by researchers to obtain various sources of relevant legal materials in order to explore and analyze legal problems. This technique includes library studies that rely on written literature or references such as laws, regulations, jurisprudence, books, legal journals, and other scientific works. In addition, this technique also includes document studies by analyzing court decisions, international agreements, and other official documents. In collecting normative legal materials, the main focus is on existing legal texts, which are used as a basis for analyzing legal problems within a theoretical framework, as well as understanding how the law is applied and interpreted (Risa Nur Sa'adah, 2020). In addition, using a conceptual approach in this study is used to identify and understand the ideas and basic principles that underlie the formation of the legal norms being



studied. With this approach, research not only focuses on the content of the regulations, but also on the concepts underlying the formation of these regulations, such as justice, legal certainty, and protection of workers' rights (Irwansyah, 2022)(Melita Trisnawati, 2019). This approach allows the author to describe the relationship between applicable legal norms and the legal objectives to be achieved in the context of legal politics and workers' rights, so that the research results can provide theoretical and practical contributions in understanding and developing related legal policies.

## RESULTS AND DISCUSSION

### A. The Ratio of Interpretation and Implementation of Legislation in PPAT Practice

Ratio legis originates from the Latin term ratio legis, which means the legal reasoning or the underlying rationale behind a legal rule. In legal studies, ratio legis refers to the purpose, justification, or reasoning that underpins the creation of legislation. It serves as the broadest foundation for the enactment of a legal provision. Ratio legis aids in understanding the formation of legal rules to achieve legal interests (Sholikhah, 2022). Comprehending ratio legis is crucial in interpreting, applying, and evaluating laws to ensure they align with the initial objectives of their formulation. It represents a legal thought process based on common sense and rational reasoning in the establishment of law. The definition of ratio legis is not only used as a rational justification for the creation of a legal rule but also as a rational interpretation of the provisions contained within a law. Thus, ratio legis, or interpreting law through logical reasoning, is undertaken to enhance legal certainty and prevent multiple interpretations of specific provisions. Legal certainty is essential to avoid confusion or detriment to society and to uphold the principle of justice within the law itself.

Article 29, paragraph (1) of Government Regulation No. 37 of 1998 on the Regulation of the Position of Land Deed Officials (Pejabat Pembuat Akta Tanah or PPAT) implies that a PPAT appointed by the Head of the Regional Office of the National Land Agency (Badan Pertanahan Nasional or BPN) of the province is required to accept the protocol from a PPAT who has ceased to hold office. The term "required" in this provision contains philosophical, sociological, and juridical elements that serve as its foundation. These three elements reflect a profound consideration in drafting regulations to establish an orderly and just land administration system.

The philosophical element in this provision reflects the fundamental values underlying the formation of laws in Indonesia (Tjukup, I. Ketut,





2016). Regulations must align with the nation's worldview, legal consciousness, and legal ideals, which originate from Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia. In this context, the rule on the obligation to accept the PPAT protocol aims to establish a land law system that embodies the values of justice, legal certainty, and societal benefit (Ariawan, 2018). From a juridical perspective, the provision in Article 29, paragraph (1) was introduced to fill a legal vacuum concerning the continuity of the PPAT protocol after an official ceases to hold office. This regulation ensures that the transition process of the protocol is clear and structured, thereby preventing potential legal disputes in the future. Additionally, it guarantees that land-related documents remain safeguarded and accessible to authorised parties without administrative obstacles.

The sociological element of this regulation pertains to society's need for certainty in land administration. In practice, the public requires uninterrupted land services, unaffected by changes in PPAT officials. Therefore, this regulation ensures service continuity, preventing gaps or ambiguities in the management of the PPAT protocol that could disadvantage those who rely on such services. The term "required" in this provision also carries strong legal implications, affirming that the appointed PPAT has no discretion to refuse acceptance of the protocol (Sucipto, 2016). This provision aims to prevent irregularities in land administration management and ensures that all essential documents remain under the supervision of authorised officials. Consequently, the regulation plays a vital role in maintaining order within the national land law system. Overall, the provision in Article 29, paragraph (1) of Government Regulation No. 37 of 1998 was formulated with philosophical, juridical, and sociological considerations to establish an orderly and just land law system. Through this regulation, land administration processes remain continuous, providing legal certainty for society and reflecting the principles of justice and benefit that constitute the fundamental objectives of legal development in Indonesia.

#### **B. Analysis of the Ratio Legis of the Word "Mandatory" in Article 29 Paragraph (1) of Government Regulation No. 37 of 1998**

The word "mandatory" in Article 29 paragraph (1) of Government Regulation No. 37 of 1998 signifies a legally binding obligation for the Land Deed Official appointed by the Head of the Provincial Office of the National Land Agency. The consequence of this provision is that the designated Land Deed Official has no right to refuse the Land Deed Official protocol handed over to them. This regulation is established to ensure the continuity of land administration, prevent the potential loss of important documents, and



maintain legal order in land deed registration. Therefore, the word "mandatory" in this provision carries an imperative meaning that cannot be disregarded by the Land Deed Official, as it directly affects legal certainty in managing land documents (Ramadi et al., 2023).

From the perspective of ratio legis, this regulation was formulated to meet legal needs by considering three main approaches: philosophical, sociological, and juridical. Philosophically, this provision aligns with the principle of legal certainty, which serves as a fundamental tenet of Indonesia's national legal system (Lunandi & Tjoneng, 2024). Legal certainty is essential in the Land Deed Official profession, given its crucial role in recording and certifying legal actions concerning land and its rights. If this obligation were not strictly regulated, there would be a risk that the Land Deed Official protocol might not be transferred or could be neglected by a retiring Land Deed Official, potentially leading to the loss of vital land data. Consequently, this regulation aims to ensure that no negligence or refusal occurs in the process of receiving the Land Deed Official protocol (Fitriasari, 2022).

From a sociological standpoint, the use of the word "mandatory" in this article serves to protect public interests. The documents contained in the Land Deed Official protocol include authentic deeds related to land transactions, such as sales and purchases, grants, or mortgage rights. Without clear rules on the acceptance of the Land Deed Official protocol, there could be disorder in land administration, delays in information access, and potential legal disputes in the future (Firdausi, 2020). By mandating the designated Land Deed Official to accept the protocol, public access to land documents remains secure, ensuring that their legal rights are not compromised due to negligence in land archive management (WANODYA, 2024).

Meanwhile, from a juridical aspect, the word "mandatory" in this provision carries legal consequences that the PPAT must comply with. In administrative law, an imperative or binding order must be executed, and failure to do so may result in administrative sanctions under applicable regulations. If the designated Land Deed Official refuses to accept the Land Deed Official protocol, such an act could be considered an administrative violation, subject to sanctions by the competent authority. Thus, the use of the word "mandatory" in this article is not merely a formality but has tangible legal consequences to ensure legal certainty in land governance (Prameswari, 2019).

Furthermore, the meaning of "mandatory" in this provision can be linked to Article 23 of the Algemene Bepalingen van wetgeving voor Indonesië (AB) Staatsblad 1847 Number 23, which states that a law is coercive or imperative when it concerns public interest, order, and morality.



In the context of Article 29 paragraph (1) of Government Regulation No. 37 of 1998, the public interest being protected is the rights of individuals using Land Deed Official services. If the designated Land Deed Official had the discretion to refuse the protocol, it would lead to uncertainty in document storage, ultimately disadvantaging the public. Therefore, the word "mandatory" in this article reflects the state's effort to guarantee legal protection for individuals dealing with land administration.

From a normative legal perspective, the word "mandatory" in this provision indicates the presence of a legal norm that serves as a command (gebod). This norm obligates the Land Deed Official to accept the protocol without exception, aiming to maintain order in land administration. The Land Deed Official protocol does not merely contain ordinary documents; it also constitutes state archives that must be properly managed to ensure the continuity of Indonesia's land legal system. Failure to comply with this obligation could disrupt the land registration system, significantly affecting legal certainty regarding land rights for the public.

Thus, the use of the word "mandatory" in Article 29 paragraph (1) of Government Regulation No. 37 of 1998 is not merely an administrative provision but also holds strong legal dimensions in ensuring legal certainty, protecting public rights, and maintaining order in land administration. Consequently, the PPAT appointed by the Head of the Provincial Office of the BPN must understand that this obligation is part of their professional and legal responsibility, which cannot be disregarded. According to Satjipto Rahardjo, the authoritative nature inherent in legislation makes it a primary instrument for providing legal certainty. However, written law is not merely confined to its text but also embodies a certain spirit or objective that can be uncovered through legal interpretation. In the context of legal certainty, legal positivism asserts that law must derive from written regulations enshrined in legislation. This approach is reinforced by the doctrine of legalism, pioneered by Immanuel Kant, which posits that legally certain laws are those codified in legislation. Hence, legal certainty demands that every legal norm be clear and applicable without ambiguity.

In the legal system, certainty is a fundamental pillar in achieving justice and utility for society. The word "mandatory" in Article 29 paragraph (1) of Government Regulation No. 37 of 1998 plays a crucial role in ensuring that the transfer of the Land Deed Official protocol cannot be delayed or refused. If the designated Land Deed Official were given the option to reject the Land Deed Official protocol, it would lead to legal uncertainty, potentially harming the public (Yetniwati et al., 2021). The documents contained in the Land Deed Official protocol, such as deeds of sale and purchase, grant deeds, and mortgage deeds, are authentic documents with permanent legal force. Therefore, the land administration system must



ensure that these documents are securely stored and accessible (Suwardiyati & Rustam, 2022).

Additionally, the Land Deed Official obligation to accept the protocol aims to protect the rights of the public who rely on Land Deed Official services. In practice, many Land Deed Official leave office due to death, relocation, or retirement, and if there were no obligation to promptly transfer their protocol, these documents could be lost or become difficult to access. By incorporating the word "mandatory," land administration processes become more orderly, preventing legal voids and ensuring that land documents remain available to interested parties. The word "mandatory" also serves as a safeguard, ensuring that the public's land documentation rights are not neglected due to the negligence or refusal of the designated Land Deed Official.

Thus, the use of the word "mandatory" in Article 29 paragraph (1) of Government Regulation No. 37 of 1998 is not merely a normative provision but rather a legal instrument with direct implications for maintaining order in land administration. The implementation of this provision does not only ensure legal certainty but also protects the rights of the public in accessing their land documents. Therefore, compliance with this regulation is an imperative duty for every appointed Land Deed Official, ensuring the sustainability of Indonesia's land legal system.

## CONCLUSION

Ratio legis, derived from Latin, refers to the fundamental legal reasoning behind a law. It serves as the foundation for legislative enactments, ensuring that legal provisions align with their intended objectives. Understanding ratio legis is essential in legal interpretation, application, and evaluation to maintain legal certainty and prevent multiple interpretations. In the context of Government Regulation No. 37 of 1998, particularly Article 29, paragraph (1), the term "mandatory" reflects a legal obligation imposed on Land Deed Officials to accept protocols from retired officials. This obligation is based on philosophical, sociological, and juridical considerations, ensuring an orderly land administration system. From a philosophical perspective, this regulation aligns with Indonesia's legal values, ensuring justice, legal certainty, and societal benefit. Juridically, it fills a legal vacuum regarding protocol transfers, ensuring structured procedures and preventing disputes. The sociological aspect highlights the need for continuous land services, unaffected by changes in officials. The term "mandatory" implies a binding obligation, removing any discretion for Land Deed Officials to refuse protocol acceptance. This provision safeguards essential land documents, ensuring they remain under authorised supervision and preventing irregularities in land



administration. Legally, the term "mandatory" signifies a compelling command that carries enforceable legal consequences. Failure to comply may result in administrative sanctions. This imperative nature is supported by legal positivism and legal certainty theories, which emphasise the necessity of clear and enforceable laws. Furthermore, under Indonesian legal traditions, including the *Algemene Bepalingen (AB)*, laws serving public interest must be strictly enforced. By mandating protocol acceptance, the regulation ensures legal continuity, protects public rights, and upholds justice in land administration. Compliance with this obligation is crucial to maintaining legal order and preventing uncertainties that could harm society.

A key limitation of the regulation in Article 29, paragraph (1) of Government Regulation No. 37 of 1998 is the absence of explicit enforcement mechanisms or detailed sanctions for non-compliance by the appointed Land Deed Official. While the term "mandatory" signifies a legal obligation, the regulation does not specify the direct consequences for refusal or negligence beyond general administrative sanctions, which may lead to inconsistent enforcement. Additionally, the regulation does not address potential logistical or procedural challenges in protocol transfers, such as incomplete documentation or disputes over responsibility. To enhance its effectiveness, the regulation should incorporate clearer procedural guidelines, specific sanctions for non-compliance, and a supervisory mechanism to ensure proper implementation, thereby strengthening legal certainty and preventing administrative gaps in land governance.

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