

ACT ON THE LIMITATION OF THE PERFORMANCE OF COMMERCIAL ACTIVITY BY PERSON FULFILLING PUBLIC FUNCTIONS

of August 21, 1997

Art.1

The Act defines the limitations relating to the performance of commercial activity by persons holding public administrative posts, as understood by the regulations on the remuneration of persons holding public administrative posts, and judges of the Constitutional Tribunal.

Art.2

The Act also defines the limitations relating to the performance of commercial activity by:

- 1) employees of state institutions, including officials of the civil service holding managerial posts:
 - a) the general director, departmental director (equivalent unit) and his deputy as well as the head of a section (equivalent unit) - in head offices and central government agencies,
 - b) the general director of a voivode office, the director of a section (equivalent unit) and his deputies as well as the head accountant, the head of the regional office and his deputies and the head accountant - in local government general administrative offices,
 - c) the head of an office and his deputies - in local government special administrative offices,
- 2) employees of government offices, including civil service officials, holding functions of equal status as regards remuneration, to those named in point 1,
- 3) the general director of the Supreme Audit Chamber as well as employees of the Supreme Audit Chamber supervising or performing auditing activity,
- 4) employees of local clearing houses holding the following posts: president, member of the board, head of a department or auditor,
- 5) employees of independent appeal tribunals holding the following posts: the chairman, his deputies and part-time tribunal members,
- 6) members of Commune boards, treasurers (head budgetary accountants), Commune secretaries and other persons issuing administrative decisions on the authorization of the local administrator or mayor (president of a city),
- 7) employees of state banks holding the following posts: president, deputy-president, management board member and treasurer,
- 8) employees of state enterprises holding the following posts: company director, deputy-company directors and head accountant,
- 9) employees of wholly owned State Treasury companies as well as companies in which the State Treasury holds more than 50% of the share capital or 50% of the shares, holding the following posts: president, deputy president and management board member,
- 10) employees of state agencies holding the following posts: president, deputy-president, group director, local department director and his deputies - or an equivalent post,
- 11) other persons holding public posts if provided for in any other Act.

Art.3

Wherever in the Act there is reference to a commercial law company - this is understood as a commercial company as well as any other company to which the provisions of commercial law apply, including companies incorporated under a foreign law.

Art.4

The persons described in arts. 1 and 2, throughout the period during which they hold the posts as defined by the regulations, are prohibited from:

- 1) being members of management or supervisory boards, as well as audit commissions of commercial companies,
- 2) being employed by, or performing other duties in commercial companies which could lead to suspicions arising as regards their partiality,
- 3) being members of management or supervisory boards, or audit commissions of co-operatives, excluding supervisory boards of housing co-operatives,

- 4) being members of the management boards of foundations conducting commercial activity,
- 5) holding more than 10% of shares in commercial companies or shares representing more than 10% of the share capital of a commercial company,
- 6) conducting commercial activity on their own account or together with other persons, as well as managing such activity or being a representative or proxy relating to the conduction of such activity; this does not concern agricultural production within the scope of plant and animal production, in the form and within the scope of a family farm.

Art.5

The violation of the above bans by the persons:

- 1) named in Art.2 points 1 - 4 shall constitute an act of misconduct subject to disciplinary liability or the basis for the termination of the employment relationship without notice through the fault of the employee,
- 2) named in Art.2, points 5 - 10 constitutes the basis for dismissal.

Art.6

1. The ban on holding posts in the authorities of companies, as mentioned in Art.4 point 1 does not concern the persons named in Art.2 points 1, 2 and 6-10, if they have been delegated to the governing bodies of a commercial company with the participation of the State Treasury, other state legal persons, communes, inter-commune associations or other communal legal persons as representatives of these entities; the above persons can not be delegated to the governing bodies of more than two commercial companies.
2. The persons described in Art.2, points 1 and 2 may receive separate remuneration resulting from the performance of functions in a commercial company to which they were delegated as representatives of the State Treasury.
3. The size of the remuneration of persons as described in Art.2 points 1 and 2, received as a result of the performance of functions in one company, inclusive of allowances, can not exceed four times the lowest remuneration of employees applicable in December of the preceding year, as defined by the Minister of Employment and Social Policy on the basis of the Labor Code; if the remuneration awarded by the company is higher, the excess amount shall constitute the income of the state budget.
4. A commercial company transfers the excess amount as referred to in item 3 above to the account of the higher tax office appropriate with regard to the place of residence of the person delegated as the representative of the State Treasury, within 14 days of the date of the payment of the remuneration or the allowance.

Art.7

1. The persons named in Art.1 and Art.2 points 1 - 3 and 6 can not, prior to the expiry of one year from the date on which they ceased to hold the post or perform the functions, be employed or perform any other tasks for the entrepreneur, if they participated in the issuance of a decision in individual matters relating to that entrepreneur.
2. In justified cases consent for employment prior to the expiry of one year may be given by the commission appointed by the Chairman of the Council of Ministers, hereinafter referred to as the "commission".
3. The Commission considering the case is made up of three persons.
4. The provisions of the Administrative Procedure Code are applicable to the proceedings before the Commission.
5. The decisions of the Commission are issued within 30 days of the submission of the application for the consent, as mentioned in item 2 above and are final.
6. The Chairman of the Council of Ministers defines, by way of an ordinance, the organization of work and the composition of the Commission as well as the rules of remuneration for its members.
7. The provisions of item 2 above shall not apply to the persons named in Art.8 items 3 and 4.

Art.8

1. The persons named in Art.1 are obliged to submit to their superior a declaration on the commercial activity conducted by their spouse - prior to being appointed to the post, and also of the intent to undertake such activity or change the nature of such activity - during the fulfillment of the function.
2. The Commission, at the request of the superior or an interested party, issues an opinion within 14 days of the date of the submission of the request, on whether the commercial activity as referred to in item 1 could lead to the accusation of the partiality of the person named in Art.1. The regulations of Art.7 items 3 - 5 apply accordingly, although the opinion is always submitted to the superior.

3. The President of the Republic of Poland, the Speaker of the Parliament, the Speaker of the Senate, the Chairman of the Council of Ministers, the Head of the Office of the President, the Head of the Office of the Parliament, the head of the Office of the Senate, the President of the Constitutional Tribunal, the President of the Supreme Audit Chamber, the Ombudsman, the President of the Supreme Administrative Court, the President of the National Bank of Poland, the Chairman of the National Radio and Television Council, the Head Labor Inspector, the President of the Polish Academy of Sciences, the Director of the National Elections Office and the Insurance Ombudsman submit a declaration as mentioned in item 1, to the First President of the Supreme Court. The First President of the Supreme Court submits a declaration to the President of the Republic of Poland.

4. The provision of item 2 above does not apply to: the President of the Republic of Poland, the Speaker of the Parliament, the Speaker of the Senate, the Chairman of the Council of Ministers, the deputy Speaker of the Parliament, the deputy Speaker of the Senate, the deputy Chairman of the Council of Ministers, the President of the Constitutional Tribunal, the deputy President of the Constitutional Tribunal, the President of the Supreme Audit Chamber, the deputy President of the Supreme Audit Chamber, the Ombudsman, the President of the Supreme Administrative Court, the deputy President of the Supreme Administrative Court, the First President of the Supreme Court, the President of the Supreme Court, the President of the National Bank of Poland, the first deputy of the President of the National Bank of Poland and the Vice President of the National Bank of Poland.

5. The information given in the declaration as mentioned in item 1, constitute **official secrets**.

Art.9

The election or appointment to the authorities of a company, co-operative or foundation in violation of the bans defined in Art.4 and 7 shall be invalid by force of law and shall not be entered into the appropriate register.

Art.10

1. The persons described in arts. 1 and 2 are obliged to submit declarations on their financial status. The declaration on the financial status relates to separate property and to joint marital property. This declaration should in particular include information on any money, property or shares in commercial companies held as well as property acquired by that person or their spouse from the State Treasury, other state legal person, commune or inter-commune association which was sold by tender. The declaration should also include data concerning the conduction of commercial activity and the fulfilling of a function in companies or co-operatives as described in Art.4.

2. Civil service officials holding posts other than those defined in Art.2 are obliged to submit declarations as described in item 1.

3. The information included in the declaration on the financial status constitute official secrets unless the person who submitted the declaration gave their written consent for it to be revealed. In specially justified cases the person authorized, in accordance with item 4, 5 or 6, to receive the declaration, may reveal information contained therein despite the lack of the consent of the person submitting the declaration. Declarations are stored for the period of 6 years.

4. The declaration mentioned in item 1 above is submitted to the director of the unit (the general director of the office), subject to items 5 and 6, prior to accepting the post, and thereafter once a year by 31 March, according to the status on 31 December of the preceding year as well as on the day of leaving the post. The director of the unit (general director of the office) shall analyze the data included in the declaration.

5. The President of the Republic of Poland, the Speaker of the Parliament, the Speaker of the Senate, the Chairman of the Council of Ministers, the Head of the Office of the President, the Head of the Office of the Parliament, the Head of the Office of the Senate, the President of the Constitutional Tribunal, the President of the Supreme Audit Chamber, the Ombudsman, the President of the Supreme Administrative Court, the President of the National Bank of Poland, the Chairman of the National Radio and Television Council, the Head Labor Inspector, the President of the Polish Academy of Sciences, the Director of the National Elections Office and the Insurance Ombudsman submit a declaration as mentioned in item 1, to the First President of the Supreme Court who analyzes the data contained therein. The First President of the Supreme Court submits a declaration to the President of the Republic of Poland, who analyzes the data contained therein.

6. The declaration described in item 1, is submitted by:

- 1) the Chairman of the independent appeal tribunal - to the Chairman of the provincial local council,
- 2) the local administrator or mayor (president of a city) - to the provincial governor,

- 3) the president of a bank as described in Art.2 point 7, excluding the President of the National Bank of Poland - to the Minister of Finance,
- 4) the president of a company as described in Art.2 point 9 - to the Minister of the State Treasury.
7. The persons collecting the declaration as mentioned in item 6 analyze the data included therein.
8. The person conducting the analysis is authorized to compare the text of the declaration being analyzed with that of previously submitted declarations.

Art.11

The President of the Republic of Poland shall establish, by way of an Ordinance, the sample form for making declarations as described in Art.8 item 1 and Art.10 item 1.

Art.12

1. A Benefits Register is established, hereinafter referred to as the "Register".
2. The benefits obtained by the persons described in item 7 or their spouses are recorded in the Register.
3. The following types of information should be recorded in the Register:
 - 1) information on all posts and tasks performed both in public administration as well as in private institutions, for which remuneration is collected including self employment,
 - 2) information on the facts relating to the material support of the public activity conducted by the person submitting the information,
 - 3) information on donations received from domestic or foreign entities if the value of such a donation exceeds 50% of the lowest wage applicable for employees, as mentioned in Art. 6 item 3,
 - 4) information on domestic or foreign travel relating to the public function held, if the cost of such travel was not covered by the person submitting the information, their spouse, the institution employing them or a political party, association or foundation of which they are a member,
 - 5) other benefits obtained having a value exceeding that as indicated in point 3 not relating to the posts held or the work performed as described in point 1,
4. Information on any participation in the authorities of foundations, commercial companies or co-operatives should also be entered into the Register even if no monetary benefit is collected.
5. When submitting information the person doing so is under obligation to apply due diligence and act according to the best of his knowledge.
6. All amendments to data covered by the Register should be submitted not later than 30 days after they arise.
7. The obligation to submit information as described in items 2, 3 and 4 to the Register also covers members of the Council of Ministers, secretaries and under-secretaries of state in ministries and in the Office of the Chairman of the Council of Ministers, the heads of the central offices as well as provincial governors and deputy provincial governors.
8. The register is a public one. The Register is maintained by the State Elections Committee.
9. The operator of the Register once a year, in a separate publication, makes public the information contained therein.
10. The submission of information to the Register does not release the given person from liability for the non-fulfillment of the obligations as provided for in the Act.

Art.13

The failure to submit a declaration as described in Art.8, item 1 or Art.10, item 1 or the submission of false data therein shall result in official liability.

Art.14

1. Whoever is under obligation to submit a declaration as described in Art.8, item 1 or Art. 10 item 1, and submits false data therein, is subject to imprisonment of up to 5 years.
2. In less serious cases the person committing the act as described in item 1 above is subject to imprisonment of up to one year, the limitation of freedom or a fine.

Art.15

Whoever employs persons as described in Art.1 and Art.2 points 1 - 3 and 6 in violation of the conditions described in Art.7 shall be subject to the penalty of arrest or a fine.

Art.16

In the Act on the Supreme Court, dated 20 September 1984 (Journal of Laws from 1994, No.13, pos. 48; from 1995, No.34, pos.163, from 1996 No.77, pos.367 and from 1997 No.75, pos.471 and No.98, pos.604) after Art.41 arts. 41a and 41b are added which read as follows:

"Art.41a.

1. Judges are under obligation to submit declarations on their financial status. The declaration on the financial status concerns separate property as well as joint marital property. This declaration should in particular include information on funds, real estate and shares in commercial companies held as well as the acquisition by this person or their spouse from the State Treasury, other state legal person, commune or inter-commune association of property which was sold by tender. This declaration should also include data relating to the conduction of commercial activity and the fulfillment of functions in commercial companies or co-operatives, except for functions in supervisory boards of housing co-operatives.
2. The declaration mentioned in item 1 above should be submitted by judges to the First President of the Supreme Court, which analyzes the data given therein.
3. The declaration mentioned in item 1 above should be submitted prior to the acceptance of the appointment and thereafter once a year by 31 March according to the status applicable on 31 December of the preceding year, as well as on the date that a judge is relieved or resigns from his post.
4. The information included in the declaration on the financial status constitute official secrets, unless the judge who submitted the declaration granted his/her consent to the revealing of such information. In specially justified cases an entity authorized, in accordance with item 2, to collect declarations may reveal the information given therein despite the lack of the consent of the person submitting the declaration. The declaration is stored for 6 years.

Art. 41b

For the submission of declarations as mentioned in Art.41a item 1, the appropriate form is used as described in the regulations issued on the basis of Art. 11 of the Act dated 21 August 1997 on the limitation of commercial activity conducted by persons fulfilling public functions (Journal of Laws No.106 pos. 679), relating to the declaration as referred to in Art.10 item 1 of this Act."

Art.17

In the Act dated 20 June 1985 - Law on the structure of common courts (Journal of laws from 1994, No.7, pos.25, No.77, pos.355, No.91, pos.421 and No.105, pos.509 from 1995, No.34, pos.163 and No.81, pos.406, from 1996, No.77, pos. 367 and from 1997 No.75, pos.471 and No.98, pos.604) the following amendments are introduced:

1) after Art.68 arts. 68¹ and 68² are added, which read as follows:

"Art.68¹.

§1. Judges are under obligation to submit declarations on their financial status. The declaration on the financial status concerns separate property as well as joint marital property. This declaration should in particular include information on funds, real estate and shares in commercial companies held as well as the acquisition by this person or their spouse from the State Treasury, other state legal person, commune or inter-commune association of property which was sold by tender. This declaration should also include data relating to the conduction of commercial activity and the fulfillment of functions in commercial companies or co-operatives, except for functions in supervisory boards of housing co-operatives.

§2. The declaration mentioned in § 1 above should be submitted by judges to the territorially appropriate appeal court.

§3. The analysis of the data included in the declaration mentioned in §1 and 2 is performed by the appropriate appeal tribunal.

§4. The Presidents of appeal courts submit declarations as mentioned in §1 to the National Judicial Council which analyzes the data given therein.

§5. The declaration mentioned in § 1 above should be submitted prior to the acceptance of the appointment and thereafter once a year by 31 March according to the status applicable on 31 December of the preceding year, as well as on the date that a judge is relieved or resigns from his post.

§6. The information included in the declaration on the financial status constitute official secrets, unless the judge who submitted the declaration granted his/her

consent to the revealing of such information. In specially justified cases an entity authorized, in accordance with § 2 or §4, to collect declarations may reveal the information given therein despite the lack of the consent of the person submitting the declaration. The declaration is stored for 6 years.

Art.68²

For the submission of declarations as mentioned in Art.68¹, §1, the appropriate form is used as described in the regulations issued on the basis of Art. 11 of the Act dated 21 August 1997 on the limitation of commercial activity conducted by persons fulfilling public functions (Journal of Laws No.106 pos. 679), relating to the declaration as referred to in Art.10, item 1 of this Act."

2) in Art. 121, after §4, §5 is added which reads as follows:

"§5. Court bailiffs are under obligation to submit a declaration as referred to in Art.68¹ §1, to the President of the Provincial Court, who analyzes the data included therein; the provisions of Art.68¹ §5 and 6 are applicable.";

3) after Art.121, art 121¹ is added which reads as follows:

"Art.121¹

For the submission of a declaration by a bailiff, as mentioned in Art.68¹, §1, the appropriate form is used as described in the regulations issued on the basis of Art. 11 of the Act dated 21 August 1997 on the limitation of commercial activity conducted by persons fulfilling public functions (Journal of Laws No.106 pos. 679), relating to the declaration as referred to in Art.10, item 1 of this Act."

Art.18

In the Act on the Public Prosecutor's Office, dated 20 June 1985 (Journal of laws from 1994, No.19, pos.70 and No.105, pos. 509, from 1995 No.34, pos.163, from 1996 No. 77, pos.367 and from 1997 No.90, pos.557 and No.98, pos.604) after Art.49 there are added arts. 49a and 49b which read as follows:

"Art.49a

1. Prosecutors are under obligation to submit declarations on their financial status. Declarations on the financial status concern separate property and joint marital property. This declaration should include in particular information on funds, real estate and shares in commercial companies held, as well as the acquisition by this person or their spouse from the State Treasury, other state legal person, commune or inter-commune association of property which was sold by tender. This declaration should also include data relating to the conduction of commercial activity and the fulfillment of functions in commercial companies or co-operatives, except for functions in supervisory boards of housing co-operatives.
2. The declaration mentioned in § 1 above should be submitted by prosecutors to the territorially appropriate appeal prosecutors office or the local army prosecutors office, which analyzes the data given therein.
3. The National Prosecutor, the Head Army Prosecutor, prosecutors of the National Prosecutors Office, prosecutors of the Supreme Army Prosecution Office, appeal prosecutors and local army prosecutors submit declarations as mentioned in item 1, to the Prosecutor General who analyzes the data included therein.
4. The declaration mentioned in item 1 above should be submitted prior to the acceptance of the appointment and thereafter once a year by 31 March according to the status applicable on 31 December of the preceding year, as well as on the date that a judge is relieved or resigns from his post.
5. The information included in the declaration on the financial status constitute official secrets, unless the prosecutor who submitted the declaration granted his/her consent to the revealing of such information. In specially justified cases an entity authorized, in accordance with items 2 or 3, to collect declarations may reveal the information given therein despite the lack of the consent of the person submitting the declaration. The declaration is stored for 6 years.

Art.49b

For the submission of a declaration as mentioned in Art.49a, item 1, the appropriate form is used as described in the regulations issued on the basis of Art. 11 of the Act dated 21 August 1997 on

the limitation of commercial activity conducted by persons fulfilling public functions (Journal of Laws No.106 pos. 679), relating to the declaration as referred to in Art.10, item 1 of this Act."

Art.19

In the Act dated 8 March, 1990, on Local Government (Journal of Laws from 1996, No.13, pos.74, No.58, pos.261, No.106, pos.496 and No.132, pos.622 as well as from 1997, No.9, pos.43) after Art.24d there shall be added Art. 24e - 24h, which reads as follows:

"Art.24e

1. Councilors cannot undertake additional activities or accept donations which could undermine the trust of the electorate with respect to the performance of their mandate in accordance with Art.23a, item 1.
2. Councilors cannot make reference to their mandate in relation to any additional activities or commercial activity conducted on their own account or jointly with other persons.

Art.24f

1. Councilors can not conduct commercial activity on their own account or jointly with other persons using communal property, or manage such activity or be representatives or proxies with respect to the management of such activities.
2. Councilors may not be members of administrative or controlling and auditing bodies nor commercial proxies of commercial companies with the participation of communal legal entities or commercial entities in which such persons participate. An election or appointment of a councilor to such bodies is invalid by virtue of law.
3. The ban referred to in item 2 does not relate to councilors if they have been delegated to the governing bodies of the companies defined herein as representatives of communal property; councilors may not be delegated to governing bodies of more than two companies.
4. If an election or appointment referred to in item 2 was made before the commencement of the term of office, the councilor is required to resign from his post or function within three months following the date of the making of the affirmation referred to in Art. 23a, item 1. In the case of the councilor not resigning his post or function he loses the same by virtue of law within three months following the date that the affirmation was made.
5. Councilors may not hold more than 10% of shares in a commercial company with the participation of communal legal entities or commercial entities in which such persons participate. Shares in the amount exceeding the above mentioned limit should be disposed of by a councilor before the first session of the commune council, and in the case of the shares not being disposed of, throughout the term of office and for a further two years after the expiry of the term of office, the rights attached to such shares cannot be utilized (the voting right, the right to dividends, distribution of property, the right of subscription).

Art. 24g.

1. The persons mentioned in Art. 24f, item 3, may receive separate remuneration for the performance of a function in the governing bodies of a commercial company to which they were delegated as the representatives of communal property.
2. The amount of the monthly remuneration along with an allowance for the performance of a function in one company may not exceed four times the lowest remuneration, applicable in December of the preceding year and defined by the Minister of Labor and Social Policy on the basis of the Labor Code. If the remuneration awarded by such a company is higher, such a surplus constitutes the budgetary income of a commune whose authorities have delegated the person receiving the remuneration.
3. A commercial company transfers the surplus defined in item 2 into the account of the office of a commune defined herein, within 14 days following the date of payment of the remuneration or allowance.

Art. 24h.

1. Councilors are required to make a declaration on their financial status, containing in particular information concerning funds, real estate and shares in commercial companies held and information concerning the acquisition from the State Treasury, other state legal entity, commune or inter-commune association, of property that has been sold through a

tender, as well data concerning the conduction of commercial activity and posts held in commercial companies. Such a declaration should contain information concerning joint marital property.

2. Information contained in the declaration on the financial status constitutes official secrets unless the person who made such a declaration has agreed in writing to disclose the same. In particularly justified cases the chairman of the council of the commune may make a decision on the disclosure of the declaration despite the lack of consent from the person making the declaration, after obtaining an opinion from the audit commission.

3. The President of the Council of Ministers defines, based on the Ordinance, a sample form of the declaration mentioned in item 1.

4. The declaration mentioned in item 1, is submitted to the chairman of the council of the commune within thirty days from the date of the commencement of the term of office. Further declarations are submitted by the councilors every year before 31 March according to the status as of 31 December of the preceding year, and two months before the date of elections for posts in commune councils. The analysis of data contained in the declaration is made by the chairman of the council of the commune. The declaration is kept for the period of 6 years.

5. The chairman of the commune council submits to the chairman of the associations of local governments, the declaration as referred to in item 1. Accordingly, the provisions of item 4 shall be applicable.

6. In the case that the deadlines defined in item 4 are not met, a councilor is not entitled to the allowance until he makes the relevant declaration.

7. The submission of false information in the declaration of the financial position results in responsibility under Art. 247 § 1 of the Penal Code.

Art. 20.

In the Act dated 7 October, 1992 regarding **Regional** Clearing Houses (Journal of Laws No 85, item 428 of 1994, No 76, item 344 of 1995, No 124, item 601 of 1996, No 58, item 262 and No 106, item 496 and of 1997 No 28, item 153 and No 41, item 255) Art. 23 shall read as follows:

"Art. 23. Limitations concerning commercial activity by employees of **regional** clearing houses who hold the posts of president, member of the board, head of a department and audit inspector, are defined in the provisions regarding limitations concerning the conduction of commercial activity by persons performing public functions."

Art. 21.

In the Act dated 12 October, 1994 regarding independent appeal tribunals (Journal of Laws No 122, item 593, of 1995 No 74, item 368 and of 1997 No 98, item 604) the following Art. 18a shall be added after Art. 18:

"Art. 18a. A party may not be represented before the tribunal by:

1) an attorney practicing at an attorneys' office, joint attorneys' office and general partnership or non-commercial partnership with exclusive participation of attorneys or attorneys and legal advisors, or in a limited partnership in which only attorneys and legal advisors are general partners, and the exclusive object of business of such companies is the provision of legal assistance,

2) a legal advisor practicing in the office of a legal advisor and in a general partnership or non-commercial partnership with exclusive participation of legal advisors or legal advisors and attorneys, or in a limited partnership in which only legal advisors and attorneys are general partners, and the exclusive object of business of such companies is the provision of legal assistance,

- in which an employee of the tribune is a member, partner, shareholder or general partner."

Art. 22.

In the Act dated 11 May, 1995 regarding the Supreme Administrative Court (Journal of Laws No 74, item 368 and No 104, item 515 and of 1997 No 75, item 471) the following Art. 12b and Art. 12c shall be added after Art. 12a:

"Art. 12b. 1. Judges are required to make declarations on their financial status. The declaration on the financial status relates to separate property and joint marital property.

The declaration should contain in particular, information on funds, real property, shares in commercial companies held and information on property acquired by such a person or his/her spouse from the State Treasury, other state legal entity, commune or inter-commune association, such property having been sold through a tender. The declaration should also contain data on the conduction of commercial activity and performance of a function in commercial companies or co-operatives except for a function on the supervisory board of a housing co-operative.

2. The declaration referred to in item 1, is submitted to the President of the Court.

3. The analysis of data contained in the declaration referred to in items 1 and 2 is made by the Board of the Court.

4. The declaration referred to in item 1, is submitted before the acceptance of the appointment, and then every year until 31 March according to the status as of 31 December of the preceding year, and on the date on which the judge leaves his/her post.

5. Information contained in the declaration on the financial status is an official secret unless the judge who has submitted the declaration expressed his written consent to the disclosure of the same. In particularly justified cases the entity authorized to collect the declaration in accordance with item 2, may disclose the same despite the lack of consent from the person making the declaration. The declaration is kept for the period of 6 years.

Art. 12c. For making the declaration mentioned in Art. 12b, item 1, the following should be used: the sample form defined by the regulations issued on the basis of Art. 11 of the Act dated 21 August, 1997 regarding limitations of conducting commercial activity by persons performing public functions (Journal of Laws No 106, item 679), with respect to the declaration mentioned in Art. 10, item 1 of this Act.

Art. 23

In the Act on the Performance of the Duties of a Member of Parliament and a Senator, dated 9 May, 1996 (Journal of Laws No 73, item 350 and No 137, item 638 and of 1997 No 28, item 153 and 98, item 604) the following amendments are incorporated:

1) in Art. 35:

a) in item 3 after the words "until 31 March" the following words are added: "according to the status as of 31 December of the preceding year",

b) after item 3, the following item 3a is added:

"3a. The declaration mentioned in item 1 is kept for the period of 6 years. The entity which analyses the declaration is authorized to compare the content of the analyzed declaration with the content of declarations previously submitted.";

2) the following Art. 35a is added after Art. 35:

"Art. 35a. 1. The Register of Benefits hereinafter called the "Register" is established.

2. The Register discloses benefits received by Members of Parliament, Senators or their spouses.

3. The following information should be declared for entry into the Register:

1) all posts held and jobs performed in both state administration and private institutions for the holding and performance of which remuneration is received, as well as self-employment,

2) facts relating to material support for public activity conducted by the person submitting information,

3) donations received from domestic or foreign entities if the value of such donations exceed 50% of the lowest remuneration of employees for work, applicable in December of the preceding year, defined by the Minister of Labor and Social Policy based on the Labor Code,

4) domestic or foreign trips not relating to the public function performed, if the cost of such trips has not been covered by the person submitting the information or his spouse or institutions which employ him or by political parties, associations or foundations of which they are members,

- 5) other received benefits having a value exceeding that specified in pt. 3, not relating to the occupation of posts or performance of tasks or work as mentioned in pt. 1.
4. The following information should also be provided for entry into the Register: information concerning participation in governing bodies of foundations, commercial companies or co-operatives, even though no monetary compensation is received for such participation.
5. When submitting information Members of Parliament and Senators are required to exercise the highest diligence and act to the best of their knowledge.
6. All changes to the data entered into the Register should be declared not later than within 30 days following the date of their occurrence.
7. The Register is not confidential. The register for Members of Parliament is kept by the Speaker of the Parliament, and for Senators - by the Speaker of the Senate.
8. The person keeping the Register publishes the data contained in the Register once a year in a separate publication.
9. The disclosure of information in the Register does not release a person from the responsibility provided for by the Act, for the failure to perform duties as defined therein."

Art. 24.

In the Act on the Civil Service dated 5 July, 1996 (Journal of Laws No 89, item 402) Art. 52 shall read as follows:

"Art. 52. Limitations concerning the conduction of commercial activity by civil service officials are defined in the regulations on the limitation of the performance of commercial activity by persons fulfilling public functions."

Art. 25.

In the Act on Municipal Management dated 20 December, 1996 (Journal of Laws of 1997, No 9, item 43) Art. 11 is deleted.

Art. 26.

1. Persons mentioned in Art. 1 and Art. 2 who, on the date of the Act becoming effective are members of management boards, supervisory boards or audit commissions, subject to Art. 6, item 1, or co-operatives except for supervisory boards of housing co-operatives, or members of management boards of foundations conducting commercial activity, are required to resign from their posts until the time of the next shareholders' meeting, however not later than within 6 months following the date of the Act becoming effective, unless they have made declarations on their resignation from public functions within the above mentioned time-limit. In the case of such persons failing to submit their declarations within the above time-limit, they lose by virtue of law their posts in the governing bodies of the company, co-operative or foundation and are deleted from the applicable register.

2. The President of the Council of Ministers may, at the request of the relevant minister representing the State Treasury in a company, in individual specially justified cases, provide the secretary of state or undersecretary of state, with a deadline being longer than the one defined in item 1, for the resignation from their posts in a commercial company as referred to in item 1.

3. The submission by a person mentioned in item 1 of the declaration of resignation from a public function results in the termination of their employment relationship by agreement of the parties, or termination by an employer with notice or the dismissal from the post.

Art. 27.

Persons mentioned in Art. 1 and Art. 2 who on the date of the Act becoming effective hold more than 10% of shares or 10% of the share capital in commercial companies, or conduct commercial activity defined in Art. 4, pt. 6, are required to sell the surplus amount of shares and to cease the conduction of this commercial activity within 3 months from the date of the Act becoming effective.

Art. 28.

Persons who on the date of the Act becoming effective hold posts as defined in Art. 1, are required to submit the declaration referred to in Art. 8, item 1 not later than within 30 days from the date of the Act becoming effective; the provisions of Art. 8, items 2 - 5 shall be applicable.

Art. 29.

1. The Act on the Limitation of the Performance of Commercial Activity by Persons Performing Public Functions dated 5 June, 1992 (Journal of Laws No 56, item 274, of 1995, No 4, item 18 and of 1996 No 73, item 350) is no longer effective, subject to item 2.

2. The Act referred to in item 1 shall be applicable to councilors of commune councils who are serving their term of office on the date that this Act becomes effective.

Art. 30.

This Act comes into effect as of 1 January, 1998 provided that:

- 1) the regulations of Art. 24e of the Act referred to in Art. 19 come into effect after the expiry of 30 days from the date of their publication,
- 2) the regulations of Art. 24f - 24h of the Act referred to in Art. 19 shall be applicable to councilors of commune councils serving the term of office following the term of office being served on the date that this Act becomes effective,
- 3) the regulations of Art. 35a of the Act referred to in Art. 23 become effective as of the first day of the term of the Parliament and Senate following the term which commenced on 19 September, 1993,
- 4) the regulations of Art. 11 of the Act referred to in Art. 25 shall continue to apply to councilors of the commune councils serving their term of office on the date that this Act becomes effective.

President of the Republic of Poland: A. Kwaœniewski