

**Journal of Laws of 1982 No item 145**  
**ACT**  
**dated 6 July 1982**  
**On Legal Counsels**

**Prepared on the basis of:**

**uniform text published in the Journal of Laws of 2002 No 123 item 1059, No 126 item 1069, No 153 item 1271, of 2003 No 124 item 1152, of 2004 No 34 item 303, No 62 item 577, No 202 item 2067, of 2005 No 163 item 1361, No 169 item 1417, No 264 item 2205, of 2006 No 104 item 708 and 711, No 206 item 1522, No 218 item 1592, of 2007 No 25 item 162, No 80 item 540, No 85 item 571, No 99 item 664.**

**Interpretation of the Constitutional Tribunal: 25 March 1992 (Journal of Laws No 36 item 159) relative to Article 23 paragraph 1, Article 26, and Article 28 paragraph 1 point 2.**

**Chapter 1**  
**General Provisions**

**Article 1.**

1. The Act specifies the principles of exercising the profession of a legal counsel and the principles of organisation and operation of the self-government of legal counsels.
2. The professional title of “legal counsel” is protected by law.

**Article 2.**

Legal assistance provided by a legal counsel shall be aimed at legal protection of interests of the entities for which it is carried out.

**Article 3.**

1. The profession of a legal counsel may be exercised by a person who meets the requirements specified in this Act.
2. A legal counsel shall exercise his or her profession with due diligence resulting from the knowledge of the law and the ethical principles binding on legal counsels.
3. A legal counsel shall keep confidential all the information which has become known to him or her in relation to providing legal assistance.
4. The duty to keep a professional secret may not be limited in time.
5. A legal counsel may not be released from a duty to keep a professional secret in relation to the facts which have become known to him or her in relation to providing legal assistance or handling a case.
6. The duty to keep a professional secret does not refer to information disclosed pursuant to the provisions of the Act dated 16 November 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism (Journal of Laws of 2003 No 153 item 1505, and of 2004 No 62 item 577) – within the scope specified therein.

**Article 4.**

1. Exercising the profession of a legal counsel consists in providing legal assistance, with the exception of appearing in the character of a defence counsel in penal proceedings and in proceedings in cases relative to fiscal offences.
2. (repealed).
3. (no longer in force).

**Article 5.**

1. The legal counsels are organised within the framework of a professional self-government, hereinafter referred to as “self-government”.

2. The organisational units of such self-government possessing the status of legal persons shall include regional chambers of legal counsels and the National Council of Legal Counsels.

3. The Minister of Justice exercises supervision over the activities of the self-government within the scope and in the form provided for in the legal acts.

## **Chapter 2**

### **Exercising the profession of a legal counsel**

#### **Article 6.**

1. The profession of a legal counsel consists in providing legal assistance, and in particular in providing legal advice, drafting legal opinions, expressing opinions about the acts of law and appearing before courts and authorities.

2. *The provisions of paragraph 1 do not constitute an obstacle to providing legal assistance referred to in Article 7 by other persons with higher legal education, with the exception of court representation, unless such persons act pursuant to the provisions of Article 87 § 1 of the Code of Civil Procedure as attorneys remaining in the continuous relationship of commission, if the subject matter of the case in question falls within the scope of such a commission or managing the property or interests of the party.*

**Paragraph 2 does not conform to the provisions of the Constitution – judgement of the Constitutional Tribunal (Journal of Laws of 2006 No 206 item 1522); the said provision shall cease to be valid on 31.12.2006.**

#### **Article 7.**

Legal assistance shall consist in particular in providing legal advice and consultations, giving legal opinions, and ensuring legal and court representation.

#### **Article 8.**

1. A legal counsel may exercise his or her profession within the framework of an employment contract, on the basis of a civil law agreement, in a legal counsel's office as well as in a private, general or limited partnership, while only legal counsels and attorneys at law and foreign lawyers performing regular practice pursuant to the Act dated 5 July 2002 on the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland (Journal of Laws No 126 item 1069) may be partners in a private, general or limited partnership or general partners in a limited partnership, and the sole area of activity of such partnerships shall be limited to providing legal assistance.

2. (repealed).

3. A legal counsel shall notify the council of the competent regional chamber of legal counsels about the commencement of exercising the profession and the forms thereof, about the address and name of his or her office or partnership, as well as about any modification of such information.

4. The scope of legal assistance, the deadlines, the terms and conditions of provision thereof and the remuneration due shall be specified in an agreement.

5. Every time this Act contains a reference to the "employment relationship", "employment" or "remuneration", it shall also mean, respectively, "service relationship", "being on duty" and "emolument".

#### **Article 9.**

1. A legal counsel exercising his or her profession within the framework of an employment relationship shall occupy a position subordinated directly to the head of an organisational unit.

2. If an organisational unit employs two or more legal counsels, one of them shall be entrusted with the task of coordinating the provision of legal assistance within this unit.
3. In a state or local-government body a legal counsel shall provide legal assistance in a section or an organisational unit, in a bureau or department or occupy a separate position for legal matters reporting directly to the head of the said body. In a state body a legal counsel may also be employed in another distinguished section or organisational unit and report to the manager thereof.
4. A legal counsel may not be instructed to perform any activity which lies outside the scope of providing legal assistance.

**Article 10.**

An organisational unit shall ensure the participation of a legal counsel in the proceedings:

- 1) before the Supreme Court, Supreme Administrative Court and a principal or central body of state administration,
- 2) before a *voivodship*<sup>1</sup> court, appellate court, the voivodship administrative court and the second-instance body in administrative proceedings,
- 3) in which a foreign contractor takes part.

**Article 11.**

1. When carrying out professional duties a legal counsel shall enjoy freedom of speech and writing within the limits defined by the law and material necessity.
2. The abuse of freedom referred to in paragraph 1 which constitutes an insult or defamation of a party, his or her attorney, a witness, an expert or a translator/interpreter persecuted upon private accusation shall be covered exclusively by disciplinary liability.

**Article 12.**

1. In the course of and in relation to carrying out professional duties a legal counsel shall enjoy legal protection attributed to judges and public prosecutors.
2. The Minister of Justice shall, by way of an ordinance, determine the official dress of legal counsels taking part in court hearings, taking into account the solemn character of such dress adequate to the dignity of the court and the established tradition.

**Article 13.**

1. A legal counsel shall not be bound by any instruction as to the contents of a legal opinion.
2. (deleted).

**Article 14.**

A legal counsel shall handle cases before adjudicating bodies in an independent way, taking care of due application of the measures for the protection of the justified interests of an organisational unit prescribed by the law.

**Article 15.**

A legal counsel shall withdraw from carrying out professional duties in his or her own case or if another organisational unit in which he or she is employed is an opponent of an organisational unit which has granted him or her the power of attorney, or if the case concerns a person with whom this legal counsel remains in a relationship which could have influence on the result of the case.

**Article 16.**

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<sup>1</sup> Presently: before any district court, pursuant to the provisions of Article 4 of the Act dated 18 December 1998 on amending the Act on the Structure of Law Courts (Journal of Laws No 160 item 1064) which entered into force on 1 January 1999.

1. The assessment of the professional activities of a legal counsel shall be performed by the head of an organisational unit upon requesting an opinion of a legal counsel indicated by the council of the regional chamber of legal counsels.

2. (deleted).

**Article 17.**

A legal counsel exercising the profession within the framework of an employment relationship may be simultaneously employed in more than one organisational unit and his or her working time may exceed one full-time equivalent.

**Article 18.**

1. The working time of a legal counsel shall also include also the time necessary to arrange certain issues outside of the premises of an organisational unit, in particular in courts and other bodies and the time necessary for preparing for such activities.

2. The working time of a legal counsel at the organisational unit's premises may not be shorter than two-fifths of the working time specified in the agreement signed with the legal counsel.

3. (deleted).

**Article 19.**

1. The employment relationship with a legal counsel may be terminated upon notice by the organisational unit due to improper performance of the duties of a legal counsel resulting from the provisions of this Act only upon seeking an opinion of the council of the regional chamber of legal counsels. The said opinion shall be forwarded to the organisational unit within 14 days from the date of reception of a notification about the intention to terminate the employment relationship by the organisational unit.

2. (deleted).

**Article 20.**

(deleted).

**Article 21.**

1. A legal counsel may grant further power of attorney (substitution) to another legal counsel, attorney at law and foreign lawyer performing regular practice within the framework of the Act on the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland.

2. Should a need to do so arise, the dean of the regional council of legal counsels shall designate ex officio a replacement for the legal counsel who has been removed from the register of legal counsels or is temporarily unable to carry out his/her professional activities. The dean's decision authorises the designated legal counsel to handle the accepted cases and shall be equivalent to granting further court power of attorney.

**Article 22.**

1. A legal counsel may refuse to provide legal assistance only for material reasons.

2. When terminating a power of attorney, a commission contract or an employment contract a legal counsel shall perform all the activities which are necessary to ensure that this fact will not have any negative impact on the further course of the cases handled by such a legal counsel.

**Article 22<sup>1</sup>.**

The council of the regional chamber of legal counsels shall be entitled to inspect and assess the way the profession is exercised by a legal counsel and a foreign lawyer entered into the register of foreign lawyers maintained by the council of the regional chamber of legal counsels. The inspections and assessments shall be carried out by inspectors appointed by the council from among the legal counsels.

**Article 22<sup>2</sup>.**

The council of the regional chamber of legal counsels may, on the basis of a medical certificate and upon carrying out a detailed explanatory proceedings - at the request of the President of the National Council of Legal Counsels or the dean of the council of the regional chamber of legal counsels – adopt a resolution on a permanent inability to exercise the profession by a legal counsel. Should such proceedings be instituted the council may suspend the legal counsel in the performance of his/her activities for the duration of the proceedings.

**Article 22<sup>3</sup>.**

1. The costs of legal assistance provided by a legal counsel ex officio shall be covered by the State Treasury.
2. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels, shall determine, by way of an ordinance, the detailed principles relative to incurring costs specified in paragraph 1, taking into account the method for the determination of such costs, expenses constituting the basis for the determination thereof and the maximum amount of fees for the provided assistance.

**Article 22<sup>4</sup>.**

1. A legal counsel exercising a profession on the basis of an employment relationship shall be entitled to receive remuneration and other benefits specified in the collective work agreement or in the provisions of the law relative to remuneration of employees binding in the organisational unit employing the legal counsel. Such remuneration may not be lower than remuneration foreseen for the post of a senior specialist or another equivalent work position. Should the right to bonuses be dependent on the requirement relative to managing a team of employees, such a requirement shall not be applicable to a legal counsel.
2. A legal counsel shall be entitled to additional remuneration in the amount not less than 65% of the costs of court representation awarded by the court to the party he or she represented or awarded on the basis of an out-of-court settlement, amicable proceedings, international arbitrage or in the enforcement proceedings, if such costs have been collected from the other party. In the state public sector units the amount and dates of remuneration payment shall be specified in a civil law agreement.

**Article 22<sup>5</sup>.**

1. Fees for the activities performed by legal counsels exercising their profession in legal counsel's offices or in partnerships referred to in Article 8 paragraph 1 and employed on the basis of a civil law agreement shall be specified in an agreement entered into with the client.
2. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels and the Central Board of Lawyers shall determine, by way of an ordinance, the amount of fees for the activities performed by the legal counsels before the law enforcement bodies constituting the basis for awarding the costs of legal representation by the courts, having in mind the fact that determining a fee higher than the minimum rate referred to in paragraph 3 but not exceeding six times this rate may be justified by the type and complexity of the case and the necessary outlay of the legal counsel's work.
3. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels and the Central Board of Lawyers, shall determine, by way of an ordinance, the minimum rates for the activities of legal counsels referred to in paragraph 1, taking into account the type and complexity of the case and the necessary outlay of the legal counsel's work.

**Article 22<sup>6</sup>.**

Social insurance contributions of a legal counsel shall be paid by organisational units employing this legal counsel, the partnerships referred to in Article 8 paragraph 1, or personally by the legal

counsels exercising their profession in a legal counsel's office or in a partnership specified in Article 8 paragraph 1.

**Article 22<sup>7</sup>.**

1. A legal counsel shall be covered by mandatory third party liability insurance relative to any damage inflicted while performing the activities referred to in Article 4 paragraph 1 and Article 6 paragraph 1.
2. The provisions of paragraph 1 do not infringe on the provisions of Article 120 of the Labour Code.
3. The insurance duty referred to in paragraph 1 shall not apply to legal counsels who do not exercise the profession.
4. The council of the regional chamber of legal counsels competent for the place of residence of a legal counsel shall carry out inspections on whether the duty to enter into an insurance contract referred to in Article 1 has been fulfilled. The fulfilment of this duty shall be ascertained on the basis of a policy or another insurance document confirming that such an insurance agreement has been entered into issued by the insurance company and presented by the legal counsel.
5. The Minister of Justice shall supervise the performance of the tasks specified in paragraph 4. by the regional councils of chambers of legal counsels. The deans of the councils of regional chambers of legal counsels shall file reports on inspections carried out in the previous calendar year to the Minister of Justice on an annual basis, until 15th day of March.

**Article 22<sup>8</sup>.**

The minister competent for the issues relative to financial institutions shall, in cooperation with the Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels and the Polish Chamber of Insurance, shall determine, by way of an ordinance, the detailed scope of mandatory insurance referred to in Article 22<sup>7</sup>, the commencing date of the insurance duty and the minimum guarantee sum, taking into consideration in particular the specific features of the profession and the scope of performed tasks.

**Chapter 3**

**Qualifications necessary for exercising the profession of a legal counsel**

**Article 23.**

The right to exercise the profession of a legal counsel arises as soon as a specific person is entered into the register of legal counsels and upon taking an oath by such a person.

**Article 24.**

1. In order to be entered into the register of legal counsels such a person shall:
  - 1) complete higher legal studies in the Republic of Poland and obtain a master's degree or complete higher legal education abroad, if such education is recognised in the Republic of Poland,
  - 2) (deleted).
  - 3) fully enjoy his/her public rights,
  - 4) have full legal capacity to act,
  - 5) be a person of an irreproachable character whose previous behaviour constitutes a warranty of correct exercise of the profession of a legal counsel,
  - 6) complete a legal counsel's training in the Republic of Poland and sit the legal counsel's examination, subject to the provisions of Article 25 paragraph 2.
2. Entering a person who obtained a positive result of the legal counsel's exam into the register shall take place at this person's request on the basis of a resolution of the council of the regional

chamber of legal counsels competent for the place where the legal training took place, and in the event of a person referred to in Article 25 paragraph 2, for such a person's place of residence.

2a. The request referred to in paragraph 2 filed by a person wishing to be entered into the register shall be accompanied by an information on no criminal record from the National Penal Register with a date not earlier than one month prior to filing of such information and - in the event of a person born before 1 August 1972 - a declaration referred to in Article 7 paragraph 1 of the act dated 18 October 2006 on Disclosing Information about Documents of the State Security Bodies from the years 1944-1990 and the Contents of such Documents (Journal of Laws No 218 item 1592, No 249 item 1832 and of 2007 No 25 item 162) or information referred to in Article 7 paragraph 3a thereof.

2b. The provisions of paragraph 2 and 2a shall apply accordingly to persons referred to in Article 25 paragraph 1.

2c. The council of the regional chamber of legal counsels may refuse to enter a specific person into the register of legal counsels only when such an entry would constitute a breach of the provisions of paragraph 1. The council of the regional chamber of legal counsels shall be entitled to inspect the personal and disciplinary files of persons wishing to be entered into the said register.

3-5. (deleted).

#### Article 25.

1. The requirement relative to completing a legal counsel's training and sitting a legal counsel examination shall not be applicable to:

- 1) persons holding a title of a professor or a Ph.D. in legal sciences,
- 2) *persons who passed the judge's, persecutor's, bar or notarial exam,*

**Point 2 does not conform to the Constitution insofar as, as a result of an amendment introduced by the Act of 30.06.2005 on Amending the Bar Act and Certain Other Acts, an opportunity was offered to admit to the profession persons who, having sat the exams indicated therein, did not possess adequate practice in a legal profession - judgement of the Constitutional Tribunal (Journal of Laws of 2006 No 206 item 1522); the said provision shall cease to be valid on 31.12.2006.**

- 3) persons who have occupied the post of the counsel to the Office of the State Attorney of the Treasury.

2. The following persons may sit the legal counsel's exam before the examination board referred to in Article 33<sup>1</sup> paragraph 1, without having to complete the legal counsel's training:

- 1) persons holding a Ph.D. in legal sciences,
- 2) *persons who, upon completing higher legal education were employed on the basis of an employment contract on the positions relative to the application of the law or legislation for at least 5 years within the period which did not exceed 8 years prior to filing an application to be allowed to sit a legal counsel's exam.*
- 3) *persons who, upon completing higher legal education performed in person, performed the services consisting in the application of the law or legislation for at least 5 years within the period which did not exceed 8 years prior to filing an application to be allowed to sit a legal counsel's exam, on a continuous basis and on the basis of agreements to which the provisions on commission shall apply accordingly.*
- 4) *persons who, upon completing higher legal education carried out business activities entered into the Register of Business Activity for at least 5 years within the period which did not exceed 8 years prior to filing an application to be allowed to sit a legal counsel's exam, if the object of such activities covered the provision of legal assistance referred to in Article 6 paragraph 2,*

**points 2, 3 and 4 do not conform to the provisions of the Constitution – judgement of the Constitutional Tribunal (Journal of Laws of 2006 No 206 item 1522); the said provisions shall cease to be valid on 31.12.2006.**

5) persons who worked as a court referendary or a judge's assistant for at least 5 years within the period which did not exceed 8 years.

2a. The five-year period of employment within the framework of an employment relationship referred to in paragraph 2 point 2 shall be determined as a sum of working periods calculated proportionally to the working time they covered.

2b. Persons referred to in paragraph 2 shall meet the requirements specified in Article 24 paragraph 1 point 1, 3-5.

3. (repealed).

#### **Article 26.**

Persons who exercise the profession of a judge, public prosecutor, notary public, court enforcement officer, assistant judge, assistant prosecutor or assistant notary or who participate in a judge's, prosecutor's or notarial training may not be at the same time entered into the register of legal counsels or exercise the profession of a legal counsel.

#### **Article 27.**

1. An oath formula to be pronounced by a legal counsel shall be worded as follows:

“I solemnly swear to contribute to the protection and reinforcing the legal order of the Republic of Poland by exercising the profession of a legal counsel, perform my professional duties in a diligent way and according to the provisions of the law, keep the professional secret, as well as to act with dignity and in an honest way guided by the principles of legal counsel's ethics and justice”.

2. The oath shall be heard by the dean of the council of the regional chamber of legal counsels maintaining the register of legal counsels the legal counsel in question has been entered into.

#### **Article 28.**

1. Suspending the right to exercise the profession of a legal counsel shall take place if the person in question:

- 1) exercises the profession of an attorney at law,
- 2) started work for the legal enforcement bodies, prosecuting authorities or a notary's office,
- 3) started work for the Office of the State Attorney of the Treasury.

2. Suspending the right to exercise the profession of a legal counsel shall also take place the moment a disciplinary decision on applying this punishment becomes final and binding.

3. The suspension of the right to exercise the profession of a legal counsel is not applicable to persons employed as legal counsels in the bodies referred to in paragraph 1 point 2.

4. The resolution of the council of the regional chamber of legal counsels on suspending the right to exercise the profession of a legal counsel shall be made within 30 days from obtaining information about the occurrence of an event referred to in paragraph 1 and 2.

5. The resolution referred to in paragraph 4 may be appealed against to the Presidium of the National Council of Legal Counsels within 14 days from the reception of the resolution by the person it refers to. The resolution of the Presidium of the National Council of Legal Counsels shall be made within 30 days from the reception of an appeal.

6. The person in question may lodge an appeal against the resolution of the Presidium of the National Council of Legal Counsels to the Minister of Justice, pursuant to the provisions of the Code of Administrative Proceedings.



7. The person in question and the Presidium of the National Council of Legal Counsels may lodge a complaint against the final decision of the Minister of Judgement to the administrative court within 30 days from the reception of the decision.

**Article 29.**

Removing a person from the register of legal counsels may take place in the following circumstances:

- 1) at the request made by the legal counsel in question
- 2) (deleted).
- 3) in the event of even partial limitation of his or her legal capacity to act,
- 4) in the event of deprivation of public rights pursuant to a court judgement,
- 4a) in the event of a failure to pay membership fees for a period exceeding one year,
- 5) in the event of death of a legal counsel in question,  
*[5a) submitting an untrue lustration declaration, ascertained with a final and binding court decision,]*

**point 2 does not conform to the provisions of the Constitution – judgement of the Constitutional Tribunal (Journal of Laws of 2007 No 85 item 571)**

- 6) a disciplinary ruling or a court judgement on deprivation of the right to exercise the profession of a legal counsel.

**Article 29i.**

The resolution of the council of the regional chamber of legal counsels on removing a person from the register of legal counsels shall be made within 30 days from obtaining information about the occurrence of an event referred to in paragraph 29. The provisions of Article 28 paragraph 5-7 shall apply accordingly.

**Article 30.**

1. Should any disciplinary or court proceedings be in progress against a legal counsel in relation to a crime punishable with an additional penalty of deprivation of public rights or the right to exercise a profession, it will be possible to refuse to remove a person from the register of legal counsels until the end of such proceedings, even if a request referred to in Article 29 point 1 has been made.
2. (repealed).

**Article 31.**

1. The resolution of the council of the regional chamber of legal counsels on entering a person into the register of legal counsels shall be made within 30 days from the day when the application was filed.
2. The resolution referred to in paragraph 1 may be appealed against to the Presidium of the National Council of Legal Counsels within 14 days from the reception of the resolution by the person it refers to.
  - 2a. The person in question may lodge an appeal against the resolution of the Presidium of the National Council of Legal Counsels refusing to enter him or her into the register of legal counsels to the Minister of Justice, pursuant to the provisions of the Code of Administrative Procedure.
  - 2b. The person in question and the Presidium of the National Council of Legal Counsels may lodge a complaint against the final decision of the Minister of Justice to the administrative court within 30 days from reception of the decision.
3. Should the council of the regional chamber of legal counsels fail to adopt a resolution within 30 days from submitting an application relative to entering a specific person into the register, or should the Presidium of the National Council of Legal Counsels fail to adopt a resolution within

30 days from the reception of an appeal, the person in question shall be entitled to lodge a complaint with the administrative court.

**Article 31<sup>1</sup>.**

1. The council of the regional chamber of legal counsels shall notify the Minister of Justice about every resolution on entering into the register of legal counsels or trainee legal counsels, as well as about every refusal to do so within 30 days from such an event.
2. An entry into the register of legal counsels or trainee legal counsels shall be considered made if the Minister of Justice does not object to such an entry within 30 days from reception of such a resolution together with the personal file of a person being entered into the register. The Minister of Justice shall express such an objection in the form of an administrative decision.
3. The objection of the Minister of Justice may be appealed against to the administrative court by the person it refers to, within 30 days from the reception of the objection.

**Chapter 4**

**Legal counsel's training and examination**

**Article 32.**

1. The objective of the legal counsel's training consists in preparing the trainee for due and individual exercise of the profession of a legal counsel.
2. The legal counsel's training shall last for three years and six months.
3. The legal counsel's training shall take place in a legal counsel's office, in a partnership of legal counsels or legal counsels and attorneys at law or in organisational units, and for the period of at least one year – in a court, in a notary's office and in a public prosecution office, on the basis of an agreement entered into by the council of the regional chamber of legal counsels with a legal counsel working for a legal counsel's office or partnership or with the head of the relevant organisational unit, president of the *voivodship* court<sup>1</sup>, notarial chamber or a *voivodship*<sup>2</sup> public prosecutor.
4. The trainee who has completed the legal counsel's training referred to in paragraph 2 shall receive an attestation of completion of the legal counsel's training from the council of the regional chamber of legal counsels.

**Article 32<sup>1</sup>.**

1. The legal counsel's training is a paid training.
2. The training offered to trainee legal counsels is covered from fees paid by the trainee legal counsels to the council of the regional chamber of legal counsels.
3. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels shall determine, by way of an ordinance, the amount of the annual fee, guided by the need to ensure adequate level of training to the trainees, with the reservation that the amount of such a fee may not be higher than six times the amount of minimum wages.
4. The regional council of legal counsels may release a trainee legal counsel from the duty to pay the fee referred to in paragraph 3 in total or in part, as well as adopt a decision on the deferment of payment or spread the payment out over a certain number of instalments.
5. Should a resolution on releasing a trainee legal counsel from the duty to pay the fee in total or in part be adopted, the costs of training of such a trainee legal counsel shall be covered,

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<sup>2</sup> Presently: The district public prosecutor, pursuant to the provisions of Article 3 of the Act dated 18 December 1998 on amending the Act on the Public Prosecution Office (Journal of Laws No 162 item 1123) which entered into force on 1 January 1999.

proportionally to the amount covered by such a release, from the own funds of the relevant council of the regional chamber of legal counsels.

**Article 33.**

1. Recruitment for a legal counsel's training shall be carried out in the format of an entrance examination relative to the legal counsel's training, hereinafter referred to as the "entrance examination".
2. A person who meets the criteria specified in Article 24 paragraph 1 point 1 and 3-5 and who has obtained a positive result of the entrance examination may become a trainee legal counsel.
3. A specific person may be entered into the register of trainee legal counsels after an entry examination organised on the basis of a resolution of the regional chamber of legal counsels competent in relation to the place of filing an application referred to in Article 33<sup>3</sup> paragraph 2. Obtaining a positive result of the entrance exam gives such a person a right to file an application relative to being entered into the register of trainee legal counsels within 2 years from the date of publication of the results of the entrance examination.
4. A person meeting the requirements referred to in paragraph 2 and 3 may not be refused an entry into the register.
5. The provisions of Article 3 paragraph 3-5, Article 11, Article 12 paragraph 1, Article 23, Article 24 paragraph 1 point 1, 3-5, paragraph 2, paragraph 2a-2c, Article 27, Article 31, and Article 31<sup>1</sup> shall apply accordingly to trainee legal counsels and to the proceedings relative to the entry into the register of trainee legal counsels.

**Article 33<sup>1</sup>.**

1. The entrance examination shall be carried out by examination boards for the legal counsel's trainings appointed at the Minister of Justice for the area of competence of one or more councils of regional chambers of legal counsels, hereinafter referred to as the "examination boards".
2. The Minister of Justice shall be a superior level body with reference to the examination boards.
3. The entrance examination shall consist in examining the knowledge of a candidate to a legal counsel's training hereinafter referred to as the "candidate", in various areas of law, namely: the constitutional law, penal law, penal procedure, penal fiscal law, petty offences law, civil law, business law, commercial companies law, labour and social insurance law, family and guardianship law, administrative law, administrative procedures, financial law, European law, law of the structure of law courts, legal counsels' self-government and other legal protection bodies operating on the territory of the Republic of Poland, as well as the terms and conditions of exercising the profession of a legal counsel and ethical principles of the profession.
4. The entrance examination shall be organised once a year, on the dates specified by the Minister of Justice, not later than until 30 September, prior to the beginning of a school year, simultaneously on the same day on the whole territory of the Republic of Poland, subject to the provisions of paragraph 5.
5. In the event of any random incident preventing a specific examination board to carry out the entrance examination in the dates referred to in paragraph 4, the Minister of Justice shall specify additional dates for organising an entrance examination by this board. The provisions of Article 33<sup>2</sup> paragraph 4-7 shall apply accordingly.

**Article 33<sup>2</sup>.**

1. Every year the Minister of Justice shall appoint a team charged with preparing the entrance examination questions for candidates, hereinafter referred to as the "entrance examination team".
2. The entrance examination team shall be composed of 5 persons, including 3 representatives of the Minister of Justice and 2 representatives delegated by the National Council of Legal Counsels.

3. The leader of the entrance examination team appointed by the Minister of Justice from among the representatives thereof shall manage the works carried out by the team and specify the working mode of the team.
4. The entrance examination team shall prepare one set of questions in the form of a multiple-choice test for the candidates sitting for the entrance exam.
5. Every council of the regional chamber of legal counsels may submit the proposals of questions to the entrance examination team through the intermediary of the leader of the team.
6. The entrance examination team shall prepare a set of questions for the entrance exam, having in mind the need to maintain a uniform level of checking the candidates' knowledge.
7. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels shall determine, by way of an ordinance, the mode of submitting the proposals of questions, preparing, storing and transmitting to the examination boards the entrance examination questions, having in mind the need to secure such questions against unauthorised disclosure.

**Article 33<sup>3</sup>.**

1. Until 30 June each year the Minister of Justice shall publish in an all-Polish daily newspaper and in the Public Information Bulletin referred to in the Act on Access to Public Information dated 6 September 2001 (Journal of Laws No 112 item 1198, with subsequent changes<sup>3</sup>), hereinafter referred to as the "Bulletin" an announcement about the entrance exam, which shall specify in particular:

- 1) the deadline for filing an application relative to participating in the entrance examination to the legal counsel's training, hereinafter referred to as the "application",
- 2) territorial competence of the boards and the address of their registered offices,
- 3) dates of the entrance examination,
- 4) the amount of the examination fee referred to in Article 33<sup>4</sup> paragraph 1.

2. The application referred to in paragraph 1 point 1, shall contain:

- 1) an application relative to being admitted to the entrance examination,
- 2) personnel questionnaire,
- 3) curriculum vitae,
- 4) original copy or an officially confirmed copy of the diploma of completion of higher legal studies in the Republic of Poland and obtaining a master's degree or completion of higher legal education abroad, if such education is recognised in the Republic of Poland, or an attestation confirming that the Master's exam has been passed,
- 5) information on no criminal record from the National Penal Register with a date not earlier than one month prior to filing the application,
- 6) 2 photographs.

3. The application shall be filed by the candidate at the latest 45 days prior to the commencement of the entrance examination, to the examination board referred to in paragraph 1 point 2.

4. If the application does not meet the formal requirements specified in paragraph 2 the chairman of the board shall call on the candidate, by registered mail, to remove the defects according to the procedure specified in Article 64 § 2 of the Code of Administrative Procedure.

5. Should the application remain unexamined, the chairman of the board shall notify the candidate thereof with a registered letter with confirmation of receipt.

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<sup>3</sup> Amendments to the said Act were published in the Journal of Laws of 2002 No 153, item 1271, of 2004 No 240 item 2407 and of 2005 No 64 item 565, No 132 item 1110.

6. Should the candidate fail to pay an entrance examination fee the chairman of the board shall call on such a candidate to make the said payment within the deadline of 7 days, pursuant to the procedure specified in paragraph 4.

7. Should, despite the call referred to in paragraph 6, the candidate fail to pay the entrance examination fee, the chairman of the board shall issue a decision on returning the application. This decision may be subject to a complaint filed to the Minister of Justice.

8. If the application was filed after the deadline referred to in paragraph 3, the chairman of the board shall issue a decision refusing to admit the candidate to the entrance examination. This decision may be subject to a complaint filed to the Minister of Justice.

9. The chairman of the examination board shall notify the candidate qualifying for the entrance examination about the time and place of the entrance examination with a registered letter with a confirmation of receipt at least 14 days prior to the starting day of the entrance examination.

**Article 33<sup>4</sup>.**

1. The candidate shall pay a fee relative to the participation in the entrance examination which shall constitute an income of the state budget.

2. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels shall determine, by way of an ordinance, the amount of the fee - not exceeding the equivalent of minimum remuneration for work referred to in the Act on Minimum Remuneration for Work dated 10 October 2002 (Journal of Laws No 200, item 1679 and of 2004 No 240 item 2407), hereinafter referred to as "minimum wages" - taking into account the need to carry out the entrance examination in a correct and effective manner.

**Article 33<sup>5</sup>.**

1. The Minister of Justice shall appoint the examination board from among the persons whose knowledge, experience and authority offer a warranty of a correct course of the entrance examination.

2. The examination board shall be composed of seven members. The board shall include:

1) three representatives of the Minister of Justice; a judge or a judge emeritus may also be a representative of the Minister of Justice, upon the consent thereof,

2) two representatives delegated by the National Council of Legal Counsels,

3) one research worker, academic worker or a member of the teaching staff at the faculty of law in a higher educational institution in the Republic of Poland or the Polish Academy of Science and holding at least a Ph.D. degree (doktor habilitowany) in legal sciences,

4) one public prosecutor holding at least a position of a public prosecution officer of the regional public prosecution office, also a public prosecutor emeritus,

3. Persons referred to in paragraph 2 point 1 and 3 may not be legal counsels.

4. The Minister of Justice shall appoint one of his/her representatives as a chairman of the examination board.

5. The examination board's term of office shall last for 2 years.

6. A failure to delegate representatives to the examination board by the obliged bodies or non-appearance of a member of the board shall not result in a discontinuation of the works of the board.

7. The members of the examination board shall be entitled to the reimbursement of costs of travel and accommodation according to the principles specified in the provisions relative to the amounts due to an employee employed with a state or local government unit of the public sector relative to domestic business trips.

8. A member of the examination board who is not an employee of a government administration body shall be entitled to remuneration for work relative to being a member of the board.

9. The council of the regional chamber of legal counsels competent for the registered address of the examination board shall ensure administrative and technical services relative to the activities of the examination board, which shall include conducting entrance examinations and legal counsel's examinations treated as a commissioned task in the area of government administration.

10. The funds forwarded according to the procedure referred to in paragraph 9 to the competent councils shall cover the costs or organising entrance examinations and legal counsel's examinations and the expenses relative to the activities of the board.

11. The expenses relative to the activities of the board, including conducting entrance examinations and legal counsel's examinations and the remuneration of the members of the examination board shall be covered in part from the state budget funds available to the Minister of Justice.

12. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels, shall determine, by way of an ordinance:

1) the mode and the deadline for proposing candidates for members of the examination board, appointing the examination board and dismissing the members thereof,

2) type of documents referred to in Article 36<sup>2</sup> paragraph 4 point 3-5.

3) the amount of remuneration of the members of the examination board in the sum not exceeding a monthly basic salary of a judge of the regional court in the first grade rate,

4) detailed mode and method of conducting the entrance examination and the legal counsel's examination which shall in particular include:

a) the methods of operation of the board,

b) the method of organising the administrative and technical services provided to the board by the councils of the regional chambers of legal counsels, including the method and mode of transmitting funds, exercising supervision over spending them and making settlements relative to the expenses related with such services - taking into account the need to ensure correct and adequate organisation of recruitment to the legal counsel's training as well as the course of the entrance exam and the legal counsel's exam, plus ensuring that the works of the commission remain impartial.

### **Article 33<sup>6</sup>.**

1. Membership in the examination board shall expire in the event of death of a member of the board.

2. The Minister of Justice shall dismiss a member of the board in the event of:

1) filing a resignation by such a member,

2) an illness making it permanently impossible to him or her perform the function of a member of the board,

3) a failure to meet the requirements referred to in Article 33<sup>5</sup> paragraph 2,

4) a failure to perform or inadequate performance of the duties, with the reservation that dismissing a member of the board referred to in Article 33<sup>5</sup> paragraph 2 point 2 shall take place upon obtaining a consent of the National Council of Legal Counsels,

5) pronouncement of a final and binding sentence condemning such a person for an intentional offence prosecuted upon public accusation.

3. The Minister of Justice may dismiss a member of the board in the event when penal proceedings have been instigated against such a person in relation to a suspicion of committing an intentional offence prosecuted upon public accusation.

4. Expiration of membership or dismissing a member of the board in the course of the entrance proceedings shall not result in a discontinuation of the works of the examination board.

5. In the event of expiry of membership or dismissing a member of the examination board prior to the expiry of the term of office the Minister of Justice shall appoint a new member within the deadline of 7 days and such a member shall perform his/her function until the end of the current term of office.

6. Any member of the examination board appointed for a full term may be re-appointed only once, however not for the term of office which directly follows his/her first term of office.

**Article 33<sup>7</sup>.**

1. A member of the examination board shall be excluded from the works of the board during the period of entrance examination if a candidate qualified for the entrance examination is:

- 1) his or her spouse,
- 2) a person remaining with him/her in the following relationship:
  - a) in the relationship of consanguinity or affinity up to the second degree,
  - b) in the relationship of adoption,
- 3) a person remaining with him/her in cohabitation:
- 4) a person remaining with him/her in the relationship of professional subordination.

2. The reasons for exclusion shall continue upon termination of marriage or adoption.

3. Prior to the commencement of the entrance examination the members of the examination board shall make written declarations that they do not remain in any of the relationships referred to in paragraph 1 with any of the candidates qualified for the entrance examination.

4. Making untrue declarations or hiding the truth in a declaration referred to in paragraph 3 shall entail liability pursuant to the provisions of Article 233 § 1 of the Penal Code.

**Article 33<sup>8</sup>.**

1. The entrance examination shall take place in the presence of at least three members of the examination board.

2. The candidate's absence during the entrance examination, regardless of its reasons, shall be considered equivalent to a withdrawal from participating in the entrance examination.

3. During the entrance examination the candidates may not use any texts of legal acts, commentaries, case law or any other assistance and may not possess any devices used for transmitting or receiving information.

**Article 33<sup>9</sup>.**

1. The entrance examination shall consist in solving a test composed of a set of 250 questions with three proposed answers per question, out of which only one is correct. The candidate may choose only one answer. 1 point shall be awarded for each correct answer.

2. The test shall be checked by the examination board composed of the same persons who carried out the examination.

3. A candidate who obtained at least 190 points in the test shall receive a positive result of the entrance examination.

4. Minutes of the entrance examination shall be drafted immediately and signed by the members participating in the entrance examination. Members of the board may propose their comments to the minutes.

5. The chairman of the examination board shall forward the minutes to the Minister of Justice within the deadline of 7 days from the day of drafting thereof.

**Article 33<sup>10</sup>.**

1. After the entrance examination the examination board shall adopt a resolution determining the result obtained by a candidate. The examination board shall publish the results of the entrance examination.

2. The resolution of the board concerning the result of the examination may be appealed against to the Minister of Justice.

3. The Minister of Justice shall notify the counsels of the regional chambers of legal counsels about the results of the entrance examination and publish the list of persons who obtained positive results thereof in the Bulletin.

**Article 34.**

An employee entered into the register of trainee legal counsels shall be entitled to time off from work, with retention of the right to remuneration, for the purpose of participating in obligatory trainings taking part outside this organisational unit.

**Article 35.**

The duties of a trainee legal counsel include:

- 1) participating in theoretical and practical training scheduled in the curriculum,
- 2) individual advancing legal knowledge and practical professional skills,
- 3) observing the discipline of work and training,
- 4) sitting the legal counsel's exam on the specified dates.

**Article 35<sup>1</sup>.**

1. Upon the expiry of the period of six months from the beginning of a legal counsel's training a trainee legal counsel may represent a legal counsel before district courts, prosecution bodies and public administration bodies.

2. Upon the expiry of the period of one year and six months from the beginning of a legal counsel's training a trainee legal counsel may represent a legal counsel also before other courts, with the exception of the Supreme Court, the Supreme Administrative Court and the Constitutional Tribunal.

3. The rights referred to in paragraph 1 and 2 refer also to cases covered with the duty of providing legal assistance ex officio.

4. A trainee legal counsel may draft and sign procedural writs relative to the legal counsel's appearances before district courts, prosecution bodies and public administration bodies – upon express authorisation of a legal counsel, with the exception of an appeal, a cassation appeal and a constitutional complaint.

5. A trainee attorney at law may represent a legal counsel according to the same principles which apply to the attorney at law if such a legal counsel is a partner in a partnership of legal counsels and attorneys at law.

**Article 36.**

An employee shall be entitled to 30 calendar days of paid holiday leave for the purpose of preparing for a legal counsel's examination and to time off from work, with retention of the right to remuneration, for the purpose of participating in the entrance and legal counsel's examination.

**Article 36<sup>1</sup>.**

*1. The legal counsel's examination shall be carried out by examination boards referred to in Article 33<sup>1</sup> paragraph 1. The provisions of Article 33<sup>7</sup> shall apply accordingly.*

**Paragraph 1 does not conform to the provisions of the Constitution – judgement of the Constitutional Tribunal (Journal of Laws of 2006 No 206 item 1522); the said provision shall cease to be valid on 31.12.2006.**

2. A person who completed the legal counsel's training and received an attestation of completing thereof and a person referred to in Article 25 paragraph 2 shall be entitled to sit for a legal counsel's examination.

3. The legal counsel's examination shall consist in examining the legal skills of a person taking the legal counsel's examination, hereinafter referred to as the "exam participant" necessary for



independent and due exercise of the profession of a legal counsel, including knowledge and an ability to apply it in practice, which shall cover various areas of law, namely: the constitutional law, penal law, penal procedure, penal fiscal law, petty offences law, civil law, business law, commercial companies law, labour and social insurance law, family and guardianship law, administrative law, administrative procedures, financial law, European law, law of the structure of law courts, legal counsels' self-government and other legal protection bodies operating on the territory of the Republic of Poland, as well as the terms and conditions of exercising the profession of a legal counsel and ethical principles of the profession.

4. The legal counsel's examination shall be composed of the written and oral part. The provisions of Article 33<sup>8</sup> paragraph 1 and 2 shall apply accordingly.

5. The legal counsel's exam shall be conducted once a year on the dates specified by the Minister of Justice, however not later than until 31 May. The written and oral part of the examination shall start simultaneously on the same days on the whole territory of the Republic of Poland. The provisions of Article 33<sup>1</sup> paragraph 5 shall apply accordingly.

6. *Every year the Minister of Justice shall prepare a set of questions and topics for the purpose of the legal counsel's examination conducted in the dates referred to in paragraph 5.*

**Paragraph 6 does not conform to the provisions of the Constitution – judgement of the Constitutional Tribunal (Journal of Laws of 2006 No 206 item 1522); the said provision shall cease to be valid on 31.12.2006.**

7. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels shall determine, by way of an ordinance, the mode of preparing, storing and transmitting questions and topics to the examination boards, having in mind the need to secure such questions and topics against unauthorised disclosure.

#### **Article 36<sup>2</sup>.**

1. Until 28 February each year the Minister of Justice shall publish, in an all-Polish daily newspaper and in the Bulletin an announcement about the legal counsel's examination, which shall specify in particular:

- 1) the deadline for filing applications relative to participating in the legal counsel's examination, hereinafter referred to as the "application",
- 2) territorial competence of each of the boards and the address of their registered offices,
- 3) dates when each of the examination boards will conduct the written and oral part of the examination,
- 4) the amount of the examination fee referred to in Article 36<sup>3</sup> paragraph 1.

2. Trainee legal counsels who have completed a legal counsel's training organised by the council of the regional chamber of legal counsels operating within the area of competence of the examination board and persons referred to in Article 25 paragraph 2 residing within the area of competence of the examination board may file the application at the registered office of the relevant examination board.

3. A person who has completed a legal counsel's training shall attach the attestation on completing the legal counsel's training to the application.

4. Persons referred to in paragraph 25 paragraph 2 shall, respectively, attach the following documents to their application:

- 1) personnel questionnaire,
- 2) curriculum vitae,
- 3) document certifying that they have obtained a Ph.D. degree in legal sciences,
- 4) documents certifying at least 5 years of employment or providing services referred to in Article 25 paragraph 2, at the working positions which are, respectively,

- a) related to applying the law and legislation,
- b) positions of a court referendary or a judge's assistant,
- 5) documents confirming at least 5 years of conducting business activities referred to in Article 25 paragraph 2 point 4,
- 6) original copy of the diploma of completion of higher legal studies in the Republic of Poland and obtaining a master's degree or completion of higher legal education abroad, if such education is recognised in the Republic of Poland, or an officially certified copy thereof,
- 7) information on no criminal record from the National Penal Register with a date not earlier than one month prior to filing the application,
- 8) 2 photographs.

5. The application shall be filed at the latest 45 days prior to the commencement of the legal counsel's examination. The provisions of Article 33<sup>3</sup> paragraph 4-9 shall apply accordingly.

6. Every year, however not later than until 31 March, the council of the regional chamber of legal counsels shall transmit a list of persons who completed the legal counsel's training to the territorially competent examination board.

#### **Article 36<sup>3</sup>.**

1. The candidate shall pay a fee relative to the participation in the legal counsel's examination which shall constitute an income of the state budget.

2. The Minister of Justice, upon seeking an opinion of the National Council of Legal Counsels shall determine, by way of an ordinance, the amount of the fee - not exceeding the equivalent of minimum remuneration for work – taking into account the need to conduct the legal counsel's examination in a correct and effective manner.

#### **Article 36<sup>4</sup>.**

1. During the written part of the legal counsel's examination the exam participant shall elaborate on four issues from various fields of law. Elaborating on an issue shall take the form of drafting a relevant procedural writ or an opinion on the basis of a court file. In this part of the examination a legal problem to be solved by the exam participant on the basis of the described case (casus) may be presented or the task may consist in drafting an administrative decision or an act of local law.

2. During the written part of the legal counsel's examination the exam participant may use the texts of legal acts, commentaries and case law. The exam participant may not possess any devices for transmitting or receiving information.

#### **Article 36<sup>5</sup>.**

1. From 0 to 30 points may be awarded for each topic elaborated on during the written part of the legal counsel's examination. The exam participant may obtain maximum 120 points from the written part. An exam participant who obtained at least 80 points shall receive a positive result of the written part of the legal counsel's examination.

2. The topics elaborated on by the exam participant during the written part of the legal counsel's examination shall be marked by two members of the examination board working independently. Each of them shall give a total mark in writing, including a number of points and the grounds for such a mark and shall transmit such a note to the chairman of the examination board. The number of points obtained by the exam participant in the written part of the examinations shall be equal to the average of marks awarded for the particular topics by the members of the examination board.

3. The chairman of the examination board shall keep the documents containing marks awarded by the members of the board.

#### **Article 36<sup>6</sup>.**

1. The exam participant who obtained a positive result in the written part of the legal counsel's examination shall take part in the oral part thereof. The provisions of Article 33<sup>8</sup> paragraph 3 shall apply accordingly.
2. In the oral part of the judge's exam the exam participant shall answer a randomly selected set of 19 questions.
3. The answers given by the exam participant shall receive separate marks attributed by each of the members of the examination board, ranging from 0 to 4 points, and awarding more than 4 points shall not be possible. The exam participant may obtain maximum 76 points for the oral part of the legal counsel's examination.
4. The members of the board shall immediately forward the marks attributed to the answers and referred to in paragraph 3 to the chairman of the examination board. The provisions of Article 36<sup>5</sup> paragraph 3 shall apply accordingly.
5. The examination board shall determine the number of points obtained by the particular exam participants during the oral part of the legal counsel's examination which shall constitute an arithmetical mean of the number of points awarded by each of the members of the board to a particular exam participant.

**Article 36<sup>7</sup>.**

A candidate who obtained at least 130 points in the written and oral part of the exam shall receive a positive result of the legal counsel's examination.

**Article 36<sup>8</sup>.**

1. Minutes of the legal counsel's examination shall be drafted immediately and signed by the members participating in the legal counsel's examination. Members of the board may propose their comments to the minutes.
2. The chairman of the examination board shall forward the minutes to the Minister of Justice within the deadline of 7 days from the day of drafting thereof.

**Article 36<sup>9</sup>.**

1. After the legal counsel's exam the examination board shall adopt a resolution determining the result obtained by an exam participant. The examination board shall publish the results of the legal counsel's examination.
2. *The resolution of the board concerning the result of the examination may be appealed against to the Minister of Justice.*
3. *The Minister of Justice shall notify the counsels of the regional chambers of legal counsels about the results of the legal counsel's examination and publish the list of persons who obtained positive results thereof in the Bulletin.*

**Paragraphs 2 and 3 do not conform to the provisions of the Constitution – judgement of the Constitutional Tribunal (Journal of Laws of 2006 No 206 item 1522); the said provisions shall cease to be valid on 31.12.2006.**

4. The resolution of the examination board on the positive result of the legal counsel's examination shall constitute a basis for issuing a resolution on entering the person in question into the register of legal counsels.

**Article 37.**

1. A trainee legal counsel may be removed from the register of trainee legal counsels:
  - 1) in the events referred to in Article 29 points 1, 3-6, applied accordingly.
  - 2) a failure to complete the legal counsel's training within the deadline referred to in Article 32 paragraph 2 without any justified reason.

2. The council of the regional chamber of legal counsels may remove a trainee legal counsel from the register of trainee legal counsels if it ascertains that the person in question is unfit for exercising the profession of a legal counsel.

3. The provisions of Article 31 shall apply accordingly to removing a trainee legal counsel from the register of trainee legal counsels.

**Article 38.**

1. The legal counsel's training shall be organised and conducted by regional chambers of legal counsels,

2. The bodies of the legal counsels' self-government shall cooperate in relation to issues concerning the organisation and conducting the legal counsel's training with the state administration bodies, courts, public prosecution offices and with organisational units.

3. Training for the trainee legal counsels may be organised jointly with the training for trainee attorneys at law.

4. A trainee legal counsel shall participate in the legal counsel's training under the supervision of a patron appointed by the council of the regional chamber of legal counsels.

5. The task of the patron consists in preparing the trainee legal counsel for exercising the profession of a legal counsel within the meaning of this Act.

**Article 39.**

(deleted).

**Chapter 5**

**Self-Government of Legal Counsels**

**Article 40.**

1. The self-government shall be independent in performing its tasks and shall be governed exclusively by the provisions of the law.

2. Affiliation with the self-government is mandatory for the legal counsels and trainee legal counsels.

**Article 41.**

The tasks of the self-government shall include in particular:

1) participation in ensuring adequate conditions for exercising the statutory tasks of legal counsels,

2) representing legal counsels and trainee legal counsels and protecting their professional interests,

3) cooperating in shaping and applying the law,

4) preparing the trainee legal counsels for due exercise of the profession of a legal counsel and in-service training of legal counsels,

5) supervision over due exercise of the profession by the legal counsels and trainee legal counsels,

6) running research on the operation of legal assistance,

**Article 42.**

1. The bodies of the self-government shall include: the National Convention of Legal Counsels, the National Council of Legal Counsels, the Higher Audit Committee, the Higher Disciplinary Court, the meeting of regional chamber of legal counsels, the council of the regional chamber of legal counsels, the regional audit committee and the regional disciplinary court.

2. Only legal counsels may be members of the self-government bodies.

**Article 43.**

1. The term of office of the self-government bodies shall last for three years but the existing bodies are obliged to act until the newly-elected bodies are constituted.
2. Members of the bodies may be recalled by the electing body.
3. The same function in the self-government bodies may not be exercised longer than during two consecutive terms of office.

**Article 44.**

Elections to the self-government bodies shall take place in secret voting and the number of candidates is unlimited.

**Article 45.**

The self-government bodies shall adopt resolutions in the presence of at least half of the members of the body in question.

**Article 46.**

The National Council of Legal Counsel shall present an annual information about the functioning of the self-government to the President of the Republic of Poland.

**Article 47.**

1. The self-government bodies shall send a copy of each resolution to the Minister of Justice within 21 days from the day when it was adopted.
2. The Minister of Justice shall request the Supreme Court to repeal the resolutions of the self-government bodies which do not conform to the provisions of the law within 3 months from the date of delivery thereof. Should the challenged resolution constitute a material breach of the law, this deadline shall be extended to 6 months. The court shall uphold the decision or repeal it and remand it for re-examination to the competent self-government body, specifying instructions relative to further handling of the case. A delayed complaint shall be left unheard by the Supreme Court.

**Article 48.**

The Minister of Justice may request the National Convention of Legal Counsels or the National Council of Legal Counsels to adopt a resolution in a specified case falling within the scope of competences of the self-government. The resolution of the National Council of Legal Counsels shall be adopted within the deadline of two months, and the resolution of the National Convention of Legal Counsels – during the next Convention.

**Article 49.**

1. Legal counsels and trainee legal counsels residing within the territory of a region shall constitute a regional chamber of legal counsels.
2. (deleted).
3. A resolution on establishing and the territory of operation of a regional chamber of legal counsels shall be adopted by the National Council of Legal Counsels, taking into account the basic territorial division of the country.

**Article 50.**

1. All legal counsels belonging to a specific chamber and trainee legal counsels (who will not be entitled to a voting right), shall participate in the meeting of the regional chamber of legal counsels.
2. Should the number of members of a regional chamber of legal counsels exceed 300, the meeting of the regional chamber of legal counsels shall be composed of delegates elected during meetings convened for the particular areas covered with the activities of a specific chamber.
3. The meeting of the regional chamber of legal counsels shall be convened once a year by the council of the regional chamber.
4. The competences of the meeting of the regional chamber of legal counsels shall include:

- 1) determining the number of members of the regional chamber of legal counsels,
- 2) electing the dean of the council of the regional chamber of legal counsels and other members of the council,
- 3) determining the number of members of the regional audit committee and the regional disciplinary court and electing such members,
- 4) determining the number of deputy disciplinary spokesmen and electing the disciplinary spokesman and deputy disciplinary spokesmen,
- 5) adopting a resolution on the budget of the regional chamber of legal counsels and granting approval to the reports of the council of the regional chamber of legal counsels on execution thereof as well as annual and periodical schedule of works of the regional council,
- 6) dividing the territory of operation of the regional chamber of legal counsels into areas referred to in paragraph 2 and determining the number of delegates to the meeting of the regional chamber of legal counsels corresponding to the particular areas,
- 7) dismissing the bodies of the regional chamber of legal counsels or the particular members of such bodies,
- 8) assessing the activities of the bodies of the regional chamber of legal counsels,
- 9) electing delegates to the National Convention of Legal Counsels,
- 10) electing a member of the National Council of Legal Counsels, referred to in Article 59 paragraph 1.

**Article 51.**

1. The extraordinary meeting of the regional chamber of legal counsels shall be convened by the council of the regional chamber of legal counsels:

- 1) on its own initiative,
- 2) at the request of the National Council of Legal Counsels,
- 3) at the request of its own presidium or the regional audit committee,
- 4) at the request of one-third of the members of the regional chamber of legal counsels,

2. The extraordinary meeting of a regional chamber shall be convened within 3 weeks from the day when a request to do so has been received.

**Article 52.**

1. The activities of the regional chamber of legal counsels shall be managed by the council of the regional chamber of legal counsels.

2. The presidium shall constitute the executive body of the regional chamber of legal counsels. The presidium shall be composed of a dean and deputy deans elected by the council, the secretary, the treasurer and members.

3. The scope of activities of the regional chamber of legal counsels shall include in particular:

- 1) representing professional interests of the members of the regional chamber of legal counsels,
- 2) in-service professional training of legal counsels,
- 3) supervision over due exercise of the profession by the legal counsels and trainee legal counsels,
- 4) filing applications with the registration or recording bodies relative to instigating proceedings for removing from the registers or records any entities which exercise their business activities in the field of legal assistance in the manner inconsistent with the provisions of this Act.
- 5) (deleted).

**Article 53.**

The scope of the activities of a regional audit committee shall include supervising the financial activities of the council of regional chamber of legal counsels.

**Article 54.**

1. The regional disciplinary court shall hear disciplinary cases of the members of the regional chamber of legal counsels filed by the disciplinary spokesman and appeals referred to in Article 66 paragraph 2.
2. The decisions of the regional disciplinary court are subject to appeal to the Higher Disciplinary Court.

**Article 55.**

Legal counsels and trainee legal counsels residing within the territory of a region shall constitute the National Chamber of Legal Counsels.

**Article 56.**

1. The National Convention of Legal Council shall be constituted by delegates elected by the meetings of regional chambers of legal counsels and the following persons who are not delegates, who shall perform an advisory role: members of the retiring National Council of Legal Counsels, President of the Higher Disciplinary Court, Chief Disciplinary Spokesman and the Chairman of the Higher Audit Committee.
2. The principles of carrying out the elections of candidates to the National Convention of Legal Counsels and the number of such delegates from the particular regional chambers of legal counsels shall be specified by the National Council of Legal Counsels.
3. The National Convention of Legal Counsels shall be convened by the National Council of Legal Counsels.

**Article 57.**

The tasks of the National Convention of Legal Counsels shall include:

- 1) electing the President of the National Council of Legal Counsels,
- 2) electing the members of the National Council of Legal Counsels, Higher Audit Committee, Higher Disciplinary Court, as well as the Chief Disciplinary Spokesman and his or her deputies.
- 3) adopting the directives for the activities of the self-government and the bodies thereof,
- 4) specifying the principles of carrying out the elections to the self-government bodies, the number of members of such bodies and the mode of dismissing them, as well as the principles of adopting resolutions by the self-government bodies,
- 5) (deleted).
- 6) examining and granting approval to the reports of the National Council of Legal Counsels, Higher Audit Committee, Higher Disciplinary Court, and the Chief Disciplinary Spokesman.
- 7) adopting the principles of ethics binding on the legal counsels,
- 8) determining basic principles of financial management of the self-government.

**Article 58.**

1. The Extraordinary National Convention of Legal Counsels shall be convened by the National Council of Legal Counsels.

- 1) on its own initiative,
  - 2) at the request of its own presidium or the Higher Audit Committee,
  - 3) at the request of at least one-third of the councils of the regional chambers of legal counsels,
2. The Extraordinary National Convention shall be convened within two months from the day when a request to do so has been received

**Article 59.**

1. The National Council of Legal Counsels shall be composed of the president and members elected by the National Convention of Legal Counsels and the members elected directly by the meetings of regional chambers, one per chamber.

2. The Presidium of the National Council of Legal Counsels shall be composed of the president and the deputies, the secretary, the treasurer and the members of the Presidium elected by the National Council.

3. The Presidium of the National Council of Legal Counsels shall constitute an executive body of the Council and shall report to it about its activities.

#### **Article 60.**

The scope of operation of the National Council of Legal Counsels includes:

1) representing the self-government in contacts with the courts, state and local government bodies, institutions and organisations,

2) expressing opinions about draft legal acts and presenting proposals relative to legal regulations,

3) coordinating the activities of regional chambers of legal counsels and exercising supervision over their activities,

4) adopting the budget of the National Council of Legal Counsels and granting approval to the reports on the execution thereof as well as examining motions filed by the Higher Audit Committee,

5) electing the President of the National Council of Legal Counsels and the Chief Disciplinary Spokesman if their term of office expired within the period between the National Conventions of Legal Counsels,

5a) electing the chairman of the National Team of Inspectors, his/her deputies and members of the Team,

6) examining appeals against the resolutions of regional chambers of legal counsels,

7) coordinating the in-service professional training of legal counsels,

8) adopting the following rules and regulations:

a) on the activities of the self-government and the bodies thereof,

b) on the scope, mode of operation and the principles of remuneration of inspectors,

c) *participating in the legal counsel's training.*

**letter c does not conform to the Constitution insofar as, due an amendment introduced by the Act of 30.06.2005 on Amending the Bar Act and Certain Other Acts the self-government of legal counsel was deprived of any influence on the determination of the principles of sitting a legal counsel's exam, adequate to the exercised care over adequate exercise of the profession of a legal counsel - judgement of the Constitutional Tribunal (Journal of Laws of 2006 No 206 item 1522); the said provision shall cease to be valid on 31.12.2006.**

d) on maintaining registers of legal counsels and trainee legal counsels,

e) on the principles of cooperation of a legal counsel with a foreign lawyer representing the client in the proceedings in which, pursuant to the binding procedures, it is required that a party be represented by an attorney at law or a legal counsel,

8a) repealing resolutions of the meeting of the regional chambers of legal counsels which are inconsistent with the law,

8b) (no longer in force),

9) establishing regional chambers of legal counsels, determining the number thereof and their territorial scope,

10) determining the principles of financial management of the self-government,

11) determining the amount of a membership fee and the principles of its distribution as well as the amount of fees relative to the decision on entering a specific person into the register of legal counsels and trainee legal counsels as well as handling fees,



11a) adopting resolutions on the principles of releasing trainee legal counsels from the duty to pay an annual fee in total or in part, as well as of the deferment of payment or spreading the payment out over a certain number of instalments,

12) performing the tasks specified in the Act on Providing Legal Assistance on the Territory of the Republic of Poland by Foreign Lawyers.

**Article 61.**

The scope of activities of a Higher Audit Committee shall include supervising the financial activities of the National Council of Legal Counsels.

**Article 62.**

1. The Higher Disciplinary Court shall examine the appeals from the decisions of the regional disciplinary courts.

2. The Higher Disciplinary Court shall examine, as a first-instance court, disciplinary cases of the members of the National Council of Legal Counsels and the councils of the regional chambers of legal counsels. Appeals against decisions issued in this mode shall be heard by the same court, by a different panel composed of five judges.

**Article 62<sup>1</sup>.**

A decision issued by the Higher Disciplinary Court in the second instance shall be delivered, together with the grounds for this decision, to the Parties, the Minister of Justice and the National Council of Legal Counsels.

**Article 62<sup>2</sup>.**

1. A decision issued by the Higher Disciplinary Court in the second instance may be subject to a cassation appeal lodged with the Supreme Court by the Parties, the Minister of Justice, the Ombudsman for Citizen Rights and the President of the National Council of Legal Counsels.

2. A decision against which a cassation appeal referred to in paragraph 1 may be lodged shall not be enforced until a cassation appeal is lodged or until the ineffective expiry of a deadline for lodging such an appeal.

**Article 62<sup>3</sup>.**

The cassation appeal may be filed because of a material breach of the law or a striking disproportion of a disciplinary penalty.

**Article 62<sup>4</sup>.**

The cassation appeal shall be lodged with the Supreme Court through the intermediary of a Higher Disciplinary Court within 30 days from the date of delivery of a decision with the grounds to this decision.

**Article 62<sup>5</sup>.**

1. The cassation appeal referred to in Article 62<sup>2</sup> paragraph 1 is not subject to a court fee.

2. The decision against which the cassation appeal has been lodged shall not be executed until the cassation appeal has been heard.

3. The Supreme Court shall examine the cassation appeal in a panel composed of three judges.

**Article 62<sup>6</sup>.**

(repealed).

**Article 63.**

The activities of the self-government shall be financed:

1) from contributions paid by the legal counsels and trainee legal counsels, from fees relative to the proceedings on entering new members into the register of legal counsels and trainee legal counsels and fines,

2) from income from other sources, and in particular from grants and subsidies as well as donations and inheritance.

## **Chapter 6 Disciplinary Liability**

### **Article 64.**

1. A legal counsel and a trainee legal counsel shall be subject to disciplinary liability:
  - 1) for intentional inadequate exercising of the profession of a legal counsel,
  - 2) for the acts which are contrary to the legal counsel's oath or the principles of ethics binding on a legal counsel.
- 1a. Legal counsels shall be subject to disciplinary liability also in the event of a failure to enter into the insurance agreement referred to in Article 22<sup>7</sup> paragraph 1, pursuant to the provisions issued on the basis of Article 22<sup>8</sup>.
2. Acts which constitute a breach relative to the working order and discipline specified in the Labour Code shall be excluded from the scope of disciplinary liability.

### **Article 65.**

1. The disciplinary penalties include:
  - 1) admonition,
  - 2) reprimand with a warning,
  - 3) suspending the right to exercise the profession of a legal counsel for the period ranging from three months to five years,
  - 3a) fine which is not lower than half of the average monthly wages in the national economy for the month preceding the date of pronouncing the disciplinary decision and not exceeding five times the amount of such remuneration,
  - 4) deprivation of the right to exercise the profession of a legal counsel, and in relation to trainee legal counsels - expelling from the training.
2. The penalty referred to in paragraph 1 point 3 shall not be applicable to a trainee legal counsel.
  - 2a. Next to the reprimand with a warning and a fine it shall also be possible to impose an additional penalty in the form of a ban on exercising patronage for the period ranging from one to five years.
  - 2b. Next to the penalty of suspending the right to exercise the profession of a legal counsel it shall also be possible to impose an additional penalty in the form of a ban on exercising patronage for the period ranging from two to ten years.
  - 2c. The penalty of deprivation of the right to exercise the profession of a legal counsel shall entail removing such a person from the register of legal counsels without the right to apply for a re-entry.
  - 2d. The penalty of expelling from the legal training entails removing such a person from the register of trainee legal counsels without the right to apply for a re-entry into the register of trainee legal counsels or into the register of legal counsels for the period of 10 years from the date when the decision of expelling from the legal training became final and binding.
3. (deleted).

### **Article 66.**

1. In the event of a minor offence the dean of the council of the regional chamber of legal counsel may limit the reaction to warning the legal counsel or the trainee legal counsel in question.
2. The legal counsel or trainee legal counsel shall be entitled to appeal against such a warning to the regional disciplinary court.
3. The decision of a regional disciplinary court relative to the appeal referred to in paragraph 2 shall be final.

**Article 67.**

1. Disciplinary proceedings relative to the same act shall be under way independently from penal proceedings or disciplinary proceedings instituted in the organisational unit in which specific provisions provide for such proceedings. However, disciplinary proceedings may be suspended until the closing of penal proceedings.
2. (repealed).

**Article 67<sup>1</sup>.**

The disciplinary proceedings shall include:

- 1) investigation, subject to the provisions of Article 681 paragraph 1a,
- 2) proceedings before the disciplinary court,
- 3) enforcement proceedings.

**Article 68.**

1. The parties to the disciplinary proceedings shall include the prosecutor, the defendant and the aggrieved party.
2. The role of the prosecutor in the proceedings before the regional disciplinary court shall be played by the disciplinary spokesman, and before the Higher Disciplinary Court – by the Chief Disciplinary Spokesman.
3. The role of the defendant shall be played by the legal counsel or trainee legal counsel against whom the disciplinary proceedings are under way.
4. The role of the aggrieved party shall be played by a person whose legal interests have been directly breached by the conduct of a legal counsel or a trainee legal counsel in the way specified in Article 64.

**Article 68<sup>1</sup>.**

1. The disciplinary proceedings shall be instituted, respectively, upon application of the disciplinary spokesman or the Chief Disciplinary Spokesman.
  - 1a. The Minister of Justice may order that an investigation or proceedings before the disciplinary court against a legal counsel or a trainee legal counsel be instigated.
  - 1b. In the case specified in Article 1a the Ministry of Justice shall have the rights of a party to the proceedings.
2. If a legal counsel provides legal assistance in any member state of the European Union or a member state of the European Free Trade Association (EFTA) being a party to the agreement on the European Economic Area pursuant to the provisions binding in this country and relative to providing legal assistance by lawyers from the European Union, the disciplinary court which instigated any disciplinary proceedings shall immediately notify thereof the competent body in the country in question by forwarding a copy of an application referred to in paragraph 1 to this body.

**Article 68<sup>2</sup>.**

The disciplinary spokesman shall submit to the Minister of Justice copies of the decisions on commencing the investigation and inform the Minister of Justice about filing a motion on instituting disciplinary proceedings or forwarding a motion for imposing a penalty to the dean of the council of the regional chamber of legal counsels.

**Article 69.**

In the event of death of the defendant prior to completion of the disciplinary proceedings, such proceedings shall be continued at the request of a spouse of the defendant, his or her relative within the first degree lineal consanguinity or his or her brother or sister made within two months from the day of the defendant's death.

Disciplinary proceedings may not be instigated if the period of three years from the day when the offence was committed expired, and in the case of events referred to in Article 11 paragraph 2 this deadline shall be equal to six months.

2. If, however, the act satisfies the criteria of a crime, disciplinary limitation of claims shall not take place earlier than the limitation of claims provided for in the penal legal act.

3. Disciplinary termination of claims shall be interrupted by every act of the disciplinary spokesman or the Chief Disciplinary Spokesman relative to the case.

3a. The punishability of a disciplinary offence expires after five years from the date of committing such an offence,

and in the event provided for in Article 11 paragraph 2 – after two years.

4. The defendant may employ a defender. The role of the defender may be played by a legal counsel or an attorney at law.

#### **Article 70<sup>1</sup>.**

The disciplinary court adjudicates in the panel of three judges.

#### **Article 70<sup>2</sup>.**

1. The case shall be heard by the regional disciplinary court at the regional chamber of legal counsels of which the defendant was member on the day when the disciplinary proceedings were instigated.

2. If an offence examined within the framework of one case was committed by two or more defendants entered into the register of legal counsels or trainee legal counsels who are members of different chambers, the disciplinary court within the region of which the offence was committed shall be competent to hear the case, and should this location be impossible to determine - the regional disciplinary court in the region of which the disciplinary proceedings were first started.

3. Disputes between courts on cognizance shall be settled by the Higher Disciplinary Court.

#### **Article 70<sup>3</sup>.**

The settlements made by a disciplinary court shall take the form of decisions or rulings.

A decision may be issued exclusively at a hearing.

#### **Article 70<sup>4</sup>.**

The decisions and rulings which end the proceedings shall be subject to appeal which may be filed by the parties or by the Minister of Justice within 14 days upon reception of a copy of the decision or ruling together with the grounds for such a decision or ruling and an instruction about the deadline and mode of making an appeal.

#### **Article 70<sup>5</sup>.**

The Minister of Justice and the persons he or she has authorised shall be at any time entitled to inspect the files and to request information about the results of the disciplinary proceedings as well as to request final and binding disciplinary decisions or rulings together with the files of the case.

#### **Article 70<sup>6</sup>.**

1. The costs of disciplinary proceedings shall include all expenses incurred in relation to such proceedings.

2. In the event of imposing a penalty the costs of the proceedings shall be borne by the defendant. In all other cases the costs of investigation and proceedings before the regional disciplinary court shall be covered by the competent regional chamber of legal counsels and the costs of proceedings before the Higher Disciplinary Court – by the National Chamber of Legal Counsels.

#### **Article 71.**

1. The disciplinary court shall immediately send a copy of a final and binding decision to the competent council of the regional chamber of legal counsels for execution and to the attention of the Minister of Justice and the National Council of Legal Counsels.
2. Execution of the disciplinary penalties, with the exception of penalties enumerated in Article 65 paragraph 1 point 3 and 4 shall constitute a duty of the dean of the regional chamber of legal counsels.
3. A copy of the final and binding decision on imposing a disciplinary penalty shall be attached to the personal files.
4. The penalties referred to in paragraph 65 paragraph 1 point 3 and 4 shall be notified to:
  - 1) the courts, 2) public prosecution offices,
  - 3) employers and other entities to which the legal counsel in question provides legal assistance,
  - 4) state and local government bodies competent due to the character of the cases handled by the legal counsel in question – within the area covered with the competences of a regional chamber of legal counsels in which the legal counsel of trainee legal counsel is entered into the register, and in the event of a legal counsel exercising the profession of an attorney at law – the regional bar council.
5. The note about a disciplinary penalty shall be removed ex officio after the expiry of:
  - 1) three years from the date when a disciplinary decision imposing a penalty of admonition, reprimand with a warning or a fine became final and binding,
  - 2) five years from the expiry of the period of suspension of the right to exercise the profession of a legal counsel if during this period the legal counsel in question was not subject to a penalty or if no disciplinary proceedings were instigated against him or her.
6. The note on imposing the penalty consisting in the ban to exercise the profession of a legal counsel and expelling from the legal counsel's training shall not be removed.
7. Once the disciplinary penalty is cancelled, the dean of the council of the regional chamber of legal counsels shall order that the note on imposing a disciplinary penalty be erased and that the documents relative to imposing the penalty be removed from the personal file.

**Article 72.**

(deleted).

**Article 73.**

The members of disciplinary courts, insofar as they adjudicated in disciplinary matters, shall be subject exclusively to the provisions of the law.

**Article 74.**

(repealed).

**Article 74<sup>1</sup>.**

All issues relative to disciplinary proceedings which are not covered by this Act shall be governed by the provisions of the Code of Civil Procedure applied accordingly.

**Chapter 7**

**Special, transitional and final provisions**

**Article 75.**

The service relationship and the rights and resulting duties of legal counsels and trainee legal counsels who are soldiers in active military services, Police offices, officers of the Internal Security Agency, the Intelligence Agency, the Military Counter-Intelligence Service, the Military Intelligence Service, the Central Anticorruption Bureau, the Boarder Guards, the National Fire

Service or Prison Service within the scope not covered by this Act shall be governed by the provisions of separate acts.

**Article 76.**

In the Act on the Structure of Law Courts (Journal of Laws of 1964 No 6 item 40, of 1967 No 13 item 55, of 1969 No 13 item 98, of 1974 No 50 item 316, of 1975 No 16 item 91, No 34 item 183 and of 1982 No 16 item 125), Article 51 § 1 shall be supplemented with letter h) worded as follows:

“h) persons who have exercised the profession of a legal counsel for at least three years”.

**Article 77.**

Legal counsels entered into the register of legal counsels on the date when this Act enters into force shall be ex officio entered into the register of legal counsels provided for in this Act.

**Article 78-83.**

(deleted).

**Article 84.**

This Act shall come into force on 1 October 1982.