

**MINISTRY OF LABOUR AND SOCIAL POLICY**

**Act of law**  
**of April 24 th 2003**

**on Public Benefit and**  
**Volunteer Work**

**Consolidated text,**  
**last amended on 22 January 2010**

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Łamanie i druk: ZWP MPiPS.

Prepared on the basis of:

Dz.U. of 2003: No. 96, item 873; of 2004: No. 64, item 593, No. 116, item 1203, No. 210, item 2135; of 2005: No. 155, item 1298, No. 169, item 1420, No. 175, item 1462, No. 249, item 2104; of 2006: No. 94, item 651; of 2008: No. 209, item 1316; of 2009: No. 19, item 100, No. 22, item 120, No. 157, item 1241; of 2010: No. 28, item 146.

**Act of law  
of 24 April 2003**

**on Public Benefit and Volunteer Work**

**Section I  
General provisions**

**Article 1.**

1. The Act regulates:
  - 1) public benefit work by non-governmental organisations in the area of public tasks and co-operation of public administration authorities with non-governmental organisations;
  - 2) acquiring a public benefit organisation status by non-governmental organisations, and operation of public benefit organisations;
  - 3) supervision to be exercised over public benefit work;
  - 4) establishing and operation of the Councils for Public Benefit Work.
2. The Act regulates also the conditions of services supply by volunteers and the use of their services.

**Article 2.**

Whenever the following terms are used in this Act:

- 1) “grant” – the term shall mean a grant as referred to in Article 127, para 1, subpara1, point (e) and in Article 221 of the Act of 27 August 2009 on Public Finance (Dz.U. No 157, item 1240);
- 2) “public funds” – the term shall mean public funds as referred to in the Act on Public Finance, allocated for public expenditure as set forth therein;

- 3) “volunteer” – the term shall mean a natural person who provides services voluntarily and without remuneration, under the provisions hereof;
- 4) “local initiative” – the term shall mean a form of co-operation of local self-government units with inhabitants to jointly effect a public task to the benefit of the local community.

### **Article 3.**

1. Public benefit work shall mean work performed to the benefit of society by non-governmental organisations in the area of public tasks as set out herein.
2. Non-governmental organisations are:
  - 1) entities which do not form part of the public finance sector as defined in the Act on Public Finance;
  - 2) which do not operate for profit – corporate and non-corporate entities, which according to separate legal provisions have capacity to perform acts in law, such as foundations and associations, subject to para 4.
3. Public benefit work may also be effected by:
  - 1) corporate entities and entities acting pursuant to provisions on relations between the State and the Catholic Church in the Republic of Poland, on relations between the State and other churches and religious unions, and on the guaranteed freedom of conscience and religion, should their statutory objectives encompass public benefit work;
  - 2) unions of local self-government units;
  - 3) social co-operatives;
  - 4) joint stock companies, limited liability companies, and sport clubs operating as companies under the provisions of the Act of 18 January 1996 on Physical Culture (Dz.U. of 2007, No 226, item 1675, as amended<sup>1</sup>), which: – do not operate for profit and allocate all of their profit to perform their statutory objectives, and they do not divide their profit between their members, shareholders, stockholders or employees;
    - 3a. The provisions of article 7 and articles 19b to 41i shall not apply to social co-operatives.
4. The provisions of Section II shall not apply to:
  - 1) political parties;
  - 2) trade unions and organisations of employers;
  - 3) professional self-governing authorities;
  - 4) (repealed);

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<sup>1</sup> The changes in the consolidated text of the said Act were published in Dz.U. of 2008 No 195, item 1200 and of 2009 No 62, item 504, No 97, item 801 and No 226, item 1809.

- 5) foundations formed by political parties;
- 6) (repealed).
5. Section II Chapter 2 provisions shall not apply to any work relating to patronage bestowed to the Polish community and Poles abroad, financed with the aid of budget funds in their part assigned to the Head of the Senate Chancellery.
6. (repealed).

#### **Article 4.**

1. The area of public tasks, referred to in article 3 para 1, shall comprise the tasks performed in the following fields:
  - 1) social assistance, including aid offered to disadvantaged families and individuals, and ensuring equal opportunities to such families and individuals;
  - 2) professional and social integration and reintegration of persons threatened with social exclusion;
  - 3) charity work;
  - 4) preserving national traditions; sustaining Polish identity and developing national, civic, and cultural awareness;
  - 5) work to support national and ethnic minorities and regional languages;
  - 6) protection and promotion of health;
  - 7) work to support the disabled;
  - 8) promoting employment and professional activation of the unemployed and individuals threatened with job loss;
  - 9) promoting equal rights of women and men;
  - 10) work to support the elderly;
  - 11) promotion of economic growth and entrepreneurship;
  - 12) promotion of development of new technologies, inventions and innovation, transfer and implementation of new technologies for companies;
  - 13) work to support the development of local communities;
  - 14) science, education, coaching, and upbringing;
  - 15) recreation of children and youth;
  - 16) culture, art, protection of culture and national heritage;
  - 17) promoting physical culture and sports;
  - 18) ecology, animal protection, protection of natural heritage;
  - 19) tourism and knowledge touring;
  - 20) public order and security;
  - 21) national defence and the activity of Armed Forces of the Republic of Poland;

- 22) promoting and protection of human and civil rights and freedoms, work to support the development of democracy;
  - 23) rescue systems and protection of residents;
  - 24) aid to victims of calamities, natural disasters, armed conflicts and warfare – in Poland and abroad;
  - 25) promoting and protecting consumer rights;
  - 26) work to support European integration, and the development of contacts and co-operation between societies;
  - 27) promoting and organising volunteership;
  - 28) aid extended to Poles and Polish community abroad;
  - 29) work to support the veterans and persons who have undergone State repression;
  - 30) promotion of the Republic of Poland abroad;
  - 31) work to support families, promote motherhood and parenthood; promote and protect the rights of children;
  - 32) prevention of addictions and social pathology;
  - 33) work to support non-governmental organisations and entities listed in article 3, para 3 active in the areas listed in subpara 1-32.
2. The Council of Ministers may define, by way of regulation, tasks different than those listed in para 1 as relevant to public interest, in recognition of their particular benefit for the society and providing that they can be performed by entities specified in Article 5 para 1 in a manner satisfactory for the needs of society.

#### **Article 5.**

1. Public administration authorities shall perform public tasks, referred to in Article 4, in co-operation with non-governmental organisations and entities listed in Article 3 para 3. Such organisations and entities shall effect public benefit works entrusted to public administration authorities to the extent entrusted to such authorities, and in territories supervised by the same authorities.
2. Such co-operation, referred to in para 1, may take on the following forms, in particular:
  - 1) entrusting non-governmental organisations and other entities specified in Article 3 para 3 with the performance of public tasks on terms specified herein;
  - 2) reciprocal feedback concerning all activities planned;
  - 3) consulting non-governmental organisations and other entities specified in Article 3 para 3 on draft normative acts in areas relating to their statutory activity;

- 4) consulting draft normative acts concerning public tasks, referred to in Article 4, with Councils for Public Benefit Work in areas where such Councils have been established by competent local self-government units;
  - 5) setting up joint advisory and initiative teams composed of representatives of non-governmental organisations and of other entities listed in Article 3 para 3, and of representatives of relevant public administration authorities;
  - 6) agreement on carrying out a local initiative under the terms herein;
  - 7) partnership agreements set out in the Act of 6 December 2006 on the Rules for Conducting Development Policy (Dz.U. of 2009 No 84, item 712 and No 157, item 1241).
3. Co-operation referred to in para 1 shall follow the principles of: subsidiarity, sovereignty of parties, partnership, efficiency, fair competition, and transparency.
  4. The process of commissioning the performance of public tasks, referred to in para 2 subpara 1, as tasks commissioned specified in Article 127 para 1 subpara 1 point (e), Article 151 para 1 and Article 221 of the Act of 27 August 2009 on Public Finance (Dz.U. No 157, item 1240) may take on the following forms:
    - 1) entrusting non-governmental organisations and other entities identified in Article 3 clause 3 with the performance of public tasks on terms specified herein;
    - 2) supporting the performance of public tasks and awarding a grant to co-finance their performance.
  5. The decision-making body of a local self-government unit shall define by way of resolution detailed procedure for consulting draft acts of local law with the Councils for Public Benefit Work or non-governmental organisations and entities referred to in Article 3 para 3 in the areas related to the statutory activity of these organisations.
  6. After consulting with non-governmental organisations and entities referred to in Article 3 para 3, a public administration authority may establish and manage organisational units having as their objective the activity referred in Article 4 para 1 subpara 3.
  7. The entity which manages a unit referred to in para 6 may also be a non-governmental organisation and entities referred to in Article 3 para 3.
  8. Local self-government units may grant loans, guarantees and sureties to non-governmental organisations and entities referred to in Article 3 para 3 for performance of public tasks, in conformity with the rules laid out in separate legal provisions.

### **Article 5a.**

1. The decision-making body of a local self-government unit shall adopt, following consultation with non-governmental organisations and entities referred to in Article 3 para 3 conducted pursuant to Article 5 para 5, the annual programme of co-operation with non-governmental organisations and entities referred to in Article 3 para 3. The annual programme of co-operation shall be adopted by 30 November of the year preceding the year in which the programme is to be implemented.
2. The decision-making body of a local self-government unit may adopt in accordance with para 1 the multi-annual programme of co-operation with non-governmental organisations and entities referred to in Article para 3.
3. The executive body of a local self-government unit shall submit the report on implementation of the co-operation programme in the preceding year to the decision-making body of the same authority, no later than by 30 April of each year.
4. The programme of co-operation with non-governmental organisations and entities listed in Article 3 para 3 shall comprise in particular:
  - 1) the principal objective and detailed objectives of the programme;
  - 2) the rules of co-operation;
  - 3) the scope of co-operation;
  - 4) the forms of co-operation referred to in Article 5 para 2;
  - 5) priority public tasks;
  - 6) the period of implementation of the programme;
  - 7) the method of implementation of the programme;
  - 8) the amount of funds earmarked for the implementation of the programme;
  - 9) the method of evaluation of the programme implementation;
  - 10) information on the method of programme drafting and the consultation process;
  - 11) the method of appointing and operation of tender boards to evaluate bids in open bid tenders.

### **Article 5b.**

1. A public administration authority may by way of regulation adopt, following consultation with non-governmental organisations and entities referred to in Article 3 para 3, the programme of co-operation with non-governmental organisations and entities referred to in Article 3 para 3.
2. Provisions of Article 5a para 1 sentence 2 and para 4 shall apply accordingly.



3. A public administration authority shall publish in the Public Information Bulletin the report on implementation of the co-operation programme in the preceding year, no later than by 30 April of each year.

## **Section II**

### **Public benefit work**

#### **Chapter 1**

#### **Paid and unpaid public benefit work**

##### **Article 6.**

Subject to provisions of Article 9 para 1, public benefit work shall not be recognised as business activity as described in the Act on Freedom of Business Activity, and may take on the form of paid or unpaid work.

##### **Article 7.**

Unpaid public benefit work shall consist in the performance of public tasks referred to in Article 4 by non-governmental organisations and other entities referred to in Article 3 para 3, for which no remunerations is charged.

##### **Article 8.**

1. Paid public benefit work shall consist in:
  - 1) the performance of public tasks referred to in Article 4 by non-governmental organisations and other entities identified in Article 3 para 3, for which remuneration is charged;
  - 2) the sales of commodities or services produced or provided by individuals directly availing of the results of public benefit work, in particular in such areas as rehabilitation and occupational coaching for the disabled, as well as professional or social reintegration of persons at risk of social exclusion and sales of donation proceeds.
2. Any income generated in paid public benefit work shall be used only to perform public tasks.

##### **Article 9.**

1. Paid public benefit work performed by non-governmental organisations and other entities identified in Article 3 para 3 shall be recognised as business activity, within the meaning of provisions of the Act on Freedom of Business Activity, provided that:

- 1) remuneration described in Article 8 para 1 for an activity of a given type exceeds the costs of such activity, or
- 2) average monthly remuneration paid to private individuals employed to perform statutory paid public benefit work in the last 3 months exceeds thrice the average monthly remuneration in the corporate sector, as announced by the President of the Central Statistical Office for the previous year.
  - 1a. A public administration authority which during a control establishes the circumstances referred to in para 1 shall request the non-governmental organisation and the entities referred to in Article 3 para 3 subpara 2 to 4 to submit application for entry of the specific activity into the register of entrepreneurs within 30 days from the date of the request.
  - 1b. If the non-governmental organisation and the entities referred to in Article 3 para 3 subpara 2 to 4 fail to demonstrate to the public administration authority that they have submitted application for entry of the specific activity into the register of entrepreneurs within the period specified in para 1a, the public administration authority shall notify the registry court competent for such organisation of the fact of pursuing business activity by this organisation. Provisions of Article 24 of the Act of 20 August 1997 on the National Court Register (Dz.U. of 2007 No. 168, item 1186, as amended<sup>2</sup>) shall apply accordingly.
2. The remuneration referred to in Article 1 para 2 shall mean remuneration for the performance of specific work or service, regardless of the manner of entering into employment relations, or of the form and content of an agreement under Civil Law with a private individual.
3. Paid public benefit work and business activity shall not be performed with regard to the same objects of activity.

#### **Article 10.**

1. Performance of:
  - 1) unpaid public benefit work;
  - 2) paid public benefit work, or
  - 3) business activity – by non-governmental organisations and other entities identified in Article 3 para 3 subpara 2-4 shall require such forms of

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<sup>2</sup> Amendments to the consolidated Act have been published in Dz.U. of 2008 No. 141, item 888 and of 2009 No. 18, item 97, No. 42, item 341, No. 53, item 434 and No. 157, item 1241.

activity to be managed separately in terms of accounting, in a manner and to an extent enabling a calculation of revenue, cost, and overall result of each activity, subject to accounting regulations.

2. Provisions of para 1 shall apply accordingly, should public benefit work be considered a separate organisational facility.
3. Non-governmental organisations and entities identified in Article 3 para 3 shall define the scope of unpaid or paid public benefit work in their statutes or in other internal regulations.

## **Chapter 2**

### **Performance of public benefit work upon public task commissioning**

#### **Article 11.**

1. Public administration authorities shall:
  - 1) provide support – in the field described in Article 4 – whenever public tasks are performed by non-governmental organisations and by entities, referred to in Article 3 para 3, performing statutory work in a specific area;
  - 2) entrust – in the field of public tasks referred to in Article 4 – the performance of public tasks to non-governmental organisations and entities referred to in Article 3 para 3, performing statutory work in a specific area.
2. The organisations and entities shall be supported or entrusted with tasks, as referred to in para 1, only after they are selected in an open bid tender, unless separate regulations provide for another course of commissioning.
  - 2a. Handling of the tender referred to in para 2 may be commissioned to non-governmental organisations or entities referred to in Article 3 para 3.
3. Non-governmental organisations and entities referred to in Article 3 para 3 shall be eligible to participate in the open bid tender referred to in para 2.
4. Selection of a bid for the performance of public tasks in the course referred to in para 2 or in any other course specified in separate provisions shall take place in the manner ensuring high quality of performance of a specific task.
5. The support and entrusting with tasks, referred to in para 1, may take place in accordance with the rules and procedure for public-private partnership or on the basis of international agreements, if non-refundable foreign resources are allocated to the performance of a specific public task.

### **Article 11a.**

In the event of a natural calamity, natural disaster or technical breakdown as defined in Article 3 para 1 of the Act of 18 April 2002 on the State of Natural Disasters (Dz. U. No. 62, item 558, as amended<sup>3</sup>), a public administration authority, in order to prevent their effects, may commission performance of a public task to non-governmental organisations and entities referred to in Article 3 para 3 without an open bid tender, both in Poland and abroad. Provisions of Articles 43, 47, 151 and 221 of the Act of 27 August 2009 on Public Finance shall apply accordingly.

### **Article 11b.**

Should it be necessary with regard to protection of human life or health or to material social interest, the President of the Council of Ministers may commission performance of a public task to non-governmental organisations and entities referred to in Article 3 para 3 without an open bid tender. Provisions of Articles 43, 47 and 151 of the Act of 27 August 2009 on Public Finance shall apply accordingly.

### **Article 11c.**

In cases relating to tasks related to population protection and life-saving, the Minister of the Interior may commission performance of a public task to specialised nationwide associations specified in Article 55 of the Act of 18 January 1996 on Physical Culture, to fire protection units referred to in Article 15 paras 6 and 7 of the Act of 24 August 1991 on Fire Protection (Dz.U. of 2009 No. 178, item 1380) and to Polish Red Cross, without an open bid tender. Provisions of Articles 43, 47 and 151 of the Act of 27 August 2009 on public finance shall apply accordingly.

### **Article 12.**

1. Non-governmental organisations and entities referred to in Article 3 para 3 may – upon their own initiative – submit an offer of performance of public tasks, including those formerly handled by other entities, public administration authorities included. The offer shall include in particular:
  - 1) description of the public task to be performed;
  - 2) estimated calculation of costs of performance of the public task.

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<sup>3</sup> Amendments to the Act have been published in Dz.U. of 2002 No. 74, item 676, of 2006 No. 50, item 360 and No. 191, item 1410, of 2007 No. 89, item 590 and of 2009 No. 11, item 59.

2. In the case described in para 1 and within a period no longer than 1 month from the receipt of the offer, the public administration authority shall:
  - 1) evaluate the relevance of having a specific task implemented by non-governmental organisations and other entities referred to in Article 3 para 3 in consideration of the following:
    - a) the extent to which the offer reflects public task priorities referred to in the programme of cooperation with non-governmental organisations and entities referred to in Article 3 para 3;
    - b) guaranteed high quality performance of a specific task;
    - c) funds available for the implementation of public tasks;
    - d) benefits stemming from the public task being completed by a non-governmental organisation or entity referred to in Article 3 para 3;
  - 2) notify relevant parties of the decision; should it transpire that the performance of a specific public task by an aforementioned entity is justified, the authority shall duly notify the bidder of the commissioning procedure for public tasks referred to in Article 11 para 2 and of the date of announcement of the open bid tender.

### **Article 13.**

1. The public administration authority intending to commission the performance of a public task to non-governmental organisations and other entities referred to in Article 3 para 3 shall announce an open bid tender. The deadline for submitting bids shall be at least 21 days after the date of publication of the last announcement referred to in para 3.
2. An open bid tender announcement shall contain the following information:
  - 1) the type of task concerned;
  - 2) the amount of public funds allocated for the performance of the specific task;
  - 3) rules of awarding grants;
  - 4) dates, terms and conditions of implementing the public task;
  - 5) deadline for submitting bids;
  - 6) date, course and criteria applied at the bid selection stage;
  - 7) public tasks of a similar type, including all relevant costs, completed by the public administration authority over the year when the open bid tender was announced and during the immediately preceding year, with particular attention paid to the amount of grants awarded to non-governmental organisations and to entities referred to in Article 3 para 3.
3. The open bid tender shall be announced:
  - 1) in the Public Information Bulletin;

- 2) at the premises of the public administration authority, at a location dedicated to such announcements;
- 3) on the website of the public administration authority.
4. The open bid tender may also be announced in a national, regional or local daily newspaper or weekly magazine, depending on the type of the public task.
5. The open bid tender for the performance of public tasks in the following year may be announced on the basis of draft budget act submitted to the decision-making body of a local self-government unit according to the rules specified in the Act on Public Finance.

#### **Article 14.**

1. The offer submitted in the manner described in Article 11 para 2 or Article 19a para 1 hereof shall specify in particular:
  - 1) a detailed scope of the public task proposed for implementation;
  - 2) date and location of public task completion;
  - 3) estimated calculation of all expected costs of completion of the public task;
  - 4) information about former activities related to the public task of non-governmental organisation or entities referred to in Article 3 para 3 which have submitted a bid;
  - 5) information on any and all financial and human resources available to the bidder to ensure completion of the task, including information on the planned amount of funds received from other sources for the performance of the task;
  - 6) declaration as to the intended charging for performing the task (paid or unpaid).
2. Two or more non-governmental organisations or entities referred to in Article 3 para 3, which are operating jointly, may submit a joint bid.
3. A joint bid shall specify:
  - 1) the activities carried out by individual non-governmental organisations or entities referred to in Article 3 para 3 to complete a public task;
  - 2) the manner of representation of the entities referred to in para 2 before the public administration authority.
4. An agreement concluded between non-governmental organisations or entities referred to in Article 3 para 3 which define the scope of their services provided to perform a public task shall be annexed to the agreement on supporting the performance of a public task or on commissioning the performance of a public task.

5. Non-governmental organisations or entities referred to in Article 3 para 3, which submit a joint bid, shall be jointly and severally liable for the commitments referred to in Article 16 para 1.

#### **Article 15.**

1. When considering the offers, the public administration authority shall:
  - 1) evaluate the capacity of non-governmental organisation or entities referred to in Article 3 para 3 to perform the public task concerned;
  - 2) evaluate the submitted calculation of costs of performance of the public task, including any and all references to the material scope of the task;
  - 3) evaluate the offered quality of task performance and qualifications of persons which are to participate in the performance of the public task on behalf of non-governmental organisation or entities referred to in Article 3 para 3;
  - 4) in the case referred to in Article 5 para 4 subpara 2, take into account the share of own funds or funds received from other sources for the performance of the public task planned by non-governmental organisation or entities referred to in Article 3 para 3;
  - 5) take into account the contribution in kind, contribution of work, including services of volunteers and voluntary work of members of organisation, planned by non-governmental organisation or entities referred to in Article 3 para 3;
  - 6) take into account the analysis and assessment of performance of the commissioned public tasks in the case of a non-governmental organisation or entities referred to in Article 3 para 3, which performed the commissioned public tasks in previous years, considering their reliability, timeliness and method of settlement of funds received for this purpose.
2. Provisions of para 1 shall also apply in a situation when only one bid has been submitted for an open bid tender.
  - 2a. The public administration authority announcing an open bid tender shall appoint a tender board in order to evaluate the submitted bids.
  - 2b. The tender board appointed by a body of local self-government unit shall be composed of representatives of its executive body.
  - 2c. The tender board appointed by a government body shall be composed of representatives of that body.
  - 2d. The tender board shall be composed of representatives of non-governmental organisations or entities referred to in Article 3 para 3, excluding

- representatives of the non-governmental organisations or entities referred to in Article 3 para 3 which participate in the tender.
- 2e. Persons having expertise in the field corresponding to the scope of the public tasks to which the tender refers may also participate in the works of the tender board as consultants.
  - 2f. Provisions of the Act of 14 June 1960 – Code of Administrative Procedure (Dz.U. of 2000 No. 98, item 1071, as amended<sup>4</sup>) governing exclusion of an employee shall apply to members of the tender board who participate in evaluation of bids.
  - 2g. More than one bid may be selected in an open bid tender.
  - 2h. Announcement of the results of an open bid tender shall include in particular:
    - 1) the name of the bidder;
    - 2) the name of the public task;
    - 3) the amount of the granted public funds.
  - 2i. Anyone may request justification of the approval or rejection of a bid.
  - 2j. The results of the open bid tender shall be announced immediately after the selection of the bid in the manner specified in Article 13 para 3.
3. (repealed).
  4. After the announcement of the results of the open bid tender, the public administration authority, without unnecessary delay, shall conclude agreements on supporting the performance of a public task or on commissioning the performance of a public task with selected non-governmental organisations or entities referred to in Article 3 para 3.

### **Article 16.**

1. By accepting the commission to perform a public task according to rules described in Article 11 para 2, non-governmental organisations and other entities referred to in Article 3 para 3, shall be obliged to perform the relevant task within a scope and under terms and conditions specified in the agreement on supporting the performance of a public task or on commissioning the performance of a public task drafted in recognition of Article 151 para 2 and Article 221 para 3 of the Act of 27 August 2009 on Public Finance and

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<sup>4</sup> Amendments to the consolidated text of the Act have been published in Dz. U. of 2001 No. 49, item 509, of 2002 No. 113, item 984, No. 153, item 1271 and No. 169, item 1387, of 2003 No. 130, item 1188 and No. 170, item 1660, of 2004 No. 162, item 1692, of 2005 No. 64, item 565, No. 78, item 682 and No. 181, item 1524, of 2008 No. 229, item 1539 and of 2009 No. 195, item 1501 and No. 216, item 1676.



all provisions hereof; the public administration authority shall concurrently be obliged to provide a grant for the completion of such task.

2. The agreement specified in para 1 shall be made in writing, or else declared null and void.
3. An agreement on supporting the performance of a public task or on commissioning the performance of a public task may be signed for the duration of task performance, or for a definite time no longer than 5 years.
4. The public task shall not be performed by any entity not being a party to the agreement on supporting the performance of a public task or on commissioning the performance of a public task, subject to para 7.
5. Non-governmental organisations and entities referred to in Article 3 para 3 shall be obliged to set up separate accounts in their bookkeeping ledgers to register funds received for execution of the agreement referred to in para 1. Provisions of Article 10 para 1 shall apply accordingly.
6. Should the public task be commissioned to non-governmental organisations and entities referred to in Article 3 para 3, which have submitted a joint bid, the rights and obligations of each organisation or entity, including the scope of their services under the performed task, shall be specified in the agreement on supporting the performance of a public task or on commissioning the performance of a public task.
7. Non-governmental organisations and entities referred to in Article 3 para 3, which have concluded the agreement referred to in para 1 with the public administration authority, may commission the performance of the public task to non-governmental organisations and entities, referred to in Article 3 para 3, not being parties to the agreement on supporting the performance of a public task or on commissioning the performance of a public task and selected in the manner ensuring transparency and fair competition.

#### **Article 17.**

The public administration authority commissioning the public task shall be responsible for monitoring and evaluating the task performance, in particular:

- 1) task performance progress;
- 2) effectiveness, reliability and quality of task performance;
- 3) due and proper manner of using public funds received for task performance;
- 4) all and any documentation kept as specified in statutory and contractual provisions.

### **Article 18.**

1. The performance report concerning the public task specified in the relevant agreement shall be drafted and submitted within 30 days following the date of completion of the public task.
2. The reporting period shall be the budget year.
3. During the budget year, the public administration authority may request submission of interim performance reports concerning the public task no earlier than 30 days from the date of delivery of the request.

### **Article 18a.**

1. The public administration authority shall cancel the open bid tender, if:
  - 1) no bid is submitted;
  - 2) none of the submitted bids meets the requirements specified in the announcement referred to in Article 13 para 2.
2. Information on cancelling an open bid tender shall be published by the public administration authority in the manner described in Article 13 para 3.

### **Article 19.**

The minister competent for social security shall specify by way of regulation:

- 1) a sample bid referred to in Article 11 para 2;
- 2) a sample framework agreement referred to in Article 16 para 1;
- 3) a sample report referred to in Article 18 para 1, taking into account the need to provide complete information about the performance of the public task.

### **Article 19a.**

1. Upon request of a non-governmental organisation or entity referred to in Article 3 para 3, the executive body of a local self-government unit may commission the performance of a local or regional public task to a non-governmental organisation or entity referred to in Article 3 para 3 without an open bid tender, provided the following conditions are met:
  - 1) the amount of co-financing or funding of the public task does not exceed PLN 10,000;
  - 2) the public task is to be performed within the period no longer 90 days.
2. In recognition of the relevance of commissioning the performance of the public task to a non-governmental organisation or entity referred to in Article 3 para 3, the executive body of a local self-government unit shall commission the performance of the task referred to in para 1 after a bid has been submitted by a non-governmental organisation or entity referred to in Article 3 para 3. Provisions of Article 14 shall apply accordingly.

3. Within the period no longer than 7 business days from the date of receipt of the bid, the executive body of a local self-government unit shall publish the bid for 7 days:
  - 1) in the Public Information Bulletin;
  - 2) at the premises of the body of a local self-government unit, at a location dedicated to such announcements;
  - 3) at the website of the body of a local self-government unit.
4. Within 7 days from the date of publication of the bid in the manner described in para 3, anyone may submit comments to the bid.
5. After the period referred to in para 4 and after consideration of comments, the executive body of a local self-government unit shall immediately conclude an agreement on supporting the performance of a public task or on commissioning the performance of a public task. The bid referred to in para 2 shall form an annex to the agreement.
6. Total amount of funds allocated by the executive body of a local self-government unit to a single non-governmental organisation or entity referred to in Article 3 para 3 in the manner described in para 1 in the same calendar year shall not exceed PLN 20,000.
7. The amount of funds allocated by the executive body of a local self-government unit in the manner described in para 1 shall not exceed 20% of the grants planned for performance of public tasks by non-governmental organisations and entities referred to in Article 3 para 3 in the budget year.
8. To agreements concluded in accordance with para 5, Articles 16 to 19 shall apply accordingly.

## **Chapter 2a**

### **Local initiative**

#### **Article 19b.**

1. As a local initiative, residents of a local self-government unit may submit, either directly or through non-governmental organisations or entities referred to in Article 3 para 3, an offer of the performance of a public task to the seat of the local self-government competent for their place of residence or business seat, with regard to:
  - 1) the activity referred to in Article 4 para 1 subpara 13, covering in particular the construction, development or repairs of roads, sewage systems, water supply networks, buildings and architectural objects owned by local self-government units;

- 2) the activity referred to in Article 4 para 1 subparas 3, 4, 5, 16 and 27;
  - 3) education, coaching and upbringing referred to in Article 4 para 1 subpara 14;
  - 4) the activity relating to physical culture and sports referred to in Article 4 para 1 subparas 17 and 19;
  - 5) environmental protection, including municipal and rural green areas, referred to in Article 4 para 1 subpara 18;
  - 6) public order and security referred to in Article 4 para 1 subpara 20.
2. The offer referred to in para 1 shall be recognised as an offer within the meaning of the Code of Administrative Procedure.

#### **Article 19c.**

1. The decision-making body of the local self-government unit shall define the procedure and detailed criteria for evaluation of offers of performance of public tasks of local initiative. Detailed evaluation criteria shall take into account above all the contribution of social work in the implementation of a local initiative.
2. When evaluating the offer, the executive body of the local self-government unit shall take into account detailed evaluation criteria and its relevance in terms of the needs of the local community.

#### **Article 19d.**

After approval of the offer referred to in Article 19b para 1, the executive body of the local self-government unit shall conclude an agreement on the implementation of a local initiative with the entity submitting the offer for a definite period.

#### **Article 19e.**

The commitment of the entity submitting the offer may consist in providing voluntary work, contribution in cash or in kind.

#### **Article 19f.**

The entity submitting the offer may receive, on the basis of a contract of lending for use, materials necessary for the implementation of the local initiative from the local self-government unit.

#### **Article 19g.**

In cooperation with the entity submitting the offer, the executive body of the local self-government unit shall prepare documents necessary for the implementation of the local initiative, including a schedule and a cost estimate.

### **Article 19h.**

The provisions of the agreement on the implementation of a local initiative not regulated herein shall be governed by the provisions of the Act of 23 April 1964 – the Civil Code (Dz.U. No. 16, item 93, as amended<sup>5</sup>).

## **Chapter 3 Public benefit organisations**

### **Article 20.**

1. Public benefit organisations shall include non-governmental organisations and entities referred to in Article 3 para 3 subparas 1 and 4, subject to Article 21, provided that they conform to all of the requirements listed below:
  - 1) they perform public benefit work to the benefit of the entire society or of a specific group of individuals provided that such group can be distinguished from the society due to difficult living conditions or financial situation;
  - 2) they may pursue business activity solely as an activity auxiliary to public benefit work;
  - 3) their income is allocated to the work referred in subpara 1;
  - 4) they have a statutory collegial audit or supervision body, separate from the management body and not reporting thereto in matters related to internal audit or supervision; concurrently, the members of such audit and supervision body:

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<sup>5</sup> Amendments to the Act have been published in Dz. U. of 1971 No. 27, item 252, of 1976 No. 19, item 122, of 1982 No. 11, item 81, No. 19, item 147 and No. 30, item 210, of 1984 No. 45, item 242, of 1985 No. 22, item 99, of 1989 No. 3, item 11, of 1990 No. 34, item 198, No. 55, item 321 and No. 79, item 464, of 1991 No. 107, item 464 and No. 115, item 496, of 1993 No. 17, item 78, of 1994 No. 27, item 96, No. 85, item 388 and No. 105, item 509, of 1995 No. 83, item 417, of 1996 No. 114, item 542, No. 139, item 646 and No. 149, item 703, of 1997 No. 43, item 272, No. 115, item 741 and No. 117, item 751, of 1998 No. 106, item 668 and No. 117, item 758, of 1999 No. 52, item 532, of 2000 No. 22, item 271, No. 74, item 855 and 857, No. 88, item 983 and No. 114, item 1191, of 2001 No. 11, item 91, No. 71, item 733, No. 130, item 1450 and No. 145, item 1638, of 2002 No. 113, item 984 and No. 141, item 1176, of 2003 No. 49, item 408, No. 60, item 535, No. 64, item 592 and No. 124, item 1151, of 2004 No. 91, item 870, No. 96, item 959, No. 162, item 1692, No. 172, item 1804 and No. 281, item 2783, of 2005 No. 48, item 462, No. 157, item 1316 and No. 172, item 1438, of 2006 No. 133, item 935 and No. 164, item 1166, of 2007 No. 80, item 538, No. 82, item 557 and No. 181, item 1287, of 2008 No. 116, item 731, No. 163, item 1012, No. 220, item 1425 and 1431 and No. 228, item 1506 and of 2009 No. 42, item 341, No. 79, item 662 and No. 131, item 1075.

- a) shall not be members of the management body; furthermore, they shall not be spouses, domestic partners, relations, next of kin, or employment subordinates of members of the management body;
  - b) shall not have been convicted by virtue of a final court judgement for any crime involving intentional fault or for a tax offence;
  - c) may, for the performance of duties in such a body, be reimbursed for any reasonably incurred costs, or be remunerated at a rate not exceeding the average monthly remuneration in the corporate sector announced for the previous year by the President of the Central Statistical Office;
- 5) members of the management body have not been convicted by virtue of a final court judgement for any crime involving intentional fault or for a tax offence;
- 6) the statutes or other internal documents of non-governmental organisations or entities referred to in Article 3 para 3 subparas 1 and 4, prohibit the following:
- a) granting loans or pledging the organisation's property to secure any financial liabilities of such organisation's members, members of management bodies, employees, or their spouses, domestic partners, next of kin or relations in lineal or collateral affinity thereto, or persons related to them on the basis of adoption, custody or guardianship, all of whom jointly referred to as "relatives";
  - b) the transfer of the organisation's property to its members, members of its management bodies, employees or their relatives under terms and conditions other than those applying to unrelated third parties, in particular should such transfer be free of charge or on preferential terms;
  - c) the use of the organisation's property to aid its members, members of its management bodies, employees or their relatives under terms and conditions other than those applying to unrelated third parties, unless such use stems directly from the statutory objectives referred to in Article 3 para 3 subparas 1 and 4;
  - d) the purchase of goods or services from entities with which such organisation's members, members of management bodies, employees or their relatives are involved, under terms and conditions other than those applying to unrelated third parties or at prices that are higher than market prices.
2. In the case of associations, the work referred to in para 1 subpara 1 shall not be performed solely to the benefit of members of such association.

### **Article 21.**

In the case of entities referred to in Article 3 para 3 subparas 1 and 4:

- 1) public benefit work defined in Article 20 para 1 subpara 1 shall be managed in a manner ensuring proper identification in organisational and accounting terms;
- 2) provisions of Article 20 para 1 subpara 3 shall apply to income generated in public benefit works;
- 3) provisions of Article 20 para 1 subpara 4 shall apply accordingly in recognition of detailed organisational and operational rules for such institutions, regulated in relevant provisions, including statutes or other internal documents.

### **Article 22.**

1. Non-governmental organisations and entities referred to in Article 3 para 3 subparas 1 and 4 may be granted a public benefit organisation status provided that the work referred to in Article 20 para 1 subpara 1 and para 2 has been performed continuously for at least 2 years.
2. Non-governmental organisations and entities referred to in Article 3 para 3 subpara 4 and entered into the National Court Register shall be granted a public benefit organisation status as of the entry of data proving conformity to requirements specified in Article 20 into the Register, under terms and conditions specified in the Act of 20 August 1997 on the National Court Register.
3. Non-governmental organisations other than that specified in para 2 hereto, and entities defined under Article 3 para 3 subpara 1, shall be granted a public benefit organisation status as of the date of entry into the National Court Register, on terms and conditions laid down in the Act referred to in para 1 hereto.
4. Non-governmental organisations and entities, referred to in para 2, listed in Article 3 para 3 subpara 4 herein shall lose their public benefit organisation status as of the date of deletion of data proving conformity to requirements specified under Article 20 hereto from the National Court Register, and entities referred to in para 3 hereto shall lose their public benefit organisation status as of the date of their deletion from the National Court Register.

### **Article 23.**

1. A public benefit organisation shall draft annual performance reports describing its activities, subject to separate legal provisions.

- 1a. Entities referred to in Article 3 para 3 subpara 1, which have a public benefit organisation status, shall draft performance reports relating to the separated public benefit work only and shall then make such report public in the manner enabling any stakeholders to gain access thereto.
2. A public benefit organisation shall draft annual financial statements, pursuant to the provisions of the general accounting regulations.
  - 2a. A public benefit organisation shall make the reports, referred to in paras 1 and 2, public in the manner enabling any stakeholders to gain access thereto, including publishing those reports on its website.
  - 2b. Entities referred to in Article 3 para 3 subpara 1, which have a public benefit organisation status, shall draft financial statements relating to the separated public benefit work only.
3. (repealed).
4. Regardless of any obligations arising from separate legal provisions, a public benefit organisation shall submit the report and statements to the minister competent for social security within 15 days from the date of approval of the annual financial statements.
5. With regard to public benefit organisations, the financial statements of which do not require auditing in accordance with accounting regulations, the minister competent for public finance, acting jointly with the minister competent for social security, may introduce such obligation by virtue of a regulation, in recognition of the following:
  - 1) the overall value of grants received;
  - 2) the overall amount of income generated;
  - 3) the need to ensure monitoring of bookkeeping integrity.
6. Within 15 days from the date of approval of the annual financial statements, a public benefit organisation shall publish the financial statements and performance report on the website of the office of the minister competent for social security.
7. To publication of annual financial statements of public benefit organisations, accounting regulations shall apply accordingly.
8. By way of regulation, the minister competent for social security shall specify the scope of the report referred to in para 1, including in particular main information on the public benefit work performed by the public benefit organisation during the reporting period and on disbursement of funds received as 1% of personal income tax, as well as a sample report allowing assessment of the level of implementation of statutory objectives by the public benefit organisation.



#### **Article 24.**

1. A public benefit organisation is eligible for an exemption from the following, in conformity with the rules laid out in separate legal provisions:
  - 1) the corporate income tax;
  - 2) the property tax;
  - 3) the tax on civil law transactions;
  - 4) the stamp duty;
  - 5) court fees in relation to public benefit work performed by such organisation.
2. A public benefit organisation may, on terms specified in separate legal provisions, gain the right to use property owned by the State Treasury or by local self-government units, on preferential terms.
3. Having gained a public benefit organisation status, a non-governmental organisation shall be required to fulfil all requirements stemming from tax exemptions that the same organisation enjoyed prior to having gained a public benefit organisation status, in conformity with the rules laid out in separate legal provisions.
4. Should a non-governmental organisation lose its public benefit organisation status, it shall lose the right to enjoy exemptions stemming from such status.
5. The right of property usufruct referred to in para 2 hereto shall expire under law, should an organisation lose its public benefit organisation status.

#### **Article 25.**

Conscripts dispatched for substitute military service shall have the right to work for a public benefit organisation, in conformity with the rules laid out in separate legal provisions.

#### **Article 26.**

Public radio and television facilities shall provide public benefit organisations with free of charge broadcasting time to inform the general public of their activities, in conformity with the rules laid out in separate legal provisions.

#### **Article 27.**

1. A personal income taxpayer may, in conformity with the rules laid out in separate legal provisions, donate 1% of the tax, calculated in accordance with separate provisions, to support personally selected public benefit organisations.
2. Funds received by public benefit organisations as 1% of personal income tax may be used solely for performance of public benefit work.

3. By 30 September of every year, the minister competent for public finance shall publish a list of public benefit organisations on the website of office of the minister, including the name of the public benefit organisation and its number of entry to the National Court Register, as well as the amount of funds received by that organisation as 1% of personal income tax for the previous year.

**Article 27a.**

1. The minister competent for social security shall keep an electronic list of organisations having public benefit organisation status as at 30 November of each fiscal year and which, in accordance with separate legal provisions, may receive 1% of personal income tax from personal income taxpayers on the basis of tax returns for the fiscal year, and shall publish the list on the website of the Public Information Bulletin no later than on 15 December of each fiscal year.
2. The list referred to in para 1 shall not include public benefit organisations:
  - 1) which failed to submit performance reports and financial statements referred to in Article 23 paras 1 and 2, in the year to which the tax return refers, to the minister competent for social security within the deadline specified in Article 23 para 4; or
  - 2) with regard to which information has been entered into the National Court Register concerning initiated liquidation or declaration of bankruptcy.
3. With regard to every public benefit organisation, the list referred to in para 1, as at:
  - 1) 15 December of the fiscal year shall include the name and seat, as well as the number of entry into the National Court Register;
  - 2) 15 March of the year following the fiscal year to which the tax return refers, apart from data listed in subpara 1, also the number of bank account for transferring 1% of tax on the basis of such return.
4. The Minister of Justice shall provide data referred to in para 3 subpara 1.
5. By 31 December of the tax year, the public benefit organisation may submit written reservations as to the correctness of data referred to in para 3 subpara 1 to the minister competent for social security.
6. The minister competent for public finance shall provide data relating to numbers of bank accounts referred to in para 3 subpara 2 on the basis of information collected by heads of tax offices competent for the organisations' seats.
7. By 15 January of the year following the fiscal year, the minister competent for social security shall include numbers of bank accounts submitted by the

minister competent for public finance and indicated by public benefit organisations in previous years as intended for transferring 1% of tax in the list referred to in para 1.

8. In the case when, as of 15 January of the year following the fiscal year, the list referred to in para 1 does not include the number of bank account or such number is inaccurate, the public benefit organisation shall be obliged to notify in writing the head of the tax office competent for the organisation's seat of the number of bank account for transferring 1% of tax by 31 January of the year following the fiscal year.
9. As of 15 January of the year following the fiscal year, the list referred to in para 1 shall include numbers of bank accounts completed with number of bank accounts referred to in para 8. By the end of February of the year following the fiscal year, public benefit organisations may submit written reservations as to the correctness of numbers of bank accounts included in the list as of 15 February of the year following the fiscal year to the head of the tax office competent for the organisations' seats.
10. Between 15 March and 31 July of the year following the fiscal year, numbers of bank accounts referred to in para 3 subpara 2 shall not be subject to changes, unless the number of bank account is changed for reasons other than those due to the public benefit organisation.
11. By way of ordinance, the minister competent for social security, acting jointly with the minister competent for public finance and with the Minister of Justice, shall define procedures, dates and formats of data exchange between the minister competent for social security, the Minister of Justice, the minister competent for public finance and tax authorities, with regard to the need to ensure effective implementation of tasks relating to creation of the list referred to in para 1 and to transferring funds from 1% of personal income tax to public benefit organisations.

#### **Article 27b.**

1. A member of the management body, audit body or supervision body of a public benefit organisation and liquidator of a public benefit organisation shall be liable towards such organisation for damages caused by action or negligence that is contrary to legal provisions or to the statutes of the public benefit organisation, unless they are not at fault.
2. A member of the management body, audit body or supervision body of a public benefit organisation and liquidator of a public benefit organisation shall exercise due diligence resulting from the professional nature of their activities when performing their duties.

3. A member of the management body, audit body or supervision body of a public benefit organisation and liquidator of a public benefit organisation, who perform their duties to the benefit of the society, shall exercise due diligence when performing such duties.
4. Should the damage referred to in para 1 be caused jointly by several persons, those persons shall be jointly and severally liable for that damage.

## **Chapter 4 Supervision**

### **Article 28.**

1. Operations of a public benefit organisation shall be supervised by the minister responsible for social security, with respect to rights, responsibilities and requirements set out in Articles 8-10, Article 20, Article 21, Article 23, Articles 24-27 and Article 42-48.
2. (repealed).

### **Article 29.**

1. A public benefit organisation shall be subject to supervision by the minister responsible for social security within the scope defined in Article 28 para 1.
2. An audit procedure shall be announced *ex officio* by the minister responsible for social security, or upon request by a public administration authority, a non-governmental organisation or entities listed in Article 3 para 3.
3. The competent minister for social security may have the audit procedure carried out by:
  - 1) the minister responsible for the operations of public benefit organisations, provided that this has been agreed with them;
  - 2) a Voivode.
4. The audit procedure shall be carried out by individuals granted a personal authorisation by the competent minister for social security which shall determine the public benefit organisation to be audited and the legal basis for the audit. If the audit procedure is conferred to one of the authorities, referred to in para 3, the written authorisation shall be issued by this authority.

### **Article 30.**

1. Individuals authorised to perform audits shall be authorised to enter the site of a property, or its part, housing operations of a public benefit organisation, and to demand oral or written clarification, documents or other infor-

mation carriers for inspection, and any other data relating to the subject of the audit.

2. Any audit work referred to in para 1 shall be performed in the presence of a member or representative of the management body, or of an employee of the public benefit organisation audited. Should such individuals be absent, audit work shall be held in the presence of a duly summoned witness.

### **Article 31.**

1. Following an audit, a relevant post-audit report shall be drafted, to be signed by individuals performing the audit and by a member of the management body authorised to represent the public benefit organisation audited, or by an individual duly authorised thereby. The manager of the public benefit organisation or the duly authorised individual shall not refuse to sign the post-audit report without justification. In case of refusal, the report shall be considered signed as of the date of such refusal.
2. A member of the management body authorised to represent the public benefit organisation audited may, within 14 days as of the date of signing the report, offer clarification in writing, or file objections as to the content of the post-audit report.
3. Upon having considered objections referred to in para 2, individuals responsible for the audit shall submit a written statement to the member of the management body of the public benefit organisation authorised to represent it, or a person authorised thereby, within 14 days.
4. After the audit, the individuals performing the audit shall draft the post-audit findings, within the deadline referred to in para 3.

### **Article 32.**

The final audit findings shall contain a description of the *status quo* found in the course of the audit, inclusive of any irregularities disclosed, in recognition of reasons for their arising, the scope and results of such irregularities and the individuals responsible for these as well as the deadline for their removal, no earlier than within 30 days of the submission of post-audit findings.

### **Article 33.**

1. After the end of the audit, the minister responsible for social security shall submit post-audit findings to the public benefit organisation within 14 days. In case of conferring the audit, the authorities, referred to in Article 29 para 3 submit the findings to the public benefit organisation and the minister responsible for social security.

2. The minister responsible for social security applies to the court of registration to delete information, referred to in Article 22 para 2, or to delete an organisation referred to in Article 22 para 3 from the National Court Register in the event of:
  - 1) failure to remove irregularities defined in the post-audit findings or refusal to be subject to the audit by the public benefit organisation;
  - 2) a serious breach of the law revealed in the course of the audit, referred to in Article 29.
3. Should the audit reveal that a public benefit organisation fails to conform to requirements specified in Article 20 and Article 21, respectively, the minister responsible for social security shall apply to the court of registration to delete information, referred to in Article 22 para 2 or to delist an organisation, referred to in Article 22 para 3 from the National Court Register.
4. Should a public benefit organisation or information referred to under Article 22 para 1 be delisted or deleted from the National Court Register, such organisation shall be obliged to make use of the funds raised from 1% of the personal income tax, referred to in Article 27 para 1, for the purpose of its own statutory objectives, within 3 months of losing the status of a public benefit organisation.
5. Any funds not used in the manner and within the time specified in para 4 hereto shall be immediately transferred by a non-governmental organisation or entities referred to in Article 3 para 3 subpara 1 and 4, to an organisation with identical or similar statutory objectives, or to a public benefit organisation indicated by the minister responsible for social security, following receipt of an opinion by the Council for Public Benefit Work. Such transfer shall not be recognised as a donation as laid out in separate legal provisions.

### **Article 33a.**

1. In the event of:
  - 1) a breach of obligations, referred to in Article 23, and in particular, failure to submit or publish financial statements or a content report or when the reports or statements submitted are incomplete or cast doubts as to the operations of the public benefit organisation, the minister responsible for social security shall demand that the public benefit organisation cease the breaches and present relevant clarifications;
  - 2) the organisation failing to comply with the request within 30 days of its receipt, the minister responsible for social security shall request the court of registration to delete the information, referred to in Article 22 para 3, or to delist the organisation referred to in Article 22 para 3.

2. The provision in para 1 shall also apply in the event of:
  - 1) failure to submit a report on the results of public fund-raising and the use of the funds collected, to the authority which granted a license for public fund-raising, or failure to publish the results of public fund-raising and information on the use of the funds collected, in accordance with the press law, in the press reaching at least the area in which the fund-raising activities were performed;
  - 2) failure to submit information on settlement of the funds derived from public fund-raising or information on the donations received, referred to in Act of 15 February 1992 on Income Tax of Legal Persons (Dz.U. of 2000 No 54, item 654, as amended<sup>6</sup>);
  - 3) running:
    - a) organisations providing 24-hour care for disabled, chronically ill or elderly persons, a social integration centre, welfare homes, special education centres, defined in the Act of 12 March 2004 on Social Assistance (Dz.U. of 2009 No 175, item 1362, No 202, item 1551, No 219, item 1706 and No 221, item 1738) and state schools and public organisations defined in the Act of 7 September 1991 on the Education System (Dz.U. of 2004 No 256, item 2572, as amended<sup>7</sup>), without being authorised to do so;

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<sup>6</sup> Amendments to the consolidated text of the present Act have been published in Dz. U. of 2000 No 60, item 700 and 703, No 86, item 958, No 103, item 1100, No 117, item 1228 and No 122, item 1315 and 1324, of 2001 No 106, item 1150, No 110, item 1190 and No 125, item 1363, of 2002 No 25, item 253, No 74, item 676, No 93, item 820, No 141, item 1179, No 169, item 1384, No 199, item 1672, No 200, item 1684 and No 230, item 1922, of 2003 No 7, item 79, No 45, item 391, No 96, item 874, No 137, item 1302, No 180, item 1759, No 202, item 1957, No 217, item 2124 and No 223, item 2218, of 2004 No 6, item 39, No 29, item 257, No 54, item 535, No 93, item 894, No 116, item 1203, No 121, item 1262, No 123, item 1291, No 146, item 1546, No 171, item 1800, No 210, item 2135 and No 254, item 2533, of 2005 No 25, item 202, No 57, item 491, No 78, item 684, No 143, item 1199, No 155, item 1298, No 169, item 1419 and 1420, No 179, item 1484, No 180, item 1495 and No 183, item 1538, of 2006 No 94, item 651, No 107, item 723, No 136, item 970, No 157, item 1119, No 183, item 1353, No 217, item 1589 and No 251, item 1847, of 2007 No 165, item 1169, No 171, item 1208 and No 176, item 1238, of 2008 No 141, item 888 and No 209, item 1316 of 2009 No 3, item 11, No 19, item 100, No 42, item 341, No 65, item 545, No 69, item 587, No 79, item 666, No 125, item 1035, No 127, item 1052, No 157, item 241, No 165, item 1316 and No 215, item 1664

<sup>7</sup> Amendments to the consolidated text of the present Act have been published in Dz. U. of 2004 No 273, item 2703 and No 281, item 2781, of 2005 No 17, item 141, No 94, item 788, No 122, item 1020, No 131, item 1091, No 167, item 1400 and No 249, item 2104, of 2006 No 144, item 1043, No 208, item 1532 and No 227, item 1658, of 2007 No 42, item 273, No 80, item 542, No 115, item 791, No 120, item 818, No 180, item 1280 and No 181, item 1292, of 2008 No 70, item 416, No 145, item 917, No 216, item 1370 and No 235, item 1618 and of 2009 No 6, item 33, No 33, item 206, No 56, item 458, No 157, item 1241 and No 219, item 1705.

- b) private healthcare institutions without having it entered into the register specified in Act of 30 August 1991 on Healthcare Institutions (Dz.U. of 2007 No 14, item 89, as amended<sup>8</sup>).
3. In the event of a recurring use of donation for purposes other than those defined by a decision of public administration authority or a legally binding court judgment, the minister responsible for social security may request the court of registration to delete the information, referred to in Article 22 para 2, or to delist the organisation, referred to in Article 22 para 3.

#### **Article 33b.**

The minister responsible for social security shall determine, by way of regulation, the detailed terms and conditions as well as the manner and mode of carrying out audits of public benefit organisations, including the template of an authorisation for conducting the audit, taking into account the necessity of ensuring efficiency and effectiveness of the process.

#### **Article 34.**

1. Public Finances Act provisions shall apply as appropriate to the process of supervising and controlling public funds expenditure for any matter unregulated herein.
2. Provisions of para 1 of Article 28 and Articles 30-33b do not preclude the application of separate legal provisions concerning audits, or supervision rights of other authorities.

### **Chapter 5 Council for Public Benefit Work**

#### **Article 35.**

1. The Council for Public Benefit Work, hereinafter referred to as “the Council”, shall hereby be formed as a counselling and opinion body to the minister competent for social security.
2. The Council’s tasks shall include in particular:
  - 1) issuing opinions on issues pertaining to the application hereof;

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<sup>8</sup> Amendments to the consolidated text of the present Act have been published in Dz. U. of 2007 No 123, item 849, No 166, item 1172, No 176, item 1240 and No 181, item 1290, of 2008 No 171, item 1056 and No 234, item 1570 and of 2009 No 19, item 100, No 76, item 641, No 98, item 817, No 157, item 1241 and No 219, item 1707.



- 2) issuing opinions on draft laws and governmental programmes concerning the non-governmental organisations' activity, and public benefit and volunteer work;
  - 3) offering assistance and issuing opinions in case of any dispute between public administration authorities and non-governmental organisations, or the entities referred to in Article 3 para 3, in the field of public benefit work;
  - 4) collecting and analysing information on the performed inspections and their results;
  - 5) issuing opinions on matters concerning public tasks, on the process of commissioning such tasks to be performed by non-governmental organisations or other entities referred to in Article 3 para 3 hereof, and on recommended public task performance standards;
  - 6) establishing – in co-operation with non-governmental organisations and other entities referred to in Article 3 para 3 hereof – mechanisms to distribute information on public benefit work standards, and on disclosed cases of such standards being violated;
  - 7) designating candidates for the members of the National Health Fund Council and for the Board of the voivodeship branch of the National Health Fund, appointed in accordance with the rules and the manner set forth in provisions on health care services financed from public funds.
3. The Council shall have a three-year term of office. The Council Member shall not perform their duties for a period longer than two subsequent terms.
  4. The Council shall issue an opinion within the period of 30 days from the date on which draft laws or government programmes concerning the non-governmental organisations' activity and public benefit and volunteer work were submitted. The non-issuance of the opinion within the specified time frame shall mean resigning of the right to its issuance.

### **Article 36.**

1. The Council shall consist of:
  - 1) five representatives of governmental administration authorities, and of units supervised by or reporting to such authorities;
  - 2) five representatives of local government authorities;
  - 3) ten representatives of non-governmental organisations, non-governmental organisations' unions and/or associations, and entities referred to Article 3 para 3.
2. The minister responsible for social security shall appoint and dismiss the Council members; notwithstanding the above, Council members representing:

- 1) non-governmental organisations, non-governmental organisations' unions and/or associations, and entities referred to in Article 3 para 3 hereof shall be selected from among candidates nominated by those organisations, each of whom is supported by at least 20 non-governmental organisations or entities referred to in Article 3 para 3, or by at least 3 unions and/or associations of non-governmental organisations or entities referred to in Article 3 para 3;
  - 2) governmental administration authorities and units supervised by or reporting to such authorities ; representatives of these authorities shall be selected from among candidates nominated by these authorities and by managers of relevant units;
  - 3) local government authorities; representatives of local authorities shall be selected from among candidates nominated by local government authorities in the Joint Central and Local Government Committee.
3. The minister responsible for social security shall dismiss a Council Member prior to the expiry of the assigned term of office:
- 1) upon his or her motion;
  - 2) upon the motion of an entity referred to in para 2 and represented by that Member;
  - 3) should such Council Member be convicted by virtue of a final court judgement for a crime involving intentional fault;
  - 4) should he or she become permanently unable to perform the duties of a Council Member due to sickness confirmed by a medical certificate;
  - 5) in case of unauthorised absence at three subsequent sessions of the Council.

#### **Article 37.**

Council sessions shall be called by the minister responsible for social security, or upon the motion of at least one-quarter of all Council members.

#### **Article 38.**

The Council shall have the right to:

- 1) appoint experts;
- 2) invite representatives of public administration, local government, and of non-governmental organisations and other entities referred to in Article 3 para 3 not represented on the Council, to attend their sessions, as well as the representatives of Voivodeship, Poviats and Gmina Councils;

- 3) commission research and expert opinions relating to the implementation of the Council's tasks.

#### **Article 39.**

1. Costs of Council activities relating to the overall service, research, and expert opinions, as well as to the participation of experts, Council members, and persons not being the members of the Council in the Council sessions, shall be covered from the part of the budget handled by the minister responsible for social security.
2. Participants in Council work shall be eligible to receive *per diems* and travel expense reimbursement under the provisions of Article 775 § 2 of the Labour Code.
3. An employer shall be obliged to grant leave to an employee being a Council Member in order to enable that employee to attend Council sessions. For the time taken off, the employee shall retain the right to remuneration calculated according to the rules applying to the monetary equivalent due for holiday leave, to be covered from the part of the budget handled by the minister responsible for social security.

#### **Article 40.**

The minister competent for social security shall specify by way of regulation:

- 1) the course and manner of Council Member appointment in recognition of the need to ensure proper representation of non-governmental organisations and other entities specified in Article 3 para 3, and of the diversity of public benefit works, and taking into consideration the time frame for the nomination of Council member candidates;
- 2) the organisation and course of Council works, and the rules of participation in Council work of representatives of public administration authorities, of non-governmental organisations, and of other entities referred to in Article 3 para 3 not represented in the Council.

#### **Article 40a.**

The Council, at the end of its term, shall present the minister responsible for social security with a report on its activity.

#### **Article 41.**

The office responsible for providing administrative and office services to the minister responsible for social security shall also provide administrative and office services to the Council.

**Chapter 6**  
**The Voivodeship, Powiate and Gmina**  
**Councils for Public Benefit Work**

**Article 41a.**

1. Upon a joint request of at least 50 non-governmental organisations or entities referred to in Article 3 para 3, active in the territory of a voivodeship, the Marshal of the Voivodeship may establish the Voivodeship Council for Public Benefit Work, acting as a counselling and opinion body, hereinafter referred to as “The Voivodeship Council.”
2. The tasks of the Voivodeship Council shall include in particular:
  - 1) issuing opinion on matters pertaining to the activity of non-governmental organisations and entities referred to in Article 3 para 3, including cooperation programmes with non-governmental organisations and other entities defined in Article 3 para 3;
  - 2) issuing opinion on draft resolutions and draft acts of local law on public tasks, referred to in Article 4;
  - 3) offering assistance and issuing opinions in case of any dispute between public administration authorities and non-governmental organisations, or the entities defined in Article 3 para 3;
  - 4) issuing opinion on matters concerning public tasks, on the process of commissioning such tasks to be performed by non-governmental organisations or other entities defined in Article 3 para 3 hereof, and on recommended public task performance standards;
  - 5) issuing opinion on the projects of the development strategy for the voivodeship.
3. The Voivodeship Council shall have 30 days from the date of submitting, respectively, the cooperation programme and the voivodeship development strategy to issue its opinion. Not issuing the opinion within the specified time frame shall mean waiving the right to issue such opinion.
4. The term of office of a Voivodeship Council shall be two years.

**Article 41b.**

1. The Voivodeship Council shall be composed of:
  - 1) representative of the Voivode;
  - 2) representatives of the Marshal of the Voivodeship;
  - 3) representatives of the Sejmik of the Voivodeship;
  - 4) representatives of non-governmental organisations and entities referred to in Article 3 para 3, conducting activity on the territory of the voivodeship.

2. Representatives of non-governmental organisations and entities referred to in Article 3 para 3, conducting activity on the territory of the voivodeship, shall form at least one half of the Voivodeship Council.
3. Members of the Voivodeship Council shall be appointed and recalled by the Marshal of the Voivodeship, whereas members of the Voivodeship Council representing non-governmental organisations and entities referred to in Article 3 para 3 shall be appointed from among candidates proposed by those organisations or entities.
4. By way of resolution, the managing authority of the voivodeship shall define the procedure for appointing members of the Voivodeship Council, taking into account the need to ensure that non-governmental organisations and entities referred to in Article 3 para 3 are represented with regard to legal forms and types of public benefit work performed by such organisations and entities, as well as the dates and method of proposing candidates for members of the Voivodeship Council.
5. The Marshal of the Voivodeship may recall a member of the Voivodeship Council before the end of the term of office of such member:
  - 1) upon his or her request;
  - 2) upon request of the entity referred to in para 1 subparas 1 and 4;
  - 3) should such Voivodeship Council member be convicted by virtue of a final court judgement for a crime involving intentional fault;
  - 4) should he or she become permanently unable to perform the duties of a Voivodeship Council member due to sickness confirmed by a medical certificate;
  - 5) in case of unauthorised absence at three subsequent meetings of the Voivodeship Council.
6. By way of resolution, the managing authority of the voivodeship shall define organisation and operating procedure of the Voivodeship Council, taking into account the need to ensure effective functioning of the Voivodeship Council.
7. The managing authority of the voivodeship shall cover the costs of transport of Voivodeship Council members on terms and conditions specified in regulations issued on the basis of Article 775 para 2 of the Act of 26 June 1974 – Labour Code, as well as the costs of experts’ opinions related to performance of tasks of the Voivodeship Council.

#### **Article 41c.**

1. Debates of the Voivodeship Council shall take place during meetings.
2. Resolutions of the Voivodeship Council shall be adopted by simple majority of votes with at least one half of members of the Voivodeship Council present.

#### **Article 41d.**

The provisions of Articles 37 and 38 shall apply accordingly to the Voivodeship Council, whereas the powers of the minister competent for social security shall be vested in the Marshal of the Voivodeship.

#### **Article 41e.**

1. A Poviatic or a Gmina Council for Public Benefit Work, hereinafter referred to as the "Poviat Council" and the "Gmina Council" respectively, may be established as a consultation and advisory body in a poviat or in a gmina respectively.
2. A Poviat Council or a Gmina Council may be established by the executive body of the competent local self-government unit upon request of non-governmental organisations and entities referred to in Article 3 para 3 conducting activity on the territory of poviat or gmina respectively.
3. The term of office of the Poviat Council and of the Gmina Council shall count 2 years.

#### **Article 41f.**

The Poviat Council and the Gmina Council shall be composed of:

- 1) representatives of the decision-making body of the poviat or gmina respectively;
- 2) representatives of the executive body of the poviat or gmina respectively;
- 3) representatives of non-governmental organisations and entities referred to in Article 3 para 3, conducting activity on the territory of the poviat or gmina respectively and forming at least one half of Council members.

#### **Article 41g.**

By way of resolution, the decision-making body of the poviat or gmina respectively shall define the procedure for appointing members of the Poviat or Gmina Council respectively, taking into account the need to ensure that non-governmental organisations and entities referred to in Article 3 para 3 are represented, as well as the dates and method of proposing candidates for members of the Poviat or Gmina Council respectively and the need to ensure effective functioning of those Councils.

#### **Article 41h.**

The Voivodeship Council, the Poviat Council and the Gmina Council shall cooperate on principles of partnership and sovereignty of parties, in particular by means of mutual informing about the planned activities.

### **Article 41i.**

1. The tasks of the Poviats Council and Gmina Council shall include in particular:
  - 1) issuing opinions on draft development strategies for poviats or gminas respectively;
  - 2) issuing opinion on drafts of the resolutions and acts of local law concerning public tasks, referred to in Article 4, as well as cooperation with non-governmental organisations and entities referred to in Article 3 para 3, including programmes of cooperation with non-governmental organisations and entities referred to in Article 3 para 3;
  - 3) issuing opinion on matters pertaining to the activity of non-governmental organisations and entities referred to in Article 3 para 3;
  - 4) offering assistance and issuing opinions in case of any dispute between public administration authorities and non-governmental organisations, or the entities defined in Article 3 para 3;
  - 5) issuing opinions on issues concerning public tasks, including commissioning such tasks to be performed by non-governmental organisations and entities defined in Article 3 para 3, as well as on recommended standards of performance of public tasks.
2. The Poviats Council or the Gmina Council shall have 14 days to issue opinion from the date of submitting the cooperation programme and the development strategy for the poviat or gmina respectively. Failure to issue such opinion within the specified time frame shall mean resigning from the right to express such opinion.

## **Section III Volunteer Work**

### **Chapter 1 General provisions**

#### **Article 42.**

1. Volunteers shall, on terms and conditions set out in this Chapter, provide services to support the following:
  - 1) non-governmental organisations and other entities defined in Article 3 para 3 in relation to their statutory activity, in particular in the field of public benefit work, with the exception of business activity they may engage in;

- 2) public administration authorities, with the exception of business activity they may engage in;
  - 3) organisational units reporting to public administration authorities or supervised by the same, with the exception of business activity they may engage in – hereinafter referred to as “the beneficiaries.”
2. Provisions laid out in this Chapter shall apply as appropriate to volunteers providing services to support international organisations in the territory of the Republic of Poland, unless provisions of international agreements provide otherwise.
  3. A member of an association may also provide services, as a volunteer, for the association they are a member of.

#### **Article 43.**

A volunteer shall be duly qualified and conform to all requirements appropriate for the type and scope of services provided, whenever separate legal provisions provide for the obligation to have such qualifications and to fulfil relevant conditions.

#### **Article 44.**

1. Services shall be provided by volunteers within the extent, in the manner and within the time-frame defined in an agreement signed with the beneficiary. The agreement shall contain a clause allowing for the termination thereof.
2. Upon the volunteer’s request, the beneficiary shall be obliged to confirm in writing the content of the agreement referred to in para 1, and to issue a written attestation of services provided by the volunteer and their scope.
3. Upon the volunteer’s request, the beneficiary may issue a written opinion on the services provided by the volunteer.
4. Should a volunteer provide services for a period exceeding 30 days, the said agreement shall be made in writing.
5. The provisions of the agreements concluded between the beneficiary and the volunteer not regulated herein shall be regulated by provisions of the Act of 23 April 1964 the Civil Code.

### **Chapter 2 Detailed provisions**

#### **Article 45.**

1. The beneficiary shall be obliged to:
  - 1) notify the volunteer of any risk to health and safety related to providing services, and on the rules of protection against occupational threats and hazards;



- 2) ensure the volunteer the safe and hygienic conditions of services provision, including appropriate personal safety measures determined by the type of services provided and the related hazard under separate legal provisions applicable to employees;
  - 3) cover the cost of business travel and *per diems* under separate legal provisions applicable to employees.
2. The beneficiary may reimburse other indispensable expenses incurred by the volunteer when providing benefits to the beneficiary, under separate legal provisions applicable to employees.
  3. The beneficiary may cover the costs of volunteer training in the field of services they provide as set out in the agreement referred to in Article 44 para 1 hereof.
  4. The volunteer may relieve the beneficiary in whole or in part from obligations listed in para 1 subpara 3 hereof. Such waiver shall be made in writing, or else shall be null and void.

#### **Article 46.**

1. A volunteer may be entitled to health care services under terms and conditions set out in legal provisions on health care services financed from public funds.
2. Under separate legal provisions, a volunteer shall be eligible for compensation in case of an accident when providing services described in Article 42, subject to para 3.
3. The beneficiary shall be obliged to take out casualty insurance for any volunteer providing services for a period no longer than 30 days.
4. Should the agreement concluded between a beneficiary and a volunteer provide for the volunteer to be delegated to provide services in the territory of another state, where an armed conflict, a natural disaster or a natural calamity occurs, the beneficiary shall be obliged to take out casualty and expatriate medical insurance for the volunteer, should their costs not be covered otherwise, in particular under the coordination provisions set out in the Act of 27 August 2004 on health care services financed from public funds. Provisions of para 2 and para 3 shall not apply.
5. Should the volunteer be delegated to provide services in the territory of another state under terms and conditions other than those set out in para 4, the beneficiary may take out casualty and expatriate medical insurance, should their cost not be covered otherwise, in particular under the coordination provisions set out in the Act of 27 August 2004 on health care services financed from public funds. Provisions of para 2 shall not apply.

6. The beneficiary may take out insurance policy covering third party risks, in relation to services the volunteer provides.

#### **Article 47.**

The beneficiary shall be obliged to notify the volunteer of their rights and obligations, and provide access to such information.

#### **Article 48.**

Should the agreement, referred to in Article 42 para 1 subpara 2 and 3 between the beneficiary and the volunteer provide for the volunteer to be delegated to provide services in the territory of another state, under the international agreement binding for the Republic of Poland, such volunteer shall be entitled to benefits and reimbursement of costs generally accepted in relations of this kind, unless international agreements stipulate otherwise.

#### **Article 49.**

Expenses for purposes referred to in Article 45 para 1 and para 3 and Article 46 para 3 and para 6 shall include the following:

- 1) costs of the statutory activity of non-governmental organisations and of entities listed in Article 3 para 3 as beneficiaries;
- 2) costs incurred by beneficiaries defined in Article 42 para 1 subpara 2 and 3.

#### **Article 50.**

The value of a service provided by the volunteer does not constitute a donation to the beneficiary as defined in the Civil Code and tax regulations.

#### **Article 50a.**

Every two years, the Council of Ministers shall present the Sejm and Senate of the Republic of Poland with the report on the implementation hereof, no later than by September 30<sup>th</sup> of the year following the end of the reporting period, on the basis of the information acquired from public administration authorities and self-government units.

#### **Article 50b.**

1. Whoever, acting on behalf of a non-governmental organisation or entities defined in Article 3 para 3, or other entities not being public benefit organisations, misinforms a public administration authority or a natural, or legal person that an organisation or an entity has such status, shall be charged with a fine.

2. The cases referred to in para 1 shall be judged in accordance with the provisions of the Act of 24 August 2001 – Code of Criminal Procedure (Dz.U. of 2008 No 133, item 848 as amended<sup>9</sup>).

#### **Article 51.**

The first term of office of the Council described in Article 35 para1) hereof shall be two years.

#### **Article 52.**

No later than by June 30<sup>th</sup> 2005, the Council of Ministers shall present the *Sejm* and Senate of the Republic of Poland with a report on the implementation and enforcement hereof for the period as of its entering into force until December 31<sup>st</sup> 2004.

#### **Article 53.**

This Act of Law shall come into force on terms and conditions specified in separate legal provisions.

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<sup>9</sup> Changes to the consolidated text of the said Act have been published in Dz.U. of 2008No 214, item 1344 and No 237, item 1651 and of 2009 No 178, item 1375, No 190, item 1474 and No 206, item 1589.