

**THE ACT OF 12 APRIL 2001**  
**ON ELECTIONS TO THE SEJM OF THE REPUBLIC OF POLAND**  
**AND TO THE SENATE OF THE REPUBLIC OF POLAND**

(Journal of Laws of the Republic of Poland  
No 46, item 499, of 16 May, 2001 and  
No.154, item 1802 of 29 December, 2001)

**PART I**

**Common rules**

**CHAPTER 1**

**General principles**

**Article 1.**

This Act regulates the principles and methods of: nominating candidates for deputies and senators; the conduct of elections, and conditions to ensure the validity of elections to the Sejm of the Republic of Poland and to the Senate of the Republic of Poland, as well as the principles of conducting and financing election campaigning.

**Article 2.**

In elections to the Sejm and to the Senate the elector shall vote in person only and only once.

**Article 3.**

The elections to the Sejm and to the Senate shall be conducted jointly, on a non-working day.

**Article 4.**

The provisions of this Part shall apply to elections to the Sejm and the Senate if special provisions do not state otherwise.

**Article 5.**

Whenever in this Act there is a reference to elections this shall be understood as elections to the Sejm and to the Senate.

**CHAPTER 2**

**Electoral rights**

**Article 6.**

Every citizen of Poland who has reached the age at least 18 years on the day of the poll is eligible to vote.

**Article 7.**

The following persons shall not be entitled to vote:

- 1) those deprived of public rights by a final ruling of the court;
- 2) those deprived of electoral rights by final ruling of the Tribunal of State;
- 3) those deprived of legal capacity by final ruling of the court.

**Article 8.**

1. A person who has electoral rights and is qualified according to the special provisions of this Act, shall be eligible to stand for election.
2. A person may not simultaneously be a candidate in elections to the Sejm and the Senate.

**CHAPTER 3**

**The Issue of an order on elections**

**Article 9.**

1. The elections shall be ordered by the President of the Republic of Poland by order, issued no later than 90 days prior to expiry of 4 years from the beginning of the term of office of the Sejm, and shall assign the date of elections to a non-working day, within 30 days prior to the expiry of the 4- year term of duration mentioned above. The order of the President shall be published and announced in the Journal of Laws of the Republic of Poland (Dziennik Ustaw) no 2.

In the proclamation referred to in paragraph 1 above, the President of the Republic shall, after obtaining the view of the National

Electoral Commission, specify the days on which the time limits for the realisation of the election procedures indicated in this Act expire.

#### **Article 10.**

1. Where the term of office of the Sejm is shortened as the consequence of a resolution taken by the Sejm itself, or if it is dissolved by the President of the Republic in a proclamation– the President shall order elections to be held and shall assign their date to a day within 45 days, beginning on the day of the coming into force of the Sejm's resolution shortening its duration, or the publication of the proclamation by the President of the Republic shortening the term of the Sejm. The proclamation of the President of the Republic of an election to be conducted, shall be published and announced in the Journal of Laws of the Republic of Poland (Dziennik Ustaw) no later than the 5<sup>th</sup> day after the proclamation of the elections. The provisions of Article 9, paragraph 2, above shall be applied respectively.

2. The elections referred to in paragraph 1 above shall be conducted according to the principles and methods described in this Act, and:

1) the time-limits for the implementation of the election procedures described in the Act shall be shortened and shall expire as follows:

a. in Article 29, paragraph 2, Article 30, paragraph 3 and Article 44, paragraph 2 – on the 38<sup>th</sup> day before polling day;

b. in Article 30, paragraph 4, Article 44, paragraph 3, Article 96, paragraph 3, Article 97, paragraphs 4 and 7, and Article 98, paragraph 4 – on the 35<sup>th</sup> day before polling day;

c. in Article 137, paragraph 3, – on the 40<sup>th</sup> day before polling day;

d. in Article 142, paragraph 3, and in Article 143, paragraph 1, – on the 25<sup>th</sup> day before polling day;

2) the time limits for submission of complaints or appeals described in the Act shall be reduced to 2 days;

3) the random selection of a uniform number for the lists of election committees, referred to in Article 150, paragraph 1, and Article 151, paragraph 1, shall be limited to those committees that did not register their lists in the previous elections. Election committees that participated in the previous elections and which registered their list for the current elections shall retain the list number determined previously.

### **CHAPTER 4**

#### **Register of electors**

#### **Article 11.**

1. A permanent register of electors shall comprise all persons that permanently reside on the territory of a commune and have the right to vote.

2. A person may be registered on one register of electors only.

3. The electoral register shall be used to prepare the list of eligible voters for elections of the President of the Republic, elections to the Sejm and the Senate, and elections to commune councils, district councils and voivodeship councils, as well as the list of those having the right to participate in national and local referendums.

4. The electoral register shall contain the surname and names, father's name, the identity document (PESEL) number, and the address of the elector.

5. The commune shall currently maintain the register as a task prescribed to it.

6. The register shall be open to inspection, on written request, in the office of the relevant commune.

#### **Article 12.**

1. Electors that permanently reside on the territory of a commune shall be inserted "ex officio" onto the register of electors.

2. Electors, who permanently reside on the territory of a commune without registration of their residence, shall be entered in the register of electors on submission of a written application specifying the data referred to in Article 11, paragraph 4, together with the address of their last permanent registration outside the commune.

3. The provisions of paragraph 2 above shall be applied to electors living on the territory of a commune that are registered nowhere.

4. Electors who permanently reside on the territory of a commune at an address different from the address of their registration as permanent residents may be added to the register of electors with their actual residential address if they submit an application, with the data referred to in Article 11, paragraph 4, together with the address of their last permanent registration on the territory of the commune to the office of the commune.

#### **Article 13.**

1. The decision whether or not to add to the register a person referred to in Article 12, paragraphs 2 – 4 shall be taken by the head of the commune or mayor (or the president of a town) within 3 days following delivery of the application and shall ensure its delivery to the applicant.

2. The office of the commune of the last registration of the elector as a permanent resident shall be immediately notified of the decision to add an elector to the register to ensure the elector's deletion from the electoral register in that commune.

3. The decision to refuse to add an elector to the register may be appealed to the competent regional court. The complaint shall be submitted via the head of the commune or mayor (president of a town) within 3 days following the date of delivery of the decision. The head of a commune or mayor (president of a town) shall immediately submit the appeal to the court, together with the decision and the relevant case files. The head of commune, mayor (president of a town) may also immediately change or amend his/her decision if the appeal is deemed justified.

4. The court shall examine the complaint referred to in paragraph 3, in non-litigious proceedings, with one judge, within 3 days following its delivery. The copy of the court's decision shall be delivered to the person who submitted the complaint to the head of commune or mayor (president of the town). There shall be no legal recourse against the court's decision.

#### **Article 14.**

1. A person deprived of their electoral rights shall be deleted from the register of electors upon notification of the commune by courts or the Tribunal of State.

2. When the reasons for deprivation of the right to elect expire, the elector shall be reinstated on the register of electors on the basis of a notification of the court or the Tribunal of the State.

3. The Minister of Justice, in agreement with the National Electoral Commission, shall describe, in an order, the methods and time-limits for notification of communes concerning persons deprived of their electoral rights and the expiry of the reasons for deprivation of these rights, as well as a specimen of the notification to be issued in such cases, to ensure the continual updating of the electoral register according to the data concerning persons deprived of electoral rights and persons possessing such rights.

#### **Article 15.**

1. Each person has the right to submit a motion to a head of the commune or mayor (president of a town) on inaccuracies in the register of electors, in particular concerning:

- 1) the omission of an elector from the register;
- 2) the inclusion, in the register, of a person not possessing electoral rights;
- 3) incorrect details about persons included in the register;
- 4) the inclusion of a person who does not permanently reside on the territory of a commune.

2. The complaint shall be submitted orally or in writing to a protocol.

3. The head of a commune, mayor (president of a town) shall be obliged to examine the complaint within 3 days following its delivery and to issue a decision.

4. The decision, together with its justification, shall be immediately delivered to the applicant, and if it concerns others – then also to such persons.

5. A decision rejecting a complaint or one that results in deletion from the electoral register may be appealed to the relevant regional court. The appeal shall be delivered via the head of a commune, mayor (president of the town) within 3 days following the receipt of the decision. The head of the commune, mayor (president of the town) shall immediately submit the appeal to the court along with the decision and files of the case. The head of the commune, mayor (president of the town), when approving the claim, may immediately change or quash the earlier decision if the appeal is justified. The provisions of Article 13, paragraphs 3 and 4, shall apply respectively.

#### **Article 16.**

The Minister responsible for public administration shall, on request of the National Electoral Commission, specify, by directive: the methods of maintaining the electoral register, a specimen example of a register, the methods of its updating and opening to public inspection, and a specimen application by a person to view the register, a specimen application by a person to have his/her name entered in the register, and a specimen notification informing a person that his/her name has been entered in register, as well as the method of delivery by commune offices to the proper electoral organs of periodic information on the number of electors on the electoral register.

## **CHAPTER 5**

### **The roll of voters**

#### **Article 17.**

1. Persons entitled to vote shall be entered in the roll of voters.

2. An elector may enter only one roll of voters.

3. The roll of voters shall be used in elections to the Sejm and to the Senate, for which elections have been ordered.

4. The data, specified in Article 11, paragraph 4, shall be entered in the roll of voters.

5. The roll of voters, with reference to Article 25, paragraph 1 and Article 26, paragraph 1, shall be maintained and updated by the commune as a public task ascribed to it.

6. The roll of voters shall be prepared in two copies, separately for each electoral ward, according to the place of residence of electors, no later than on the 14<sup>th</sup> day before polling day.

7. A copy of the roll of voters shall be delivered to the chairperson of the ward electoral commission on the day preceding the poll.

#### **Article 18.**

1. A handicapped voter may, no later than on the 10<sup>th</sup> day before the election, submit an application to the office of the commune, to be entered on the roll of voters in the chosen electoral ward of those electoral wards that have the polling stations referred to in Article 53, paragraph 1, situated on the territory of the commune appropriate to the place of residence of the voter.

2. The data specified in Article 11, paragraph 4, shall be included in the application referred to in paragraph 1 above.

#### **Article 19.**

1. A voter staying temporarily within the territory of a commune for a period of time including polling day may, on request submitted to the office of the commune no later than on the 10<sup>th</sup> day before polling day, be entered on the roll of voters.

2. The provisions of paragraph 1 above, shall be respectively applied to an elector of no place of residence who resides on the territory of the commune.

3. The data specified in Article 11, paragraph 4, shall be included in the application referred to in paragraph 1 above.

#### **Article 20.**

1. The roll of voters in hospitals and social welfare institutions shall be prepared from the list of persons who will be present there on polling day.

2. The list of persons referred to in paragraph 1 above shall be delivered by directors of hospitals and social welfare institutions no later than on the 10<sup>th</sup> day before polling day.

3. The roll of voters in penal institutions and remand centres, as well as extramural departments of such establishments, shall be created from the list of persons who will be present there on the day of the poll.

4. The list of persons referred to in paragraph 3 above shall be delivered by the heads of penal institutions and remand centres no later than on the 10<sup>th</sup> day before polling day.

5. Persons deprived of public rights by final ruling of the court shall not be included on the roll of voters referred to in paragraph 3.

#### **Article 21.**

1. Soldiers performing basic or temporary terms of military service, those serving as candidates for professional soldiering or those undertaking military training and exercises, as well as conscripts performing their military service in civil defence units beyond their place of residence, shall be added, on their request, to the roll of voters of their choice created for the locality in which they are serving. Any such request shall be submitted between the 21st and 14th day before polling day unless the persons referred to in the first sentence arrived at the actual place of their quartering after that day. Any such request shall include the data specified in Article 11, paragraph 4.

2. The provisions of paragraph 1 shall apply equally to police serving in quartered units.

3. Commanders of military units, civil defence units and police units shall be under an obligation to ensure soldiers, conscripts and police an opportunity to exercise the rights specified in the provisions of paragraph 1.

4. The Minister of National Defence and the Minister responsible for internal affairs shall, in agreement with the National Electoral Commission, determine the procedure for performance of the duties of commanders referred to in paragraph 3, taking into account the obligation referred to in paragraphs 1 and 2 to assure voters their rights to perform the function of members of ward electoral commissions and election observers.

#### **Article 22.**

The fact of including on the roll of voters persons referred to in Article 19, Article 20, paragraphs 1 and 3, and Article 21, paragraphs 1 and 2, shall be notified to the commune administration proper to their permanent residence or their last registration of permanent residence.

#### **Article 23.**

1. A voter changing his/her place of residence before polling day shall obtain on his/her request, a certificate confirming the right to vote on polling day at the new place of residence. The certificate shall be issued:

- before the roll of voters has been prepared – on the basis of the electoral register, and
- after the roll of voters has been prepared – on the basis of the roll of voters.

2. The office of the commune shall supply the certificates referred to in paragraph 1.

#### **Article 24.**

The Minister responsible for public administration, on a motion of the National Electoral Commission, shall, by directive, specify the methods of maintaining and rendering accessible the list of voters, a specimen of the list, the method of its updating and availability for public inspection, and a specimen of an application by a person to view the list of voters, and a specimen of an application by a person to have his/her name entered on the list, specimens of lists of persons in hospitals, welfare homes, prisons or who are under arrest

where polling wards are created, and a specimen of a notification informing that a person has been entered or added to the list of voters of another electoral ward, and a specimen and methods of issue of a certificate confirming the right to vote.

#### **Article 25.**

1. Voters aboard Polish maritime vessels at sea on polling day shall be entered on the list of voters established by the captain of the ship.
2. Such inclusion shall be made, upon application by the concerned person submitted no later than the 5<sup>th</sup> day before polling day. Such application shall specify the voter's surname, forenames, father's name, date of birth, identity document (PESEL) number or valid passport, and the address of residence.
3. The provisions of Article 23, paragraph 1, shall apply respectively to electors on board Polish maritime vessels, and the certificate shall be issued by the captain of the ship who has created the list of voters.
4. The Minister responsible for the marine economy, in agreement with the National Electoral Commission, shall issue a directive specifying the procedure for creating and updating the list of voters referred to in paragraph 1, as well as the method of notifying commune offices about persons who permanently reside on the territory of Poland that are included in the roll of voters, and the method of issuing certificates confirming the right to vote.

#### **Article 26.**

1. Polish citizens abroad who possess valid Polish passports shall be entered on the list of voters created by the territorially appropriate consul of the Republic of Poland.
2. The inclusion on the list of voters shall be made on application by the concerned person either orally, or in writing, by telephone, by cable or fax. Such an application shall specify the voter's name, forenames, father's name, date of birth and the place of residence, the number of a valid Polish passport, and the date and place of issue of the passport. Applications may be made no later than the 5<sup>th</sup> day before polling day.
3. The provisions of Article 23, paragraph 1, shall apply respectively to electors abroad who possess a valid Polish passport, and the certificate shall be issued by the consul who has created the roll of voters.
4. The Minister responsible for foreign affairs, in agreement with the National Electoral Commission, shall issue a directive specifying the procedure for creating and updating the roll of voters referred to in paragraph 1, as well as the method of notifying commune offices about persons who reside permanently on the territory of Poland, who are included in the roll of voters, and the method of issuing certificates confirming their right to vote.

#### **Article 27.**

1. The roll of voters shall be open to inspection, upon written motion, at the office of the commune or the seat of the office that prepared it.
2. The head of the commune (mayor, president of a town) or the office that prepared the roll of voters shall notify voters, in the customary manner, of the preparation of the list of voters and of the time and place of access thereto.

#### **Article 28.**

1. Each person may submit complaints concerning inaccuracies in the roll of voters to the head of commune, mayor (president of town) or to the body that prepared the roll.
2. The provisions of Article 15 shall be applied respectively to the cases referred to in paragraph 1 and the complaint shall be considered within 2 days.
3. Complaints against a roll of voters that concern persons referred to in Article 25, paragraph 1, and Article 26, paragraph 1, shall be considered by the captain of the ship or the consul, respectively. There shall be no legal recourse against the above decision.

### **CHAPTER 6**

#### **Polling wards**

#### **Article 29.**

1. Voting in elections shall take place in permanent electoral wards established on the territory of a commune on the basis of the provisions of the Act of 16 July 1998 on Elections to commune councils, district councils and voivodeship councils (Journal of Laws N. 95, item 602 and No. 160, item 1060 and of 2001, No. 45, item 497); the provisions of Article 30, paragraphs 1 and 2, and Article 31, paragraphs 1 and 4, shall apply accordingly.
2. Changes in the division into polling wards, should such necessity result from changes in the boundaries of a commune or changes in the number of inhabitants on the territory of an electoral ward of a commune, are executed pursuant to the principles and procedures specified in provisions of the Act, mentioned in paragraph 1 above, no later than 45 days before polling day.

#### **Article 30.**

1. Polling wards may be established in hospitals and welfare homes with at least fifty resident voters; should the number of voters be lower, a ward may be created after consultation with the head of a hospital or welfare home.
2. Electoral wards may be established for voters in prison or under arrest, as well as external departments of such institutions.

Relinquishment of the creation of such a ward shall be possible on the motivated application of the head of a prison or custody centre respectively.

3. The council of a commune shall establish, at the request of the head of a commune (mayor, president of a town), the electoral wards mentioned in paragraphs 1 and 2, and shall specify their number, boundaries, and the seats of ward electoral commissions. The creation of such wards shall take place no later than 45 days before polling day.

4. Should the time-limit mentioned in paragraph 3 expire without the wards having been determined, the appropriate Voivode shall realise the above duties on the 42<sup>nd</sup> day before polling day at the very latest.

#### **Article 31.**

1. Electoral wards shall be established for Polish citizens abroad.

2. The wards mentioned in paragraph 1 above shall be created by the Minister responsible for foreign affairs, by order, after consultation with the National Electoral Commission, and shall indicate the seats of the ward electoral commissions.

3. Those wards referred to in paragraph 1 shall constitute a part of the appropriate Constituency Electoral Commission of the commune Warszawa Centrum.

4. Election wards shall be established for voters aboard Polish maritime vessels continuing their voyage for a period of time including polling day if there are at least 15 voters aboard, and if there is the capacity to transmit the results of voting immediately after its conclusion.

5. According to the above Act, the expression: "Polish maritime vessel" means a ship that is exclusively the property of a Polish ship-owner, has its seat in Poland, bears the flag of Poland, and is under the command of a Polish captain.

6. The electoral wards referred to in paragraph 4 shall be created by directive of the Minister responsible for the marine economy in agreement with the National Electoral Commission, at the request of the ship-owner, made no later than 30 days before polling day.

7. The wards referred to in paragraph 4 shall constitute a part of the electoral constituency where the ship-owner has its headquarters.

#### **Article 32.**

1. Information on the number and boundaries of electoral wards, as well as on the location of the ward Electoral Commissions referred to in Article 29, Article 30, paragraphs 1 and 2, and Article 53, paragraph 1, shall be made public, in an announcement by the head of a commune (mayor, president of a town) no later than the 30th day before polling day.

2. The obligation referred to in paragraph 1 in respect of polling wards established abroad, shall lie with consuls. Realisation of this task shall be executed no later than 21<sup>st</sup> day before polling day.

3. The captain of a ship shall inform voters of the creation of an electoral ward.

### **CHAPTER 7**

#### **Electoral commissions**

#### **Article 33.**

Elections shall be conducted by:

- 1) The National Electoral Commission;
- 2) Constituency Electoral Commissions;
- 3) Ward Electoral Commissions.

#### **Article 34.**

1. A person may be a member of one commission only. Candidates for deputies and senators, agents (of election committees) and financial agents as well as poll observers cannot be members of a commission.

2. Members of commissions shall forfeit their membership on the day of signing a written consent for nomination as candidate for deputy or senator, or as an agent, financial agent or poll observer\*, referred to in paragraph 1.

3. Members of commissions are prohibited from involvement in election campaigning for any candidate for deputy or senator or for any list of candidates.

#### **Article 35.**

1. A member of an electoral commissions shall be entitled to:

- 1) a per diem allowance and compensation for travel and accommodation expenses;
- 2) lump sum allowances for the time devoted to conduct of the vote as well as for establishing the result of the vote

2. Members of the National Electoral Commission and chairpersons of constituency electoral commissions who act officially as Voivodeship Electoral Commissioners or their deputies shall not be entitled to the lump sum allowances referred to in paragraph 1.

3. Members of electoral commissions shall be entitled to a maximum of 5 days' leave from work without pay from their employers for the time devoted to the conduct of the vote; during which time they shall retain their rights to social insurance benefits and benefits resulting from work relations.

4. Members of electoral commissions shall have the benefit of the legal protection provided to public functionaries and shall bear responsibility equal to the responsibility of public functionaries.

5. Members of a commission shall be entitled to recompense in an amount and according to the rules on social insurance benefits of employees for accidents at work or occupational diseases, if they meet with an accident while performing the commission's duties or on the way to or from the place of their duties. Recompense shall be paid by the Social Insurance Institution (ZUS), and the head of the territorially competent unit of the National Electoral Office shall institute accident proceedings.

6. The Minister responsible for public administration after seeking the view of the National Electoral Commission shall, in a directive, establish the amount and specify the principles of establishing the per diem allowances and lump sum allowances referred to in paragraph 1 above, to which they are entitled, as well as compensation for travel and accommodation expenses, and also the manner of granting the leave from work referred to in paragraph 3.

## **THE NATIONAL ELECTORAL COMMISSION**

### **Article 36.**

1. The National Electoral Commission shall be the permanent, supreme institution competent in the conduct of elections.

2. The National Electoral Commission shall be composed of:

- 1) 3 judges of the Constitutional Tribunal, designated by the President of the Constitutional Tribunal;
- 2) 3 judges of the Supreme Court, designated by the President of the Supreme Court;
- 3) 3 judges of the Supreme Administrative Court, designated by the President of the Supreme Administrative Court.

3. The President of the Republic by a resolution, shall appoint the judges referred to in paragraph 2 above to the National Electoral Commission.

4. The National Electoral Commission shall elect a chairperson and two deputies from amongst its own members.

5. The post of Secretary of the National Electoral Commission shall be discharged by the Head of the National Electoral Office, who shall participate in the meetings of the Commission in an advisory capacity.

6. The resolution referred to in paragraph 3 above shall be made public and announced in the Official Gazette of the Republic of Poland, Monitor Polski.

### **Article 37.**

1. The expiration of membership of the National Electoral Commission shall result from:

- 1) resignation from its membership;
- 2) the signing of written consent to nomination as a candidate for the President of the Republic, deputy or senator;
- 3) the death of the member of the Commission;
- 4) achieving the age of 70 years by a member of the Commission who is a retired judge;
- 5) the motion of the President of the Court who designated the judge to be a member of the Commission.

2. A vacancy in the National Electoral Commission shall be filled pursuant to the provisions on appointment thereof. The provisions of Article 36, paragraph 7, shall be applied respectively.

### **Article 38.**

1. Members of the National Electoral Commission shall fulfil their posts in the Commission independent of their judicial functions.

2. Members of the National Electoral Commission shall have the right to monthly remuneration, established on the basis of the primary amount taken in establishing the remuneration of persons in State executive posts, with the multiplier being used as follows:

- 1) a chairperson – 3,5;
- 2) a deputy chairperson – 3,2;
- 3) a member - 3,0.

3. A member of the Commission shall be entitled to the above remuneration irrespective of the salary to which he is entitled to for his work as a judge or of a pension obtained as a retired judge.

### **Article 39.**

1. The duties of the National Electoral Commission shall include, in particular:

- 1) supervision of the observance of electoral law;

- 2) supervision of the maintenance and updating of the electoral register and of the creation of the list of voters;
- 3) the appointment of Constituency Electoral Commissions and the dissolution of constituency and ward electoral commissions upon the conclusion of their statutory duties;
- 4) the investigation of complaints against the actions of Constituency Electoral Commissions;
- 5) the creation of specimens of official forms and printed materials relating to elections, as well as specimens of seals of constituency and ward electoral commissions;
- 6) the determination and publication of the result of voting and of the elections pursuant to the specific provisions of this Act;
- 7) the submission to the President of the Republic, to the Marshal of the Sejm and to the Marshal of the Senate, after each election, information concerning the realisation of the provisions of this Act together with proposals for possible amendments to this Act.
- 8) the performance of other duties specified by statute.

2. The National Electoral Commission shall establish its own regulations and regulations for constituency and ward electoral commissions, specifying, in particular:

- 1) the rules and procedure of work;
- 2) the method of performing duties;
- 3) the method of exercising supervision of the observance of electoral law.

#### **Article 40.**

1. The National Electoral Commission shall issue guidelines binding upon lower ranking electoral commission and shall issue interpretations to organs of government and local government administration as well as subordinate organs thereof that perform duties in relation to the conduct of elections, as well as to election committees and radio and television broadcasters.

2. The National Electoral Commission shall rescind any resolution of a constituency electoral commission passed contrary to law or inconsistent with its guidelines and shall refer any such case to the appropriate commission for reconsideration or shall itself take a decision on the matter.

3. The National Electoral Commission may, for the period of elections, create its own inspection unit and specify its duties, or shall entrust those duties to the inspection unit of a constituency electoral commission. The provisions of Article 35, paragraphs 1 and 3 – 5 shall be applied to the persons nominated to the inspection unit. The directive referred to in Article 35, paragraph 6, shall establish the amount and shall specify the principles of establishing per diem allowances and lump sum allowances to which the members of an inspection unit are entitled, as well as compensation for travel and accommodation expenses, and also the manner of granting days leave from work for persons nominated to the inspection unit.

4. The National Electoral Commission shall adopt resolutions within the scope of its authority.

#### **Article 41.**

1. The National Electoral Commission shall establish rules and procedures for the exploitation of electronic systems of transmitting and processing voting data and the results of the elections.

2. The Minister responsible for communications, acting on a motion of the National Electoral Commission, shall establish, in a directive, the rules and conditions of exploiting devices and systems of telecommunication as well as the telecommunications network for election purposes.

#### **Article 42.**

The National Electoral Commission shall publish a statistical study containing detailed information on the results of voting and the results of elections, and shall ensure access to the results of the vote and of the elections, processed in electronic form, at cost price.

#### **Article 43.**

The National Electoral Commission shall have the right to use an official seal, as defined in relevant provisions concerning State seals. The seal shall be 35mm in diameter.

#### **The constituency electoral commission**

#### **Article 44.**

1. The Constituency Electoral Commission shall be composed of 7 to 11 judges, and ex officio, as its chairperson, the Voivodeship Electoral Commissioner or his/her deputy, appointed pursuant to separate provisions. A retired judge, no older than 70, may be also appointed to the commission.

2. The judges shall be designated by the Minister of Justice, no later than the 52<sup>nd</sup> day before the polling day, in the number agreed with the National Electoral Commission.

3. The National Electoral Commission shall appoint constituency electoral commissions no later than the 48th day before Polling Day.



4. If the Voivodeship Electoral Commissioner or his/her deputy is unable to perform the office of a chairperson of the commission, the commission shall itself elect its chairperson from amongst its own members. In such a case the Minister of Justice shall designate one more judge to the commission.

5. The first meeting of the commission shall be organised by the head of the local unit of the National Electoral Office, authorised by the National Electoral Commission.

6. The commission shall elect, at its first meeting, two deputy chairs. The head of the locally appropriate unit of the National Electoral Office or a person designated by him shall be appointed as a secretary. The secretary shall participate in the activities of the commission in an advisory capacity.

7. The composition of Constituency Electoral Commissions shall be promptly published in a customary manner.

8. Services and technical-administrative provision for constituency electoral commissions shall be ensured by the National Electoral Office.

#### **Article 45.**

1. The expiration of membership in the constituency electoral commission shall be result from:

- 1) the resignation of its membership;
- 2) occurrence of reasons, referred to in Article 34, paragraph 2;
- 3) the death of the member of the commission;
- 4) recall by the National Electoral Commission, acting on a motion of the Minister of Justice.

2. A vacancy in a Constituency Electoral Commission shall be filled pursuant to the provisions on appointment thereof. The provisions of Article 44, paragraph 7 shall be applied respectively.

#### **Article 46.**

1. The duties of the Constituency Electoral Commission shall include:

- 1) the supervision of the implementation of electoral law by ward electoral commissions,
- 2) the registration of constituency lists of candidates for deputies and candidates for senators;
- 3) the establishment of aggregate results of votes cast for candidates and of the results of the elections in the electoral constituency pursuant to the specified provisions of this Act;
- 4) the investigation of complaints against actions of ward electoral commissions;
- 5) the assurance, in co-operation with the Voivode (Head of the Voivodeship) and the organs of appropriate local administration units, of the proper conduct of elections;
- 6) the performance of other tasks, laid down in this Act or assigned by the National Electoral Commission.

2. A constituency electoral commission shall adopt resolutions within the scope of its authority.

#### **Article 47.**

1. A constituency electoral commission may, on the basis of rules and procedures described by the National Electoral Commission, nominate plenipotentiaries to execute tasks specified in Article 74, paragraph 2.

2. A constituency electoral commission may create its own inspection unit and specify its duties. The provisions of Article 35, paragraphs 1 and 3 – 5 shall be applied to the persons nominated to the inspection unit. The directive referred to in Article 35, paragraph 6, shall specify the amount and principles of establishing the per diem allowances and lump sum allowances, as well as reimbursement of travel and accommodation expenses, and also the manner of granting days' leave from work for persons nominated to the inspection unit.

#### **Ward electoral commission**

#### **Article 48.**

1. A ward electoral commission shall be appointed from electors, with regard to the provisions of Article 49, no later than on the 21<sup>st</sup> day before polling day, by the executive committee of the relevant commune.

2. The ward electoral commission shall be composed of :

- 1) 6 to 10 persons from among those designated by agents of election committees or by persons authorised by them;
- 2) one person designated by the head of a commune (mayor, president of town):
  - a. for electoral wards referred to in Article 29, this shall be a person designated from amongst the local-government employees of the commune or their subordinate units;
  - b. for electoral wards established in hospitals and social welfare institutions this shall be a person designated from amongst employees of those hospitals or institutions;

c. for electoral wards established in penal institutions and arrests, it shall be a person designated from amongst employees of those institutions or arrests.

3. The candidates referred to in paragraph 2 above shall be persons that are included in the permanent electoral register of the given commune.

4. The agent or person authorised by him has the right to nominate for each of the commissions only one candidate, referred to in Article 21, paragraph 1. The submission of a candidacy shall be realised up to the 30<sup>th</sup> day before the polling day.

5. Should the number of candidates nominated exceed 10 persons, the composition of the commission will be decided by drawing lots, carried out publicly by the board of a commune.

6. Should the number of candidates, nominated pursuant to the provisions of paragraph 4 be fewer than 6 persons, the vacancy in the commission shall be filled to the minimal number, referred to in paragraph 2, subparagraph 1, by the board of a commune from amongst voters that are included in the permanent register of electors for a given commune.

7. The first meeting of the commission shall be organised by the head of a commune (mayor, president of town).

8. The commission shall elect, at its first meeting, a chairperson and a deputy chair. The composition of the ward electoral commissions shall be promptly published in a customary manner.

9. A person designated by the head of a commune (mayor, president of town) cannot be a chairperson or deputy chair of a ward electoral commission.

10. If the commission is not appointed during the time period specified in paragraph 1, the functions specified in that provision shall be realised by the relevant constituency electoral commission no later than on the 15<sup>th</sup> day before polling day.

11. The Minister responsible for public administration shall, on the motion of the National Electoral Commission establish, by ordinance, the method of submitting candidates to ward electoral commissions, specimens of such submission and shall specify the rules for creation of ward electoral commissions, including the method of drawing lots.

#### **Article 49.**

1. The ward electoral commission existing in wards created on board Polish maritime vessels, referred to in Article 23, paragraph 4, and those abroad, shall be appointed from amongst voters by captains of those ships and consuls respectively. The provisions of Article 48, paragraph 2, subparagraphs 1 and 2 a) as well as paragraphs 4 – 9 shall apply respectively.

2. The rules, procedure and the time-limits for setting up such commissions referred to in paragraph 1 above shall be laid down in an ordinance, on the motion of the National Electoral Commission, by the Minister responsible for the marine economy and the minister responsible for foreign affairs, respectively.

#### **Article 50.**

1. The expiration of membership in the ward electoral commission shall be in result of:

- 1) resignation of its membership;
- 2) recall for reasons referred to in paragraph 2;
- 3) the occurrence of the reasons referred to in Article 34, paragraph 2;
- 4) the death of a member of the commission;
- 5) the deprivation of electoral rights, or lack of statutory conditions referred to in Article 48, paragraph 3.

2. A member of a ward electoral commission may be recalled if s/he is absent from the first meeting of the commission and the reason for absence has not been explained within 2 days.

3. A vacancy on a ward electoral commission shall be filled pursuant to the provisions on appointment thereof.

#### **Article 51.**

The duties of the Ward Electoral Commission shall include, in particular:

- 1) the conduct of voting in the polling ward;
- 2) the supervision of the observance of electoral law at the time and place of voting;
- 3) the establishment of voting returns in the wards and their delivery to the relevant Constituency Electoral Commission.

#### **Article 52.**

1. Services and technical and material assistance for the work of the ward electoral commissions and the realisation of tasks connected with the organisation and conduct of elections on the territory of a commune shall be ensured, as a duty ascribed to the commune, by the head of the commune, the mayor (president of a town).

2. Organisational entities responsible for State and communal property shall be responsible for rendering free of charge any

accommodation indicated by:

- 1) the head of the relevant local unit of the National Electoral Office—and intended for seats of constituency electoral commissions;
- 2) the head of a commune or mayor (president of town)

- and intended for seats of ward electoral commissions.

Accommodation designated as the seats of constituency and ward electoral commissions should be easily accessible to disabled persons.

3. The seats of electoral organs may also be located in accommodation belonging to bodies other than those mentioned in paragraph 2, after arranging matters with the administrators of such accommodation.
4. The provisions of paragraphs 1 – 3 shall apply, respectively, to captains of Polish maritime vessels and consuls.

#### **Article 53.**

1. The head of a commune or mayor (president of town) shall ensure accommodation of ward electoral commissions appropriate to the needs of disabled voters.
2. The Minister for public administration, in agreement with the Minister responsible for social policy and the National Electoral Commission, shall establish, by ordinance:
  - 1) technical conditions, taking into account the needs of disabled voters, for adapting the premises of ward electoral commissions to the needs of such voters;
  - 2) the number of premises of ward electoral commissions adapted to the needs of disabled voters, taking into account the proportions of the number of inhabitants of the commune to the number of disabled persons that reside on the territory of a commune, and the fact, that in every commune there should be at least one premise adapted to the needs of the disabled.

#### **The National Electoral Office**

#### **Article 54.**

1. The National Electoral Office shall be the executive organ of the National Electoral Commission.
2. The National Electoral Office shall realise tasks that arise from this Act as well as other acts of law.
3. The duty of the National Electoral Office is to ensure the organisational, financial and technical conditions for the preparation and conduct of elections and referenda, pursuant to this Act and other acts of law.
4. The National Electoral Office shall ensure services for the National Electoral Commission and other electoral bodies pursuant to this Act and other acts of law

#### **Article 55.**

1. The Head of the National Electoral Office shall manage the work of the National Electoral Office.
2. Organisational units of the National Electoral Office are:
  - 1) teams;
  - 2) branch offices.
3. The organisation of the National Electoral Office, as well as the scope of activity and territorial competence of its organisational units shall be determined by the statute issued by the National Electoral Commission on a motion of the Head of the National Electoral Office. The Statute of the National Electoral Office shall be published in the Official Gazette of the Republic of Poland: "Monitor Polski".
4. The Head of the National Electoral Office, on the basis of the statute, shall specify in a direction the internal organisation of organisational units of the National Electoral Office and the scope of their competence.

#### **Article 56.**

1. The National Electoral Office in realisation of its duties in the field of the organisation and conduct of elections and referenda shall co-operate with ministers, heads of central organ of government administration, voivodes and units of local government administration.
2. The Minister responsible for public administration in agreement with the Head of the National Electoral Office shall establish, in a directive, the basis of co-operation of the territorial organs of government administration with the National Electoral Office in the matters referred to in paragraph 1.
3. The provisions of the Act on elections to commune councils, district councils and voivodeship councils shall be applied respectively to the principles of co-operation between the organs of territorial self-government and the National Electoral Office in the matters, referred to in paragraph 1 above.

#### **Article 57.**

1. The Head of the National Electoral Office shall be appointed and removed by the Marshal of the Sejm upon the motion of the

National Electoral Commission.

2. To the post of Head of the National Electoral Office shall apply relevant provisions concerning the persons appointed to senior offices of the state administration.
3. The Head of the National Electoral Office shall have the use of the financial resources allocated for the National Electoral Commission in the State Budget.
4. The expenses, connected with the daily activity of the National Electoral Commission and other permanent electoral organs and of the National Electoral Office, as well as allocations to cover permanent tasks connected with the organisation and conduct of elections and referenda that are delegated to the units of territorial self-government shall be covered from the financial resources referred to in paragraph 3 above.
5. The Head of the National Electoral Office shall have the use, pursuant to the respective acts of law, of the financial resources of the special reserve fund of the State Budget, created for the organisation and conduct of elections and referenda.
6. Allocations to the units of territorial self-government for the realisation of tasks connected with the organisation and conduct of elections and referenda shall be transferred to those units by the Head of the National Electoral Office or heads of organisational units authorised by the Head of the Office.

#### **Article 58.**

1. The provisions of the Act of the 16<sup>th</sup> of September 1982 on Civil Servants, with subsequent amendments, shall apply to employees of the National Electoral Office (Dz.U. Nr 31, poz. 214, z 1984 r. Nr 35, poz. 187, z 1988 r. Nr 19, poz. 132, z 1989 r. Nr 4, poz. 24 i Nr 34, poz. 178 i 182, z 1990 r. Nr 20, poz. 121, z 1991 r. Nr 55, poz. 234, Nr 88, poz. 400 i Nr 95, poz. 425, z 1992 r. Nr 54, poz. 254 i Nr 90, poz. 451, z 1994 r. Nr 136, poz. 704, z 1995 r. Nr 132, poz. 640, z 1996 r. Nr 89, poz. 402 i Nr 106, poz. 496, z 1997 r. Nr 98, poz. 604, Nr 133, poz. 882 i 883, Nr 141, poz. 943, z 1998 r. Nr 131, poz. 860, Nr 155, poz. 1016 i Nr 162, poz. 1118, z 1999 r. Nr 49, poz. 483 i Nr 70, poz. 778 oraz z 2000 r. Nr 6, poz. 69, Nr 66, poz. 787 i Nr 109, poz. 1165).
2. The post of the Head of the National Electoral Office is the director of an administrative office, in the meaning of the law referred to in paragraph 1 above. The Head of the National Electoral Office shall realise the tasks described in those acts of law, and shall specify, by ordinance, the functions and remuneration of employees, as well as working time regulations.
3. Neither the Head of the Office nor employees of the National Electoral Office may belong to any political party nor perform any political activities.

### **CHAPTER 8**

#### **Voting**

#### **Article 59.**

1. Voting shall take place at the polling stations of the ward electoral commission, later called: "polling stations", within one day and without a break, between 6 a.m. and 8 p.m.
2. Voting in the wards set up on Polish ships or abroad shall be held between 6 a.m. and 8 p.m. local time. If voting would be concluded on the day following polling day in Poland, then polling shall be held on the preceding day.
3. Voting in wards created in hospitals and social welfare institutions may start later than the hour referred to in paragraph 1 above. Voting may be concluded earlier than described in paragraph 1 above, if all voters have cast their votes. The ward electoral commission may order the conclusion of voting earlier, after consultation with the manager of the hospital or social welfare institution, and shall notify voters, the head of the commune, mayor (president of town) and the relevant constituency electoral commission.

#### **Article 60.**

1. Voting shall be carried out with official ballot papers.
2. The specific provisions of this Act establish the content of the ballot paper.

#### **Article 61.**

1. The ward electoral commission shall, before voting begins, ensure that the ballot box is empty - and thereafter shall lock and seal the ballot box with the commission's seal; and shall determine whether the voting list has been provided, along with the necessary number of ballot papers appropriate for conducting elections in that place, as well as the necessary number of voting places guaranteeing secrecy of voting with easy access.
2. The ballot box shall not be opened from the moment it is sealed until the conclusion of voting.
3. At least 3 persons from the ward electoral commission, one of them being the chairperson or deputy chair of the commission, shall be present at all times from the commencement of voting until its conclusion.
4. Poll observers may be present on polling day at the polling station, on the basis of a certificate issued pursuant to the provisions of this Act, during all activities pursued by the ward electoral commission.

#### **Article 62.**

1. The ward electoral commission, in consultation with the constituency electoral commission may order the additional use of a second ballot box.

2. The ballot box referred to in paragraph 1 above shall be treated as an auxiliary box and such a ballot box shall be used exclusively by voters of electoral wards established in hospitals and social welfare institutions.
3. In event where the voter requires the use an auxiliary ballot box, the act of inserting a ballot paper into the box requires the presence of at least two persons – members of the ward electoral commission from two different election committees.
4. The provisions of this chapter shall apply to the use of an auxiliary ballot box.

**Article 63.**

Persons bearing arms shall be forbidden entry to the polling station.

**Article 64.**

1. Voting shall not be interrupted. When, due to extraordinary events, voting is temporary impossible, the chairperson of the ward electoral commission or his/her deputy may interrupt, prolong or adjourn voting until the following day. Such a decision shall immediately be made known to the public and delivered to the constituency electoral commission, to the head of a commune (mayor, president of a town) and through the constituency electoral commission to the National Electoral Commission.
2. The commission shall, in the event of any interruption or adjournment of voting, seal the aperture of the ballot box and deposit it in, together with the voters' list, in the custody of its chairperson. The seal of the commission shall be deposited in the custody of the deputy chair or other member of the commission. The commission shall establish the number of ballots unused, place them in a sealed packet and deposit them in the custody of the chairperson of the commission. The commission shall, before the resumption of voting, confirm in an official record that the seals on the ballot box and on the packet with unused ballot papers have remained intact.

**Article 65.**

1. Only official election notices shall be placed at the polling station.
2. In the polling station and in inside the booths ensuring secrecy there shall be affixed concise information from the National Electoral Commission on the manner of voting in the given elections.

**Article 66.**

1. The chairperson of the ward electoral commission shall ensure the secrecy of voting and is personally responsible for the maintenance of peace and public order during voting.
2. The chairperson of the ward electoral commission may demand that any person disturbing the peace or hindering public order shall leave the polling station.
3. On the demand of the chairperson of the ward electoral commission, the commandant of a competent police station shall be obliged to provide any necessary police assistance.
4. In the event of a disturbance of order in the polling station, the provisions of Article 63 shall not apply.

**Article 67.**

1. Only a voter whose name occurs on the list of voters, or a voter added to the list pursuant to the provisions of paragraphs 2 and 3, may cast a vote.
2. The ward electoral commission shall add on polling day to the list of voters:
  - 1) a person who submits a certificate of the right to vote, appending such certificate to the list of voters;
  - 2) a person omitted from the list of voters who proves permanent residence on the territory of given electoral ward, provided that the office of a commune has confirmed that it has not received a notice of this person's forfeiture of the right to vote or notice of the inclusion of that person on the list of voters of another ward,
  - 3) a person deleted from the roll of voters of given electoral ward because of inclusion on the list of voters of a hospital or social welfare institution, referred to in Article 20, paragraph 1, if that person submits a document confirming that s/he has left the hospital or social welfare institution on the day preceding polling day.
  - 4) A Polish citizen residing abroad, voting in Poland on the basis of a valid Polish passport, on submission of a document confirming permanent residence abroad. In such case the commission shall insert the number of the passport and the place and date of its issue in the section "remarks" on the voting list, and shall insert on the last blank page of the passport, devoted for annotations, the imprint of its seal and the date of the poll.
3. The provision of paragraph 2 above shall be applied to the arrival of a person at a hospital or social welfare institution on the day preceding polling day.

**Article 68.**

1. A voter shall, before casting the vote, produce to the ward electoral commission a document giving proof of his/her identity.
2. A voter, after fulfilling the obligation referred to in paragraph 1 above, shall receive a ballot paper, stamped with the electoral commission's seal, from the commission. A voter shall confirm the receipt of the ballot paper with his/her signature in the section of the list of voters designated for such purpose.
3. A voter voting abroad shall obtain the ballot paper only after producing a valid Polish passport.

4. Upon receiving the ballot paper, a voter shall proceed forthwith to the polling station booth guaranteeing secrecy for voting.
5. A voter shall insert his/her ballot paper into the ballot box, which shall be situated in an accessible and visible place at the polling station.

#### **Article 69**

A disabled voter, upon request, may be assisted in voting by another person who is not a member of a ward electoral commission or a poll observer authorised by the candidates.

### **CHAPTER 9**

#### **Establishment of results of voting in a ward**

#### **Article 70.**

1. The ward electoral commission, immediately after voting has been concluded, shall establish the results of voting in the ward.
2. The ward electoral commission shall establish the results of voting in the ward appropriately to the elections being held.
3. Specific provisions of this Act establish the principles of validity of the vote.

#### **Article 71.**

1. The commission shall establish, on the basis of the actual list of voters, the number of persons entitled to vote and the number of voters to whom ballot papers were delivered.
2. The commission shall establish the number of unused ballot papers and then shall place them into sealed packages.
3. The chairperson, assisted by the commission, shall open the ballot box, following which the commission shall count the ballot papers contained therein.
4. Ballot papers torn completely into two or more pieces shall not be included in the count referred to in paragraph 3.
5. Should the number of ballot papers taken from the ballot box exceed the number of ballot papers delivered, the commission shall indicate the probable cause of such discrepancy.
6. The commission shall prepare, in three copies, the record of voting in the ward.

#### **Article 72.**

Ballot papers other than those officially established or those without the seal of the ward electoral commission shall be invalid.

#### **Article 73.**

1. The ward electoral commission shall draw up, in two copies, the record of voting in the ward in elections to the Sejm and in elections to the Senate.
2. The records of voting in the ward, referred to in paragraph 1 above, shall specify the respective data referred to in Article 71, paragraph 1, as well as the number of valid votes cast for each list of candidates for deputies and the votes validly cast for each of the candidates from such lists or for individual candidates for senators.
3. The record shall additionally specify the number of ballot papers delivered and the number of received but unused ballot papers, as well as the number of invalid ballot papers taken from the ballot box.
4. The record shall specify the time of commencement and conclusion of voting and a summary of the orders and decisions issued as well as of other matters related to the conduct of voting.
5. All members of the ward electoral commission present at the making of the record shall sign it. The record shall be stamped with the seal of the commission.
6. Poll observers shall have the right to enter comments upon the record, specifying precise complaints. Annotations on the complaints entered shall be inserted in the record.
7. The provisions of paragraph 6 shall be applied accordingly to the members of the ward electoral commission; the application of provisions of paragraph 6 shall not exempt members from the duty to sign the record.
8. The National Electoral Commission shall establish a specimen of the records referred to in paragraph 1 above.

#### **Article 74.**

1. The figures from the record of voting in the ward referred to in Article 73, paragraphs 2 and 3, shall be inserted by the ward electoral commission on the balance sheet and immediately delivered to the plenipotentiary, referred to in Article 47, paragraph 1, nominated by the respective constituency electoral commission.
2. The plenipotentiary, referred to in paragraph 1 above, shall examine the calculation of results of voting in the ward, and shall confirm the given figures, or shall indicate calculation errors in the figures of a record. The ward electoral commission must explain and correct possible errors and publish the results according to the methods described in Article 75.
3. The specimen of the balance sheet referred to in paragraph 1, the method of its delivery and receipt as well as the method of

proceeding with the sheet shall be established by the National Electoral Commission.

#### **Article 75.**

The ward electoral commission shall immediately announce the results of voting, considering all the circumstances referred to in Article 162, paragraph 1 and in Article 203, paragraph 1, by affixing one copy of the record of voting in the ward inside the polling station in a place open to the public.

#### **Article 76.**

1. The chairperson of the ward electoral commission shall immediately deliver to the appropriate constituency electoral commission, in a sealed envelope, one copy of the record of voting in the ward, as well as explanations of the complaints lodged, referred to in Article 73, paragraphs 6 and 7, made by the commission. Poll observers may be present at the delivery of the record.

2. The National Electoral Commission shall establish the procedure for delivery and acceptance of the records referred to in paragraph 1 above, having regard to paragraph 4.

3. The National Electoral Commission may establish rules and procedures for transmitting, in advance, information from the record via public telecommunications or computerised data-transmission networks.

4. The results of the vote from ward electoral commissions established abroad shall be delivered to the constituency electoral commission for the commune Warszawa-Centrum and from electoral wards on Polish maritime vessels to the constituency electoral commission appropriate for the seat of the shipowner.

5. The rules and method of delivery of the results of the vote and records of the vote from wards, referred to in paragraph 4, to the constituency electoral commission, shall be determined by the National Electoral Commission, after consultation with the Minister responsible for foreign affairs and the Minister for the marine economy respectively.

#### **Article 77.**

After concluding the actions, referred to in Article 76, the chairperson of the ward electoral commission shall immediately transfer the documents concerning the voting and the seal of the commission to the head of the commune, mayor (president of town), consul or ship's captain respectively.

### **CHAPTER 10**

#### **Elections protests. Validity of elections**

#### **Article 78.**

1. A protest against the validity of elections or the validity of the election in a constituency or the election of a deputy to the Sejm or senator may be lodged on the basis of allegations of an offence committed against the election, or violation of this Act regarding the conduct of the poll or establishment of the results of the vote.

2. If an offence committed against the elections or a violation by the National Electoral Commission of the provisions of this Act regarding voting, establishing the results of voting or results of elections gives grounds for lodging a protest, it may be lodged by any voter.

3. A protest against the validity of elections in a constituency or against the election of a deputy to the Sejm or a senator may be lodged by any voter whose name occurred on the list of voters of any electoral ward of the respective electoral constituency on polling day.

4. The right to lodge a protest shall be also vested in a chairperson of the respective election commission as well as in an agent of an election committee.

5. Should a protest be lodged against the validity of the elections or the election of a deputy to the Sejm or a senator up to the time of the conclusion of proceedings pursuant to the provisions of Article 82 - the rules concerning the duties and rights of deputies to the Sejm and of senators shall be applied to the persons elected.

#### **Article 79.**

1. A protest shall be lodged with the Supreme Court in writing no later than the 7<sup>th</sup> day after the date of the announcement of the election results of the election by the National Electoral Commission. The mailing of such protest within the above time-limit at a post office in Poland shall be treated equally to lodging it with the Supreme Court.

2. In respect of voters abroad or aboard Polish ships, the requirement specified in paragraph 1 shall be deemed fulfilled if the protest has been lodged with either the territorially competent consul or the captain of the Polish ship. The voter shall enclose with the protest a notification of authorisation of his/her plenipotentiary residing in Poland or plenipotentiary residing in Poland who is authorised to receive delivery, failing which the examination of such protest shall be discontinued.

3. A person lodging a protest shall specify the complaints and furnish or indicate the evidence on which he/she bases such complaints.

#### **Article 80.**

1. The Supreme Court shall, by a bench of 3 judges, examine the protest in non-litigious proceedings, applying the appropriate provisions of the Code of Civil Procedure and shall give its opinion in the matter, formulated in a decision.

2. The opinion referred to in paragraph 1 above should present a conclusion as to the validity of the allegations specified in the protest, and if such allegations are confirmed, a judgement as to whether the offence influenced the results of the elections.

3. The participants in the proceedings shall be, by virtue of statute, the person lodging the protest, the head of the appropriate electoral commission or his/her deputy, and the Procurator General.

#### **Article 81.**

1. The Supreme Court shall refuse to hear a protest lodged by a person not entitled to do so pursuant to Article 78, paragraphs 2 - 4, or a protest that fails to comply with the requirements referred to in Article 79. The changing of the time-limit for lodging a protest is inadmissible.

2. The Supreme Court may refuse to hear the protest that concerns a case in which, according to the rules of this Act, it would have been possible to lodge, before polling day, a complaint or an appeal to the court or to the National Electoral Commission.

3. The Supreme Court shall immediately notify the Procurator General if a protest includes allegations of an offence committed against the elections.

#### **Article 82.**

1. The Supreme Court shall, by a bench of the whole Chamber of Administration, Labour and Social Insurance, determine the validity of the elections, and of the election of a deputy to the Sejm or a senator against whom a protest has been lodged on the basis of a report submitted by the National Electoral Commission and judgements resulting from the examination of the protests.

In such proceedings, the provisions of Articles 18 and 19 of the Act of the 20<sup>th</sup> September 1984 – on the Supreme Court (Journal of Laws of 1994, No. 13, item 48, of 199r No. 34, item 163, of 1996, No. 77, item 367, of 1997, No. 75, item 471, No. 98, item 604, No. 106, item 679 and No. 124, item 782, and of 1999, No. 75, item 853 and No. 110, item 1255) shall be applied respectively.

2. The Supreme Court shall take the decisions referred to in paragraph 1 in the form of a resolution adopted no later than the 90th day after polling day, at a sitting attended by the Procurator General and the Chair of the National Electoral Commission.

3. If the Supreme Court, following a decision invalidating the election in a constituency or the election of a deputy to the Sejm or a senator, shall resolve the seat/s to be vacant by reason of invalidation, then repeat elections or other appropriate electoral procedures must be conducted on Polish territory according to the principles and procedures of this Act.

4. The resolution of the Supreme Court shall be immediately submitted to the President of the Republic and to the Marshal of the Sejm or the Marshal of the Senate respectively, and to the National Electoral Commission.

5. The resolution of the Supreme Court shall be announced in the Journal of Laws of the Republic of Poland.

6. In cases referred to in paragraph 3 above seats shall be vacant on the day of publication of the resolution of the Supreme Court.

#### **Article 83.**

1. In the case of the adoption by the Supreme Court of a resolution on the invalidity of elections in a constituency or invalidity of the election of a deputy to the Sejm or a senator, the repeat elections or electoral activities shall be carried out exclusively within the territory of the Republic of Poland, pursuant to the rules and procedure provided in this Act.

2. The order of the President of the Republic on a repeat election or conduct of defined electoral activities shall be made public and announced in the Journal of Laws of the Republic of Poland no later than the 5th day after the day of announcement of the Supreme Court's resolution referred to in Article 82, paragraph 3. The provisions of Article 10 shall be applied respectively.

3. The results of repeat elections or electoral activities carried out shall be published by the National Electoral Commission in an announcement. The announcement shall also specify the persons who, as a result of the repeat elections or repeated electoral activities have lost their seats, indicating the number of the electoral constituency and in the case of a seat of a deputy – also the number and name of the list of candidates.

4. The announcement, referred to in paragraph 3 above, shall be published in the Journal of Laws of the Republic of Poland and shall be submitted to the Marshal of the Sejm or the Marshal of the Senate respectively.

#### **Article 84**

In the case of the adoption by the Supreme Court of a resolution on the invalidity of elections and its announcement in the Journal of Laws of the Republic of Poland, the repeat elections or electoral activities shall be carried out, within the scope of the invalidity, pursuant to the rules and procedure provided in this Act. The provisions of Article 83, paragraph 2 shall be applied respectively.

### **CHAPTER 11**

#### **Election Campaign**

#### **Article 85.**

1. The election campaign shall start on the day of proclamation by the President of the Republic's order on elections and shall end 24 hours before polling day.

2. Political parties and electors may engage in the activities described in this Act beginning from the day on which the proclamation, referred to in paragraph 1 above, was published. Any activities that have begun before that day shall be invalid.

3. During an election campaign electoral agitation shall be performed according to the rules, forms and time periods described by this Act.

#### **Article 86.**



From the end of the election campaign up until the conclusion of voting it shall be forbidden to publish the results of public opinion polls (pre-election surveys) on probable voting behaviour and election results.

#### **Article 87.**

1. From the end of the election campaign up until the conclusion of voting it shall be forbidden to organise voters' assemblies, marches and demonstrations, to make speeches or distribute leaflets or engage in any other agitation in support of candidates and lists of candidates.
2. It shall be forbidden to carry out any form of election campaigning on the premises of a polling station and inside the building where such premises have been located.

#### **Article 88.**

1. It shall be forbidden to carry out election campaigning in work places and in public institutions in a way and by methods disturbing their ordinary functioning.
2. It shall be forbidden to carry out election campaigning within the areas of military units and other units subordinated to the Minister of National Defence, and in civil defence units, as well as in quartered police units subordinate to the Minister for internal affairs.
3. It shall be forbidden to carry out election campaigning, within the areas of primary and secondary schools, addressed to pupils that have no electoral rights.
1. There shall be forbidden in election campaigns any raffles, lotteries, gambling or contests rewarded in money or goods if their value is higher than the value of articles used normally in advertising or promotion.
2. It shall be forbidden to serve and supply alcoholic beverages free of charge or at their prevailing net prices, no higher than the normal purchase price or the cost of production.

#### **Article 89.**

1. All campaign materials shall bear clear indications of their origin.
2. The Law protects campaign materials that bear an indication of their origin.

#### **Article 90.**

1. Election posters and slogans may be affixed to the walls of buildings, fences, lanterns, energy and telecommunication devices only with the consent of the owner or administrator of the property.
2. It shall be forbidden to affix election posters to the interior and exterior walls of government buildings or those of local administration and courts or on the territory of army and civil defence units as well as quartered units subject to the minister for internal affairs.
3. The council of a commune may prohibit affixing posters and slogans on certain public buildings as well as on specified parts of public places on the grounds of protection of historic heritage or the environment.
4. While constructing private announcements related to election campaigning, the rules in force shall be observed.
5. Posters shall be affixed in a manner enabling their removal without causing damage.
6. The police (city guard) shall be obliged to remove posters and slogans affixed in such a way as to risk danger to life or health or may be dangerous to the security of property or to road traffic – at the cost of the relevant election committee.
7. The appropriate election committees shall remove the posters, election slogans and other instruments of publicity installed for the purpose of the election campaign within 30 days following polling day.
8. The executive committee of a commune shall order the removal of election posters and slogans as well as other instruments of publicity placed in contravention to the provisions of paragraphs 1 – 5 or have not been removed by the appropriate election committees within the time limit referred to in paragraph 5. The expenses entailed in such removal shall be borne by the election committees concerned.

#### **Article 91.**

1. If posters, slogans leaflets, announcements or other forms of election propaganda and agitation shall contain false or inaccurate details and information, the candidate for a deputy to the Sejm or candidate for a senator, or an agent of any concerned election committee shall have the right to petition the district court to issue a ruling for:

- 1) prohibition of publication of such details and information;
- 2) confiscation of such materials;
- 3) rectifying such information;
- 4) publication of a reply in the case of infringement of an individual's rights,
- 5) apologising to the person libelled.

2. The district court, by a bench of one judge, shall examine a petition referred to in paragraph 1 within 24 hours in non-litigious proceedings. The court may examine the case in the reasonable absence of the petitioner or participant if they have been properly

notified of the time of the proceedings. A ruling that terminates proceedings in a case shall be notified immediately by the court to the person concerned, referred to in paragraph 1, the appropriate constituency electoral commission, and any person duly obliged to observe the court's ruling.

3. Within 24 hours any such ruling of a district court may be subject to appeal to the court of appeal, which shall be obliged to examine it within 24 hours following its proclamation. There shall be no legal recourse against the ruling of a court of appeal and it shall be subject to immediate execution.

4. False details and information related to elections and concerning election campaign, published in the press, shall be subject to rectification within 48 hours at the expense of the person so obliged. The court shall indicate the daily newspaper, within the meaning of the press Act, in which the rectification must be published, and the time limit for its publication.

5. In the event of refusal or failure to publish such rectification by a person so obliged by a court ruling, the court, on the motion of a person concerned, shall order publication of rectification by a writ of execution, at the expense of the person obliged so to do.

#### **Article 92.**

The exercise of rights under this Act shall not prevent any wronged or injured person from asserting his/her rights under other statutes.

#### **Article 93.**

The rules concerning advertisement in television and radio broadcasts, of both public and private broadcasters, shall be defined in specific provisions of this Act.

#### **Article 94.**

1. Polish Television and Polish Radio shall assure the National Electoral Commission, in the period of time which begins with the declaration of elections to the Sejm and to the Senate the opportunity for cost-free presentation of information, explanation and communications connected with the elections and with the regulations of the election law in force, on nationwide television and radio channels.

2. The National Council of Radio and Television shall, in agreement with the National Electoral Commission and the Boards of Polish Television and Polish Radio determine in regulations the procedures for the matters referred to in paragraph 1 above.

### **CHAPTER 12**

#### **Election committees.**

#### **Article 95.**

Election committees shall, in the name of political parties and of voters, engage in electoral activities, in particular the nomination of candidates for deputies to the Sejm and candidates for senators, and shall exclusively conduct the election campaign on their behalf.

#### **Article 96.**

1. The organ of a political party that is authorised to represent a party in its external contacts shall act as the election committee of the political party.

2. The organ of the political party referred to in paragraph 1 above shall be obliged to notify the National Electoral Commission of its intention to submit candidates for deputies to the Sejm or candidates for senators, and also provide information regarding:

1) the agent of the election committee – who is authorised, with regard to Article 109, to act for and in the name of the election committee;

2) the financial agent of the election committee referred to in Article 109.

3. The notification referred to in paragraph 2 above may be realised within the period of time that begins on the day of publication of the proclamation of elections and ends on the 50<sup>th</sup> day before the poll.

4. The notification referred to in paragraph 2, shall also include the following data:

1) the name of the election committee, given in conformity with Articles 99 and 100, as well as a short name and the address of the seat of the committee and the registration number of the political party in the register of political parties;

2) the name (names), surname, address of residence and identity card (PESEL) number of the agent referred to in paragraph 2, subparagraph 1;

3) the name (names), surname, address of residence and identity card (PESEL) number of the financial agent referred to in paragraph 2, subparagraph 2.

5. The following documents shall be enclosed with the notification referred to in paragraph 2:

1) the declaration of the agents referred to in paragraph 2 accepting the power of attorney, and additionally, in the case of a financial agent – also a statement, that s/he fulfils all the obligations referred to in Article 109, paragraphs 2 and 3;

2) a lawful copy of the register of political parties;

3) an excerpt from the statute of the political party, to indicate which of the party organs is authorised to represent the party externally.

#### **Article 97.**

1. Political parties may form an election coalition in order to submit joint list of candidates for deputies to the Sejm or candidates for senators.
2. A political party shall be a member of one election coalition only.
3. Election activities carried out in the name of an election coalition shall be realised by the election committee, later called: "election committee of a coalition", that has been created by the organs of the political parties authorised to represent those parties in external contacts which are members of that coalition.
4. The election committee of a coalition may be created in the period of time that begins on the day of publication of the order on elections and ends on the 50<sup>th</sup> day before the poll.
5. The election committee of a coalition shall consist of at least 10 persons, nominated by organs of the political parties referred to in paragraph 3 above.
6. The election committee of a coalition shall establish:
  - 1) the agent of the election committee – who is authorised, with regard to Article 109, to act for and in the name of the election committee;
  - 2) the financial agent of the election committee referred to in Article 109.
7. The agent referred to in paragraph 6, subparagraph 1, shall notify the National Electoral Commission, no later than the 50<sup>th</sup> day before the poll, that the election committee of a coalition has been created.
8. The notification referred to in paragraph 7 shall also include the following data:
  - 1) the name of the election committee, given in conformity with Articles 99 and 100, as well as a shortened name and the address of the seat of the committee;
  - 2) the name (names), surname, address of residence and identity card (PESEL) number of the agent referred to in paragraph 6, subparagraph 1;
  - 3) the name (names), surname, address of residence and identity card (PESEL) number of the financial agent referred to in paragraph 6, subparagraph 2.
9. The following documents shall be enclosed with the notification referred to in paragraph 7 above:
  - 1) a copy of the agreement about the creation of a coalition that includes the following: names, surnames, addresses of residence and identity cards (PESEL) numbers of the persons referred to in paragraph 5 above;
  - 2) the declaration of the agents referred to in paragraph 6 above accepting the power of attorney, and additionally, in the case of a financial agent – also a statement that s/he fulfils all the obligations referred to in Article 109, paragraphs 2 and 3;
  - 3) evidence of the registration of the political parties that form the coalition;
  - 4) excerpts from the statutes of the political parties forming the coalition which shall indicate the party organs authorised to represent the party externally.

#### **Article 98.**

1. Citizens that have electoral rights, at least 15 in number, shall have the right to create an election committee of electors, by submitting a written declaration of the creation of the committee, entering their names, surnames, addresses of residence and (PESEL) numbers of their identity cards.
2. The election committee of electors shall establish:
  - 1) the agent of the election committee – who is authorised, with regard to Article 109, to act for and in the name of the election committee;
  - 2) the financial agent of the election committee referred to in Article 109.
3. The agent and the financial agent shall be nominated from among the persons that create an election committee of electors.
4. After collecting at least 1,000 signatures of citizens, eligible to vote, who support the creation of the committee, the agent referred to in paragraph 2, subparagraph 1, shall notify the National Electoral Commission that the election committee has been created. This notification shall be delivered no later than the 50<sup>th</sup> day before the poll.
5. The notification referred to in paragraph 4 shall also include the following data:
  - 1) the name of the election committee, given in conformity with Articles 99 and 100, as well as a short name and the address of the seat of the committee;

2) the name (names), surname, address of residence and identity card (PESEL) number of the agent referred to in paragraph 2, subparagraph 1;

3) the name (names), surname, address of residence and identity card (PESEL) number of the financial agent referred to in paragraph 2, subparagraph 2.

6. The following documents shall be enclosed with the notification referred to in paragraph 4 above:

1) a declaration of the creation of an election committee, referred to in paragraph 1;

2) the declaration of the agents referred to in paragraph 2 accepting power of attorney, and additionally, in the case of the financial agent – also a statement that s/he fulfils all the obligations referred to in Article 109, paragraphs 2 and 3;

3) the list referred to in paragraph 4 of at least 1,000 signatures of citizens, including the following data: names, surnames, addresses of residence and identity card (PESEL) numbers, as well as the handwritten signatures.

#### **Article 99.**

1. The name of the election committee of a political party shall contain the words: "election committee" and the name of the political party. The name of the election committee of a political party may also include a short version of the party's name.

2. The name of the election committee of a coalition shall contain the words: "election committee of a coalition" and the name of the election coalition.

3. The name of an election committee of electors shall contain the words: "election committee of electors" and a description different from the names of other committees.

#### **Article 100.**

1. The name, shortened name and emblem of an election committee shall be legally protected.

2. The name, shortened name and emblem of an election committee of a coalition and of an election committee of the voters have to differ distinctly from the names, short names and emblems of other election committees of a coalition and the election committees of voters.

3. The name and shortened name of an election committee of electors must differ distinctly, with regard to paragraph 4, from the names and short names of political parties and social organisations which have been entered into the register maintained by the respective evidential administration.

4. The name and shortened name of an election committee of electors that is associated with organisations of national minorities may be identical with the name of such an organisation. The provisions of Article 134, paragraph 1, second sentence, shall apply.

#### **Article 101.**

Agents of election committees referred to in Article 96, paragraph 2, subparagraph 1, Article 97, paragraph 6, subparagraph 1, Article 96, paragraph 2, subparagraph 1, shall be called "agents".

#### **Article 102.**

1. When the notification:

1) referred to Article 96, paragraph 2;

2) referred to Article 97, paragraph 7;

3) referred to Article 98, paragraph 4;

meets all the requirements of this Act, the National Electoral Commission, within 3 days following its delivery shall decide on its acceptance. The decision shall be delivered to the agent immediately.

2. If the notification is inaccurate, the National Electoral Commission shall, within three days following delivery, notify the agent to remedy any defects in the course of five days. In the event a defect has not been removed within the time limit, the commission shall refuse to accept the notification. The decision, with reasons given, shall be delivered immediately to the agent.

3. An agent may appeal to the Supreme Court against a decision of the National Electoral Commission rejecting the notification. The appeal shall be made within three days of the date of the refusal to accept the notification.

4. The Supreme Court, sitting with a bench of seven judges, shall examine the petition and issue its ruling within five days in non-litigious proceedings. There shall be no legal recourse against a ruling of the Supreme Court. The ruling shall be submitted to the agent and to the National Electoral Commission. If the Supreme Court grants the petition, the National Electoral Commission shall immediately take a decision to accept the notification.

#### **Article 103.**

1. The committee shall acquire legal personality to exercise the duties arising from this Act on the day of the decision of the National Electoral Commission to accept the notification referred to in Article 96, paragraph 2.

2. An election committee of a coalition and an election committee of electors shall acquire legal personality to exercise the duties arising

from this Act on the day of the decision of the National Electoral Commission to accept the notification referred to in Article 97, paragraph 7, or in Article 98, paragraph 4.

#### **Article 104.**

The responsibility for liabilities:

- 1) of an election committee shall be borne by the political party which created that election committee;
- 2) of an election committee of a coalition shall be borne jointly by the political parties that are members of that election committee;
- 3) of an election committee of electors shall be borne jointly by the persons who are members of that election committee.

#### **Article 105.**

The National Electoral Commission shall announce the information on receiving of the notifications, referred to in Article 96, paragraph 2, Article 97, paragraph 7, or in Article 98, paragraph 4, in the Official Gazette "Monitor Polski" and shall publish it in a newspaper of nation-wide circulation.

#### **Article 106.**

1. An election committee, with regard to paragraphs 2 and 3, shall be dissolved by virtue of law:

- 1) after acceptance of its election report by the National Electoral Commission;
- 2) after the expiry of the time-limit for lodging a complaint referred to in Article 123, paragraph 1; or
- 3) after a ruling, referred to in Article 123, paragraph 2, which upholds a complaint lodged against the decision of the National Electoral Commission to reject an election report.

2. The election committees that have the right to obtain the subject allocation referred to in Article 128 shall be dissolved by virtue of law after six months following the day of receiving the allocation.

3. An election committee may be dissolved before polling day pursuant to the provisions concerning the creation of such a committee. The National Electoral Commission shall be immediately notified of the dissolution of a committee, and if the dissolution of the committee has occurred after the registration of candidates for deputies to the Sejm or candidates for senators – the proper constituency electoral commission should also be notified.

### **CHAPTER 13**

#### **Financing of the Election Campaigning**

#### **Article 107**

The financing of an election campaign shall be public.

#### **Article 108**

Election expenses of election committees incurred as result of an announced election shall be covered by their own means.

#### **Article 109**

1. Its financial agent shall bear responsibility for the management of the financial resources of an election committee.
2. The following persons cannot be a financial agent:
  - 1) a candidate for deputy or senator;
  - 2) an election agent;
  - 3) a public functionary within the meaning of the Article 115 § 13 of the Criminal Code.

3. A person may be a financial agent for one committee only.

#### **Article 110**

1. An election committee may raise and spend funds for election purposes only.
2. An election committee may raise and spend funds beginning from the day of adopting of the resolution by the National Electoral Commission on accepting the notification referred to in Article 96, paragraph 2.
3. An election committee of a coalition and an election committee of electors may raise and spend funds beginning from the day of the resolution of the National Electoral Commission on accepting the notification referred to in Article 97, paragraph 7, or in Article 98, paragraph 4, respectively.
4. It shall be forbidden:
  - 1) for an election committee to raise funds after the day of the election;

2) for an election committee to spend funds after the day of the submission of the report referred to in Article 120.

#### **Article 111**

1. The funds of an election committee of a political party may be derived only from the Election Fund of the political party concerned, created on the basis of provisions of the Act of 27 June 1997 on political parties (Journal of Laws of the Republic of Poland No. 98, item 604 of 1998, No. 106, item 668 and No.46, item 499 and No 154, item 1802 of 2001).

2. The funds for an election committee of a coalition and an election committee of electors may be submitted by natural persons only, on conditions laid down in paragraphs 3 to 6 and in Article 106.

3. An election committee of a coalition and an election committee of electors shall not accept funds from:

1) natural persons, excluding Polish citizens residing abroad, who are not resident in the territory of the Republic of Poland;

2) foreign nationals, having their residence in the territory of the Republic of Poland;

4. The provisions of paragraphs 1 to 3 shall apply as appropriate to in-kind contributions.

5. The funds of an election committee of a coalition may be derived from resources collected on the basis of the Act of law referred to in paragraph 1, that is from the Election Fund of the political parties which are members of such an election coalition.

6. An election committee may contract bank loans for purposes connected with the election.

#### **Article 112**

1. The transfer of financial resources and in-kind contributions belonging to a committee for the benefit of another committee shall be prohibited.

2. It shall be forbidden to organise public collections to raise funds for an election committee.

#### **Article 113**

1. Financial resources of an election committee shall be deposited in a bank account only.

2. Financial contributions must be made only by cheque, bank transfer, or credit card.

3. The total amount of the sums contributed by an individual for one election committee of a coalition or an election committee of electors cannot exceed fifteen times the minimum monthly wage of a worker on the day preceding the day of the announcement of elections.

#### **Article 114**

1. An election committees may not exceed the following expenditure limits on election campaigning:

1) a constituency limit – established for an election committee which, in elections to the Sejm or to the Senate, has registered a candidate or candidates in one election constituency only; or

2) a multi-constituency limit - established for an election committee, which, in elections to the Sejm or to the Senate, has registered candidates in more than one constituency.

2. The expenditure limit is calculated as the sum of 1 (one) Polish zloty for each elector of the country included on the electoral register, on condition that:

1) the constituency limit is calculated by dividing all the registered voters of the country by 560 (five hundred and sixty) and the result obtained is multiplied by the number of deputies or senators elected in a given electoral constituency where a committee has registered a candidate or candidates;

2) the multi-constituency limit for a given committee is derived as a sum of constituency limits referred in paragraph 1 above.

3. The National Electoral Commission shall, within 14 days, announce by a communiqué in the Official Gazette of the Republic of Poland ("Monitor Polski") and shall publicise in a daily paper with nationwide circulation – the number of voters registered in the territory of the whole country at the end of the quarter of the year preceding the day of announcement of elections to the Sejm.

#### **Article 115**

The election campaigning expenditures of an election committee on advertising, realised in the manner and on the basis common for advertising, including press publications as defined by the provisions of the press law, cannot exceed eight per cent of the limit established in compliance with the provisions of Article 114, paragraph 1, subparagraph 1 or 2, for the given election committee.

#### **Article 116**

1. If an election committee contributes more funds for election campaigning than the expenditures incurred – excess campaign funds should be transferred to the Election Fund of a political party established according to the provisions of the Act on political parties. The financial agent shall notify of such transfer in a daily paper with nationwide circulation, no later than 30 days following the receipt of the election report by the National Electoral Commission or acceptance of a complaint referred to in Article 123, paragraph 1.

2. If an election committee of a coalition contributes more funds for election campaigning than the expenditures incurred, then its excess campaign funds should be transferred to the Election Funds of parties that created the coalition which are established according to the provisions of the Act on political parties, in proportions determined by a coalition agreement; if no such provisions are fixed in the coalition agreement, the excess funds shall be transferred to a charitable institution. The financial agent shall notify of such transfer in a daily paper with nationwide circulation, no later than 30 days following the receipt of the election report by the National Electoral Commission or acceptance of a complaint referred to in Article 123, paragraph 1.

3. If an election committee of electors contributes more funds, including allocations referred to in Article 128, for election campaigning than the expenditures incurred, excess campaign funds shall be transferred to a charitable institution. The financial agent shall notify of such transfer in a daily paper with nationwide circulation, no later than six months following the receipt of the election report by the National Electoral Commission or acceptance of a complaint, referred to in Article 123, paragraph 1.

#### **Article 117**

All appeals and written information submitted by a coalition committee of a coalition and by an election committee of electors issued to solicit contributions in support of elections shall bear a note informing of the provisions of Article 111, paragraph 1 to 4; Article 113, paragraph 2 and 3; Article 127; Article 223, paragraph 3 and Article 224, paragraph 3.

#### **Article 118**

Election committees shall provide bookkeeping in the form required by separate provisions for organisational units not engaged in economic activity, with regard to the provisions of this Act.

#### **Article 119**

1. The rules of the Act on political parties shall apply to the problems of financing of election committees of political parties that are not regulated by this Act.

2. Beginning from the day of acceptance by the National Electoral Commission of the notification referred to in Article 96, paragraph 2, or Article 97, paragraph 7, and ending on polling day, a political party which independently creates an election committee or which is a member of an election coalition has the right to provide and finance all forms of agitation to disseminate the goals of political party programmes exclusively on the basis, forms, time and in places described by this Act.

#### **Article 120**

1. The financial agent shall submit to the National Electoral Commission, within three months following polling day a report, later called the "election report", on receipts, disbursements and financial liabilities of the committee, including bank loans, and specifying the conditions set forth by lending institutions, along with the written opinion of a competent auditor concerning the report.

2. The National Electoral Commission shall appoint competent auditors from amongst candidates submitted by the National Council of Auditors in a number agreed with the National Electoral Commission.

3. The cost of preparing the opinions referred to in paragraph 1 shall be covered by the State Budget's sections on the budget, public finance and financial institutions.

4. The Minister responsible for public finance, after seeking the opinion of the National Electoral Commission, shall specify, in a regulation, a specimen election report and itemised information, as well as a list of the documents which shall be added to the report to enable verification of the information provided.

5. In-kind contributions, i.e. goods and services offered free of charge, shall be included in the expenditures of an election committee.

6. In-kind contributions, i.e. goods and services offered free of charge, shall be valued at their prevailing net prices, no higher than the normal purchase price or the cost of production reduced by an amortisation quota.

7. The provision of paragraph 6 above shall not apply to the unpaid dissemination of posters and election leaflets realised by subjects other than businessmen.

#### **Article 121**

1. The National Electoral Commission shall publish the election reports of election committees in the Official Gazette of the Republic of Poland "Monitor Polski" within a month following the date referred to in Article 120, paragraph 1.

2. The National Election Commission shall facilitate access to the list of contributions made by individuals to the benefit of an election committee of a coalition or to the election committee of electors, on the motion and rules provided by the Act on protection of personal data of 29 August 1997 (Journal of Laws No. 133, item 883 and of 2000 No. 12, item 136; No. 50, item 580 and No. 116, item 1216).

3. The remaining documents enclosed with an election reports shall be made accessible to the subjects referred to in Article 122, paragraph 5, in the period of time established for submitting complaints against election reports.

#### **Article 122**

1. The National Electoral Commission shall in 4 (four) months following the day on which the election report is submitted:

- 1) accept it without any reservations;
- 2) accept the report and indicate its infringements; or
- 3) reject the report, if there have been found:

- a. receipts or disbursements of funds of an election committee made in violation of provisions of Article 110 or of limitations fixed by Article 114. paragraphs 1 and 2;
- b. transfer to the election committee of a coalition or to the election committee of electors, or receipt by the committee of financial or in-kind resources in contravention of the prohibitions specified in Article 111, paragraphs 2 to 4;
- c. organisation of public collections in contravention of the prohibition, specified in Article 112, paragraph 2;
- d. receipt, by an election committee of a political party, of financial resources derived from other sources than Election Fund of that party."

2. If there are any doubts as to the correctness of an election report, the National Electoral Commission may request the election committee to remove defects of the report or submit explanations within a specified time limit.
3. In the course of its examination of an election report, the National Electoral Commission may order the preparation of expert reports or opinions.
4. In the examination of election reports, the National Electoral Commission may request that necessary assistance be given by State organs.
5. Within seven days following the publication of an election report :
  - 1) political parties;
  - 2) committees which took part in the given elections;
  - 3) associations and foundations which in their statute include tasks connected with the analysis of election campaign financing –

have the right to submit to the National Electoral Commission their written reservations to committees' election reports, specifying their reasons.

6. The National Electoral Commission shall, within 60 days following submission of reservations referred to in paragraph 5 above, respond in writing.

#### **Article 123**

1. In the event that the National Electoral Commission rejects an election report, its committee may lodge, within the seven days following delivery of the decision rejecting the report, a complaint to the Supreme Court against the decision of the National Electoral Commission.
2. The Supreme Court shall examine the complaint and shall issue a ruling in a case within the 60 days following the delivery of a complaint. The resolution of the Supreme Court shall be submitted to the financial agent concerned and to the National Electoral Commission.
3. The Supreme Court, by a bench of seven judges, examines such a complaint in a non-litigious procedure.
4. There shall be no legal recourse against the ruling of the Supreme Court.
5. If the Supreme Court admits a complaint submitted by a financial agent, the National Electoral Commission shall immediately accept the election report.

#### **Article 124**

The National Electoral Commission shall publish in the Official Gazette of the Republic of Poland "Monitor Polski" and shall publicise in the form of a communiqué, information on accepted and rejected reports of election committees.

#### **Article 125**

1. If the election report has not been submitted in the prescribed time by:
  - 1) an election committee of a political party- such party is denied the right to allocation referred to in Article 128 and the right to subvention referred to in Article 28 of the Act on political parties;
  - 2) an election committee of a coalition – the political party that is a member of the election coalition is denied the right to allocation referred to in Article 128 and the right to subvention referred to in Article 28 of the Act on political parties;
  - 3) an election committee of electors – it has no right to the allocation referred to in Article 128.
2. The provisions of Articles 120 – 123 shall be applied to an election report submitted after the expiration of the prescribed time.

#### **Article 126**

1. If an election report or a complaint referred in Article 123, paragraph 1 has been refused, the allocation vested to an election committee, referred to in Article 128 shall be diminished by an amount of money equal to the threefold the amount of funds received or disbursed in violation of the provisions, referred to in Article 122, paragraph 1, subparagraphs 3a) to 3d).



2. In the event that the National Electoral Commission rejects an election report or a complaint, referred to in Article 123, paragraph 1, the allocation, referred to in Articles 28 and 29 of the Act on Political Parties, vested to a political party, which created an election committee or an election committee of a coalition shall be reduced by sum of money being equivalent of threefold value of all receipts or disbursements made in violation of the provisions referred to in Article 122, paragraph 1, subparagraphs 3a) to 3d).

3. The reduction of allocation or subvention, referred to in paragraphs 1 and 2, cannot exceed 75% of the amount of allocation determined in accordance to the principles described in Article 28 and Article 29 of the Act on Political Parties.";

#### Article 127

1. Financial assets transferred to or accepted by an election committee in violation of the prohibitions specified in Article 110, paragraph 4; Article 111, paragraphs 1-4; Article 112, paragraph 1; Article 113; Article 114, paragraph 1, or Article 115 shall be forfeited to the State Treasury. In event such a asset has been exhausted or lost, its value shall be forfeited.

2. The District Court in Warsaw shall have jurisdiction in cases of the financial assets referred to in paragraph 1 above.

3. The National Electoral Commission shall file a motion with the court concerning the forfeit of financial assets.

4. The provisions of the Code of Civil Procedure shall apply to cases of forfeit of financial assets.

#### Article 128

1. A political party whose election committee participated in elections or a political party that is a member of a coalition election committee or an election committee of electors has the right to an allocation from the State Budget, hereafter called "a subject allocation", for each mandate of a deputy or senator gained. The expenditures connected with the subject allocation shall be covered by sections of the State Budget for the Budget, public finances and financial institutions.

2. The amount of the subject allocation due for one mandate gained shall be established by dividing the amount of expenditures shown in the election reports of committees which have obtained at least one seat (mandate) by the number 560. (\*translator's note: the number 560 is obtained by adding the number of members of the Sejm [460] and of the Senate [100])

The expenditures shown in election reports shall be included in the above calculation in the amount not exceeding the expenditure limits referred to in Article 114, to which a given committee is entitled.

3. The amount of a subject allocation shall be determined according to the formula:

**W**

**D<sub>p</sub>** = ----- x **M**,

**560**

Where:

**D<sub>p</sub>** – is the amount of the subject allocation

**W** – is the sum of campaign election expenditures of election committees (calculated according to the rules given in paragraph 2 above, i.e. expenditures of committees that obtained at least one mandate, in an amount not exceeding the limits established)

**M** – is the total number of seats of Deputies and Senators gained.

5. The subject allocation shall be limited to the amount shown in an election report.

6. The subject allocation, in the amount calculated according to the provisions of paragraphs 2 – 4 above, shall be calculated for each mandate of a Deputy or a Senator gained in a repeat elections to the Sejm and to the Senate and in by-elections.

7. The subject allocation to a political party that is a member of an election coalition shall be divided among the parties forming such a coalition in proportions determined in the agreement creating the election coalition. The agreed proportion shall not be changed. If the political parties creating the coalition failed to fix such proportions in the agreement creating the coalition, the subject allocation shall not be due.

8. The subject allocation shall be transferred by the Minister responsible for public finance to a bank account indicated by the subjects referred to in paragraph 1 above, on the basis of information on subjects having the right to obtain a subject allocation and on the number of seats gained by the election committee in question provided by the National Electoral Commission. The allocation shall be paid within 6 months following the declaration of the validity of the elections.

9. In event of a division, merger or dissolution of a political party, its rights to the subject allocation shall be resolved in accordance with the provisions of Article 37 of the Act on political parties.

### CHAPTER 14

#### Financing of elections by the State Budget

#### Article 129

1. Expenditures related to the organisation and preparation and conduct of elections shall be covered by the State Budget's section on Intentional reserves.

2. The State Budget shall cover expenditures related to:

- 1) duties of the National Electoral Commission and the National Electoral Office prescribed in this Act;
  - 2) duties of electoral commissions of a subordinate level as well as tasks connected with ensuring services to them by assigned organs and organisational units;
  - 3) election duties ascribed to the organs of government administration and organisational units as well as other organs of the State;
  - 4) election duties ascribed to the units of territorial self-government.
3. The financial resources for expenses ascribed to the units of territorial self-government shall be transferred in sufficient time to enable realisation of the expenditure.
4. The information concerning expenditures referred to in paragraph 2 above shall be published by the Head of the National Electoral Office no later, than within five months following polling day.
5. Provisions of public financing rules shall apply to the financial planning and realisation of the expenditures referred to in paragraphs 2 and 3 and to financial statistics.
6. The Head of the National Electoral Office shall administer the financial resources referred to in paragraph 1 above.

## **PART II**

### **Special Rules on Elections to the Sejm of the Republic of Poland**

#### **CHAPTER 15**

##### **General rules**

#### **Article 130.**

The election shall be universal, equal, direct and proportional and shall be performed by secret ballot.

#### **Article 131.**

A citizen of Poland who is over 21 years of age on polling day and is entitled to vote shall have the right to be elected as a deputy.

#### **Article 132.**

460 deputies shall be elected to the Sejm in multi-member electoral constituencies from constituency lists of candidates.

#### **Article 133.**

1. Only those constituency lists of candidates for deputies of election committees that have gained at least five per cent of valid votes cast throughout the entire country shall take part in the allocation of seats.

2. The constituency lists of candidates for deputies of coalition election committees shall take part in the allocation of seats in election constituencies if those lists have gained at least eight per cent of valid votes cast throughout the entire country.

#### **Article 134.**

1. The lists of election committees created by electors associated as registered organisations of national minorities are exempt from the requirement referred to in Article 133, paragraph 1, if they submit to the National Electoral Commission a relevant declaration no later than five days before the poll.

Together with the declaration specified in the first sentence, the committee shall be obliged to submit a document issued by the appropriate statutory body of an organisation of a national minority in which the creation of the committee by electors – the members of such organisation – is confirmed.

2. The National Electoral Commission shall immediately confirm the submission of the statement referred to in paragraph 1. The confirmation of a statement is binding.

#### **Article 135.**

If the requirements referred to in Article 133, paragraph 1 or 2, shall not be fulfilled by lists of candidates for deputies of any of the constituency lists of candidates of any election committee, or if any of the specified requirements shall be fulfilled by one election committee only - the seats in those constituencies shall be allocated between those lists which have gained at least three per cent of valid votes cast throughout the entire country. The lists of coalition election committees shall participate in the allocation of seats if they have gained at least five per cent of valid votes cast throughout the entire country.

## **CHAPTER 16**

### **Electoral Constituencies**

#### **Article 136.**

1. For the purpose of elections to the Sejm electoral constituencies are created, later called: "electoral constituencies".
2. At least seven deputies shall be elected in an electoral constituency.

3. The electoral constituency covers the territory of a voivodeship or a part thereof. Boundaries of the electoral constituency shall not disturb the boundaries of any counties\* or towns holding rights of a county that form the territory of a voivodeship.

#### **Article 137.**

1. The number of deputies elected in electoral constituencies and divisions of a voivodeship into electoral constituencies shall be established according to a uniform quota of representation, calculated by dividing the population of the whole country by the number of deputies elected in electoral constituencies, giving attention to the provisions of Article 136 as well as to the following principles:

1) fractions of numbers of mandates to be elected in an electoral constituency equal or larger than  $\frac{1}{2}$ , obtained as a result of adopting the uniform quota of representation, shall be rounded up to form whole numbers;

2) if, as a result of the calculation referred to in point 1 above the number of deputies elected in the electoral constituencies is larger than that fixed in Article 132, the surplus mandates shall be taken from the electoral constituencies where there is the lowest quota of representation. If the number of mandates is lower than fixed in Article 132, the supplementary mandates are added to electoral constituencies where there is the largest quota of representation.

2. The division into electoral constituencies, their consecutive numbers and boundaries and the number of deputies elected in each of the constituencies as well as the location of the constituency electoral commissions shall be specified in Appendix No. 1 of this Act.

3. Information concerning electoral constituencies shall be notified to the electors of a given electoral constituency in an announcement by the National Electoral Commission, published no later than on the 52<sup>nd</sup> day before polling day. The National Electoral Commission shall assure the publication and posting of announcements.

#### **Article 138.**

1. The National Electoral Commission shall submit to the Sejm its proposals concerning changes in the boundaries of electoral constituencies and in the number of deputies to be elected in a given constituency, if such necessity occurs as an effect of changes in the basic territorial division of the country or changes in the population of the given constituency or in the whole country.

2. Any changes of boundaries of counties that may cause changes of boundaries of electoral constituencies shall be inadmissible in the period of time that begins 12 months prior to the expiry of the Sejm's term of office, (or in the period of time that begins from the issue of the order for elections if the Sejm's term of office has been curtailed) - and ends on the day of the announcement of the validity of the elections.

3. With regard to paragraph 4 below, the Sejm shall make changes in divisions into electoral constituencies as an effect of the reasons specified in paragraph 1 above no later than 3 months before the day on which elections should be ordered.

4. If the term of office of the Sejm has been curtailed, no changes in divisions into electoral constituencies shall be made.

### **CHAPTER 17**

#### **Submission of Lists of Candidates for Deputies to the Sejm**

#### **Article 139.**

1. An election committee shall have the right to submit in each electoral constituency only one constituency list of candidates for deputies, later called: "the constituency list".

2. A candidate may stand for election in one electoral constituency and from one constituency list only.

3. Political parties which participate in an election coalition shall have no right to individual submission of a constituency list of candidates.

#### **Article 140.**

1. A voter may give written support to more than one constituency list. The withdrawal of support given has no effect.

2. A voter who supports a constituency list shall place his signature beside his/her legibly written surname and forename, address of residence and the number of his/her identity card (PESEL).

3. Each page of signatures shall include thereon the name of the election committee submitting the list, the number of the electoral constituency where the list is submitted and the annotation:

"I support the list of candidates for deputies, submitted by:.....in the electoral constituency....."

(name of an electoral committee) (number of constituency)

in elections to the Sejm of the Republic of Poland:....."

(day, month, year)

#### **Article 141.**

1. The collection of signatures of persons who support a constituency list may be realised in a place, time and manner that excludes any threat, deceit or pressure brought to obtain such signatures.

2. It shall be forbidden to collect signatures of support for a constituency list within military units and other units subordinated to the

Minister of National Defence and in civil defence units as well as in quartered police units subordinate to the Minister of internal affairs.

It shall be forbidden to grant a salary for collecting or signing a constituency list.

#### **Article 142.**

1. A constituency list shall be supported, according to the provisions of Article 140, paragraphs 1 and 2, by the signatures of at least 5,000 voters who permanently reside in a given electoral constituency.

2. An election committee, which has fulfilled the requirements specified in paragraph 1 above and registered constituency lists in at least half of the electoral constituencies shall have the right to submit further lists without signatures of voters supporting them.

3. The submission of constituency lists by election committees which have fulfilled the requirements specified in paragraph 2 above, shall be valid if confirmed by a certificate of the National Electoral Commission, issued on a motion of the election committee concerned that is submitted no later than 40 days before polling day.

#### **Article 143.**

1. A constituency list shall be submitted to the constituency electoral commission up to 12 PM at the latest, on the 40<sup>th</sup> day before polling day.

2. The number of candidates for deputies shall not be smaller than the total number of deputies elected in a given electoral constituency nor greater than twice the total number of deputies elected in a given electoral constituency.

3. The submission of a constituency list shall be done personally in written form by an election agent or a person authorised by him/her, later called: "the person submitting the list". If the list has been submitted by a person authorised by an agent, a document should be appended confirming the conferral of power of attorney and its scope and including the personal data of the person authorised, specifically: name (names), surname, address of residence and identity document (PESEL) number.

#### **Article 144.**

1. The submission of a constituency list of candidates shall include the surname, name (names), profession and place of residence of each of the candidates. The surnames of candidates on the list shall be placed in the order specified by the election committee.

2. The name or short version of the name of the party of which he/she is a member (of no more than 40 characters) shall describe the candidate.

3. A person submitting a list may ask to denote a candidate who is not a member of any political party solely by the name or shortened name of the political party supporting that candidate; the provisions of paragraph 2 shall apply accordingly. The act of support for the candidate should be confirmed, in writing, by the party's proper statutory body. The motion and its confirmation shall be filed with the submission of the list.

4. In the submission, the person submitting the list may make application to denote a registered list with a shortened name of an election committee in official announcements and on the ballot paper.

5. To each submitted list there shall be appended:

1) a statement of the number of signatures of voters who support the list, together with the signatures of voters supporting the list or a certificate issued by the National Electoral Commission referred to in Article 142, paragraph 3;

2) the written consent of a candidate to stand in elections from the given constituency list. The consent for standing in election shall include the name (names), surname and age of the candidate and his/her number of identity card (PESEL) as well as an indication of his/her political party affiliation or none; the statement of the candidate confirming acceptance of standing for election shall be personally dated and signed by the candidate;

3) the statement referred to in Article 6, paragraph 1 of the Act of 11 April 1997 on Disclosure of Work or Service in the Organs of State Security and Collaboration with such organs in the years 1944 – 1990 by Persons Performing Public Functions (Journal of Laws No. 70, item 443 with further amendments) or information on the earlier submission of such a statement in connection with standing for a public office where such statement has been necessary.

6. After submitting the list it is inadmissible to insert additional names of candidates or to change the order in which their names have been placed on the list, or to change the denotation referred to in paragraph 3 above.

#### **Article 145.**

If a candidate for deputy completes only Part A of the statement referred to in Article 144 paragraph 5.3, such a statement shall be annexed to the submission of the list. If Part B of the statement is also completed – then Part A shall be annexed to the submission of the list with annotation on the submission of Part B, and Part B shall be submitted directly to the National Electoral Commission by the candidate for deputy.

#### **Article 146.**

1. While receiving a submission, the constituency electoral commission shall, in the presence of the person submitting a list, examine whether it conforms to the provisions of Article 144 and shall issue a written receipt of the submission. The National Electoral Commission shall provide a specimen receipt.

2. The commission shall number and stamp each page of signatures.

3. After examination of the accuracy of the data provided in the list of signatures, the commission shall retain the signatures in sealed packages. Access to the packages and unsealing them may take place only for the purposes of legal proceedings in courts or the organs of the procuracy and in the presence of a member of the constituency electoral commission; the person who submitted the list shall be notified immediately of the date of proceedings.

#### **Article 147.**

1. The relevant constituency electoral commission shall register a constituency list submitted pursuant to the provisions of this Act and shall make a record of the registration. A copy of such record shall be provided to the person who submitted the list and shall be delivered to the National Electoral Commission together with the statements of candidates for deputies or the information referred to in Article 144, paragraph 5.3.

2. If the submission has defects other than the lack of the required number of signatures of voters, then the commission shall summon the person who submitted the list to have such defects removed within three days. If the defects are not removed within this time limit, the commission shall refuse to register the list either wholly or in respect of certain candidates. If the commission refuses to register only certain candidates, the list shall be registered, having regard to the provisions of Article 143 paragraph 2, with its contents free of defects.

3. A decision of a Constituency Electoral Commission to refuse registration referred to in paragraph 2, together with the justification for refusal, shall be immediately delivered to the person submitting the list. The person submitting the list has the right to appeal against such a decision to the National Electoral Commission within three days of the date of delivery. There shall be no legal recourse against the decision of the National Electoral Commission.

#### **Article 148.**

1. If the number of validly recorded signatures of voters who support a constituency list is fewer than that required by this Act, the constituency electoral commission shall summon the person submitting the list to complete the list of signatures, if the time limit referred to in Article 143 paragraph 1, has not elapsed. Completion may be done up to the end of the time limit specified in Article 143, paragraph 1.

2. If the completion is not realised within the time limit referred to in Article 143, paragraph 1, or such time has elapsed, the constituency electoral commission shall refuse registration of the constituency list. The decision shall be immediately delivered to the person submitting the list.

3. The declaration referred to in paragraph 2 above may be appealed to the territorially competent constituency court within three days of the date of delivery. The constituency court, by a bench of 3 judges, shall examine the appeal in non-litigious proceedings. There shall be no legal recourse against the decision of the court. If the court determines the complaint to be valid, the constituency electoral commission shall immediately register the list.

#### **Article 149.**

1. If there is reasonable doubt as to the reliability of data included in the list of signatures, or the credibility of signatures, the constituency electoral commission shall verify, within three days, the number and reliability of signatures by reference to officially accessible documents, including the electoral register and the official register of residents, and also, if necessary, clarification by voters. The person who submitted the list shall be immediately notified of the onset of explanatory proceedings.

2. If as a result of verification it is determined that the list lacks the officially required signatures of support, the constituency electoral commission shall declare its refusal to register the constituency list submitted and provide its reasons.

3. The declaration referred to in paragraph 2 above may be appealed to the court competent for that electoral constituency within three days of the date of delivery by the person who submitted the list. The court, by bench of 3 judges, shall examine the complaint in non-litigious proceedings and shall give a decision. There shall be no legal recourse against the decision of the court. If the court determines the complaint to be valid, the constituency electoral commission shall immediately register the constituency list.

#### **Article 150.**

1. The National Electoral Commission shall, on the basis of protocols confirming the registration of constituency lists, establish by random lottery, no later than 30 day before the polling day, a single number for the lists of a given election committee registered in more than one electoral constituency. The election agents shall be informed of the date of selection and his/her absence shall not prevent the lottery.

2. Numbers for election committees with lists registered in all electoral constituencies are drawn first. Then numbers shall be drawn for the lists of remaining election committees.

3. The National Electoral Commission shall immediately notify constituency electoral commission and elections agents of the numbers selected for constituency lists.

#### **Article 151.**

1. After receiving the notification referred to in Article 150, paragraph 3 above, the constituency electoral commission shall conduct, no later than the 25<sup>th</sup> day before polling day, a random lottery to select numbers for lists of election committees which have registered lists only in the given constituency. Persons who submitted lists shall be notified of the date of the lottery and their absence shall not prevent it.

2. The constituency electoral commission shall immediately notify the National Election Commission and election agents of the numbers selected for the constituency lists referred in paragraph 1 above.

#### **Article 152.**

1. The constituency electoral commission shall prepare an announcement on the constituency lists registered, including information on the numbers, names and short names of election committees and details of the candidates included on the lists submitted, along with the contents of the statement referred to in Article 6, paragraph 1 of the Act of 11 April 1997 on Disclosure of Work or Service in Organs of State Security and Collaboration with such Organs in the years 1944 – 1990 by Persons Performing Public Functions, in the part specified in Article 11, paragraph 2, of that Act.

2. The announcement referred to in paragraph 1 above shall be delivered to the head of the territorially competent unit of the National Electoral Office, who shall ensure its printing and posting within the constituency area no later than on the tenth day before polling day. A copy of the announcement shall be immediately provided to the National Electoral Commission.

#### **Article 153.**

1. The constituency electoral commission shall delete from the registered constituency list the name of a candidate for a deputy who has died, forfeited his/her eligibility or submitted to the commission a written statement of withdrawal of his/her acceptance of candidacy.

2. If the deletion of a candidate's name from the registered list has occurred due to death of a candidate and means that there are fewer candidates than the number of deputies to be elected in a given electoral constituency, the commission shall inform the person who submitted the list that there exists the opportunity to submit a new candidate. The list shall be supplemented no later than on the fifteenth day before polling day; the provisions of Article 142, paragraph 1, shall not apply in such case.

3. If the deletion of a candidate has occurred for reasons other than the death of a candidate or if the list has not been completed within the time limit referred to in paragraph 2 above, and there are fewer candidates than the number of deputies to be elected in a given electoral constituency, the commission shall nullify the registration of the list. There shall be no legal recourse against a decision made in such case.

4. In the event of the dissolution of an election committee in accordance with to the provisions of Article 106, paragraph 3, the constituency electoral commission shall nullify the registration of the list of that committee. The procedure laid down by Article 142, paragraph 1, shall apply accordingly.

5. The constituency electoral commission shall immediately notify the person who submitted the list and the National Electoral Commission, in the form of an announcement, of the deletion of a candidate and decisions arising from paragraphs 2-4.

#### **Article 154.**

1. The election agent or a person authorised by him/her may appoint one poll observer to each ward electoral commission acting on the territory of the electoral constituency in which a constituency list submitted by him/her has been registered.

2. The election agent or a person authorised by him/her shall issue to poll observers a certificate pursuant to the specimen provided by the National Electoral Commission.

3. The election agent or a person authorised by him/her shall hold the post of an election observer at the National Electoral Commission.

### **CHAPTER 18**

#### **Ballot papers**

#### **Article 155.**

The constituency electoral commission shall, after registration of constituency lists, order the printing of ballot papers and shall ensure their delivery to ward electoral commissions pursuant to the procedures laid down by the National Electoral Commission.

#### **Article 156.**

The ballot paper shall denote the lists registered in a given constituency, including the number of a lists, provided in ascending order, and the name or shortened name of the election committee. Under the denotation of the list shall be placed the surnames and forenames of all candidates registered on the list.

#### **Article 157.**

1. Each ballot paper shall bear concise information on the manner of voting.

2. The ballot paper shall be printed with the imprint of the seal of the appropriate constituency electoral commission and there shall be marked a place for the seal of the ward electoral commission.

3. The ballot paper shall be printed on one side only. The size and style of printing shall be identical in form for all lists and all names of candidates.

4. The National Electoral Commission shall specify the design of the ballot paper.

#### **Article 158.**

1. If a constituency electoral commission has deleted a candidate from the list of candidates for reasons referred to in Article 153, paragraph 1, after printing the ballot papers, the name of such a candidate remains on the ballot paper. Information on the deletion and on the conditions of validity of the process of voting with such a ballot paper shall be published in the form of an announcement and posted in polling stations on polling day.

2. The provision of paragraph 1 above shall be applied when the commission nullifies the registration of a constituency list for reasons

referred to in Article 153, paragraphs 3 or 4.

#### **Article 159.**

The rules for organising and delivering ballot papers for polling wards set up on Polish maritime vessels or abroad shall be established by the National Electoral Commission, in agreement with the minister for the marine economy and the minister of foreign affairs respectively.

### **CHAPTER 19**

#### **Voting procedure and validity of the vote**

#### **Article 160**

1. A voter shall cast his/her vote for one constituency list only by putting an "x" mark in the box on the ballot paper on the left-hand side thereof, adjacent to the name of one candidate on the list and by so doing shall indicate priority for such candidate in the allocation of seats.

2. If, on the ballot paper an "x" mark has been put on the left-hand side thereof adjacent to the names of two or more candidates from different lists, or an "x" mark has not been put in the box on the left-hand side adjacent to the name of any candidate of any list, then such a vote shall be deemed invalid, except as provided in paragraph 4 below.

3. If, on the ballot paper the "x" mark has been put on the left-hand side thereof adjacent solely to the name of a candidate of a constituency list that has been invalidated, such a vote shall be deemed invalid.

4. If, on the ballot paper the "x" mark has been placed on the left-hand side thereof, adjacent solely to the name of a candidate of only one constituency list, whose name has been deleted from the list, then such vote shall be valid and given for the list.

5. If, on the ballot paper the "x" mark has been put on the left-hand side thereof adjacent to the names of two or more candidates from the same constituency list, such a vote shall be deemed validly cast for the list indicated, with assignment of priority in obtaining seats for that candidate whose name on the list is placed first in sequence.

#### **Article 161.**

The validity of a vote shall not be affected by the writing in of any additional names or descriptions or making any other remarks on the ballot paper.

### **CHAPTER 20**

#### **Establishment of results of voting and of elections**

#### **Article 162**

1. The ward electoral commission shall establish the numbers of:

- 1) persons entitled to vote;
- 2) voters to whom ballot papers were issued;
- 3) ballot papers taken from the ballot box, specifying:
  - a) the number of invalid ballot papers, taking into account the provisions of Article 72;
  - b) the number of valid ballot papers;
- 4) invalid votes on valid ballot papers, taking into account the provisions of Article 160, paragraphs 2 and 3;
- 5) valid votes on valid ballot papers cast for all the lists of candidates;
- 6) valid votes on valid ballot papers cast for each list of candidates;
- 7) valid votes on valid ballot papers cast for individual candidates from each list.

2. The numbers referred to in paragraph 1 shall be inscribed in the record of voting in the ward.

#### **Article 163.**

After having received the record of voting in the ward, the constituency electoral commission shall immediately examine the accuracy of the results of voting in the ward. If there are inaccuracies in the results established, then the commission shall order the ward electoral commission to recalculate them and shall notify the National Electoral Commission of that fact. The provisions of Article 70, paragraph 2, Article 71, Article 72 and Article 162 shall apply accordingly.

#### **Article 164.**

1. The constituency electoral commission shall, on the basis of the records referred to in Article 76, paragraph 1, establish the results of voting for each constituency list and shall prepare, in two copies, the record of the results of voting in the electoral constituency.

2. If the competent constituency electoral commission has not received the results of the vote from electoral wards created abroad or on board Polish sea-going vessels within 24 hours after the close of the poll, referred to in Article 59, paragraph 2 –voting in those wards shall be deemed null and void. Such fact shall be inscribed in the record of the vote in an electoral constituency, specifying the

electoral wards and probable reasons.

3. The total numbers, referred to in Article 162, paragraph 1, shall be specified in the record.
4. All members of the commission present at its creation shall sign the record. The record shall be stamped with the commission's seal.
5. The persons submitting lists may be present at the establishment and creation of the record and shall have the right to make comments on record, specifying precise complaints.
6. The chairperson of the constituency electoral commission shall immediately transmit the data from the record, concerning the number of valid votes and votes validly cast for each constituency list, and validly cast for each of the candidates on each list, to the National Electoral Commission, according to the procedure prescribed by the commission, via public telecommunications or computerised data transmission networks. The agents may be present at such transmissions of recorded data.
7. The chairperson of the constituency electoral commission shall immediately deliver the record of results of voting to the National Electoral Commission according to the procedure prescribed by it.
8. The specimen of the record of results of voting shall be prescribed by the National Electoral Commission.

#### **Article 165.**

1. On the basis of the data referred to in Article 164, paragraph 6, taking into account the provisions of Article 134, paragraph 1, the National Electoral Commission shall make a preliminary determination of number of valid votes and votes validly cast for constituency lists of individual election committees throughout the whole country and of those lists which fulfil the requirements for entitlement to participate in the allocation seats in election constituencies. The above information shall be published.
2. After receiving the records of the results of voting in constituencies the National Electoral Commission shall establish the aggregated results of voting for constituency lists throughout the entire country and shall determine, taking into account the provisions of Article 134, paragraph 1, which of the lists fulfil the requirements for entitlement to the allocation of seats in electoral constituencies, and shall notify in writing the constituency electoral commissions of its decision. The above information shall be published.

#### **Article 166.**

1. After receiving the notification referred to in Article 165, paragraph 2 above, the constituency electoral commission shall conduct allocate seats to the entitled constituency lists in the following manner:

- 1) number of votes validly cast for each of the list in the electoral constituency shall be divided successively by 1.4 (one and four-tenths); 3; 5; 7; and so on by sequence of odd numbers up to the point when from the quotients thus obtained it is possible to establish a sequence of as many successively highest numbers as there are seats to be allocated among the lists;

- 2) to each list shall be allotted as many seats as it has received highest consecutive numbers attributed by the sequence of quotients obtained in the manner prescribed above.

2. Where several lists have achieved quotients equal to the last number from among the numbers arranged in the manner prescribed above, and there are more such lists than the number of seats to be allocated, priority shall be given to the lists with the highest total number of votes cast. Where an identical number of votes has been cast for two or more lists, priority shall be determined by the number of electoral wards in which a larger number of votes was cast for a given list.

#### **Article 167.**

1. The seats allocated to a list shall be distributed to its candidates according to their ranking in votes obtained.
2. Where, after the counting the votes is complete, two or more candidates from the same list are found to have received an equal number of votes, priority shall be determined by the number of electoral wards in which a larger number votes were cast for one of the candidates, and where an identical number has been found in the number of wards, priority shall be determined by the drawing of lots by the chairperson of the commission made in the presence of members of the commission and the persons that submitted the list; the absence of the person that submitted the list shall not invalidate the results of the lottery.
3. The method of drawing lots referred to in paragraph 2 shall be decided by the National Electoral Commission.

#### **Article 168.**

1. After establishing the results of the election in an electoral constituency the electoral commission shall draw up, in two copies, a record of the election of deputies in the electoral constituency.
2. The record shall specify the number of deputies elected in the constituency, the constituency lists registered in a given constituency, and the lists that participated in the allocation of seats, as well as the numbers of:
  - 1) voters entitled to vote;
  - 2) voters to whom ballot papers were issued;
  - 3) ballot papers taken from the ballot box, specifying:
    - a) the number of invalid ballots,
    - b) the number of valid ballots;



4) invalid votes

5) valid votes cast for each list of candidates;

6) valid votes out cast for individual candidates from each list as well as the surnames and forenames of deputies elected from each constituency list.

3. All members of the commission present at its creation shall sign the record. The record shall be stamped with the commission's seal.

4. Persons submitting lists may be present at the establishment and creation of the record and shall have the right to make comments on record, specifying precise complaints. The annotation of those comments shall be placed in the record.

5. The National Electoral Commission shall prescribe the specimen of the record of results of elections.

#### **Article 169.**

The constituency electoral commission shall immediately publish the results of voting and of elections, taking into account data referred to in Article 168, paragraph 2.

#### **Article 170.**

1. The chairperson of the constituency electoral commission shall immediately transmit the data from the record of the election of deputies to the National Electoral Commission, according to the procedure prescribed by the Commission, via public telecommunications or computerised data transmission networks.

2. The chairperson of the constituency electoral commission shall immediately deliver the record referred to in Article 168, paragraph 1, in a sealed envelope to the National Electoral Commission, in accordance with the procedure established by it. The remaining documents concerning the elections shall be retained by the head of the unit of the National Electoral Office territorially competent for the seat of the commission.

#### **Article 171.**

1. After having received the records referred to in Article 168, paragraph 1, the National Electoral Commission shall examine the accuracy of the allocation of seats of deputies in the electoral constituencies.

2. The National Electoral Commission shall order, in the event of any inaccuracies in establishing the results of elections, a further establishment of those results. The provisions of Articles 166 – 170 shall apply accordingly.

#### **Article 172.**

The National Electoral Commission shall publicise the aggregated results of voting referred to in Article 168, paragraph 2, established by the constituency electoral commissions.

### **CHAPTER 21**

#### **Announcement of the results of elections to the Sejm**

#### **Article 173.**

The National Electoral Commission shall announce the results of elections to the Sejm and shall publish them in the Journal of Laws of the Republic of Poland in an announcement. The announcement shall comprise basic information contained in the records of elections of deputies to the Sejm in electoral constituencies.

#### **Article 174.**

The National Electoral Commission shall submit to the Court of Appeal in Warsaw, immediately after the results of elections to the Sejm have been declared, the declarations or information referred to in Article 144, paragraph 5, subparagraph 3, delivered by the candidates elected as deputies.

#### **Article 175.**

The National Electoral Commission shall issue to deputies certificates confirming their election.

#### **Article 176.**

The National Electoral Commission shall submit to the Marshal of the Sejm and to the Supreme Court a report on elections no later than the fourteenth day following the announcement referred to in Article 173.

### **CHAPTER 22**

#### **Vacancy in the seat of a deputy and completion of membership of the Sejm**

#### **Article 177.**

1. The seat of a deputy to the Sejm shall become vacant as a result of:

1) forfeiture of eligibility;

2) removal from a seat by a valid resolution of the Tribunal of State;

- 3) resignation from the seat;
- 4) the death of a deputy;
- 5) the holding on the day of election by the deputy of the Sejm of a post or function, which according to the provisions of the Constitution of the Republic of Poland or by law cannot be discharged by a deputy, with regard to the provisions of paragraph 3 below;
- 6) appointment to a post or the entrusting with a function which cannot be discharged in conjunction with holding the position of deputy to the Sejm according to the provisions of the Constitution of the Republic of Poland or by law
- 7) the holding by a deputy or his/her appointment to a post or function:
  - a. of a councillor of the council of a commune, a county or a voivodeship;
  - b. on the board of a commune, of a county, of a voivodeship, or of an association of communes;
  - c. on the board or council of a regional or sectoral health care fund
- 8) the submission of a false declaration, as referred to in Article 144, paragraph 5, subpara. 3.

2. A refusal to take the oath of deputy to the Sejm shall be taken as resignation of the seat.

3. The seat of a deputy to the Sejm who, during his/her term of office has been appointed to a post or function referred to in paragraph 1, subparagraph 5, and paragraph 7, shall become vacant, if he/she fails to submit to the Marshal of the Sejm resignation from the office held, within fourteen days following the announcement by the National Electoral Commission of the results of elections to the Sejm.

4. A vacancy for the seat of a deputy nominated during the term of office to a post or function referred in paragraph 1, subparagraphs 6 and 7, shall become vacant on the day of such appointment.

#### **Article 178.**

1. The Marshal of the Sejm shall certify a vacancy in the seat of a deputy.
2. The statement referred to in paragraph 1 shall be published in the Official Gazette of the Republic of Poland "Monitor Polski".
3. The above mentioned statement shall be immediately delivered to the National Electoral Commission.

#### **Article 179.**

1. In the event of a vacancy in the seat of a deputy, the Marshal of the Sejm, acting on the basis of information from the National Electoral Commission, shall notify the candidate from the same constituency list who gained the next highest number of votes in the elections, of his/her right to the seat. In the that an equal number of votes was gained by candidates, priority shall be decided according to the order in which the candidate was placed on the constituency list.
2. A candidate may resign his/her priority for the seat in favour of a candidate from the same list who gained the next highest number of votes. A statement of resignation shall be submitted to the Marshal of the Sejm within seven days following delivery of the notification referred to in paragraph 1 above.
3. The Marshal of the Sejm shall decide on the filling of the seat.
4. In the case where the filling of a vacant seat pursuant to the procedure specified in paragraph 1 above would be impossible because of lack of candidates on the list, the Marshal of the Sejm shall declare that such a seat shall remain vacant to the end of the Sejm's term.

### **CHAPTER 23**

#### **Election campaigning in radio and television programmes**

#### **Article 180.**

1. Election committees shall have the right to election campaigning in radio and television programmes pursuant to the provisions of this Act, in the form of election broadcasts and election announcements.
2. An election broadcast is a part of a radio or television programme, not provided by the broadcaster, that is broadcast free of charge and constituting a separate entity in content or form, which enables an election committee to exercise the right to broadcasting time referred to in Article 181 for conducting their election campaign.
3. The act of broadcasting an election programme shall be realised by a public broadcaster by registration embracing the emission of an election programme prepared by a given election committee – or by free access to a studio operated by professional personnel that shall record an election programme of an election committee and ensure its broadcast.
4. An election announcement constitutes an advertisement in the meaning of Article 4, paragraph 6 of the Act of 29 December 1992 on radio and television (Journal of laws of 1993, No. 7, item 34; of 1995, No. 66 item 335 and No. 142, item 701; of 1996, No. 106, item 496; of 1997, No. 88, item 554 and No. 121, item 770; of 1999, No. 90, item 999; of 2000, No. 29, item 356 and 358, and No. 73, item 852, and of 2001, No. 422, item 469), prepared and delivered by an election committee to be emitted as an element of its election campaigning.

**Article 181.**

1. In the period of time beginning from the 15<sup>th</sup> day before polling day up to the day ending the election campaign the Polish Television Joint-stock Company and the Polish Radio Joint-stock Company as well as regional radio and television companies, hereinafter called "Polish Television" and "Polish Radio" shall broadcast, without payment, on nationwide and regional channels the election programmes prepared by election committees.

2. The total time of broadcast shall amount to:

1) on nationwide channels – 15 hours on Polish Television, including up to three hours for TV Polonia, and 30 hours on Polish Radio, including up to five hours broadcast for listeners abroad;

2) on regional channels - 10 hours on Polish Television and 15 hours on Polish Radio.

3. An election committee shall have the right to broadcast its election materials on:

1) nationwide channels – if it has registered constituency lists in at least one-half of electoral constituencies;

2) on regional channels – if it has registered a constituency list in at least one electoral constituency.

4. The length of broadcasting time assigned to an election committee shall not be transferred to another committee.

**Article 182.**

1. The length of time devoted to broadcasting election material referred to in Article 181, paragraph 2, subparagraph 1, shall be divided into equal parts amongst the election committees so entitled on the basis of information submitted by the National Electoral Commission, specifying the election committees that have registered their constituency lists in at least half the election constituencies.

2. The length of time devoted to broadcasting election material referred to in Article 181, paragraph 2, subparagraph 2, shall be divided proportionally according to the number of constituency lists registered by them amongst the election committees so entitled, on the basis of the information concerning registered constituency lists provided by the constituency electoral commissions territorially competent for the area covered by regional programmes.

3. The National Council of Radio and Television shall, in an agreement with the National Electoral Commission, determine the principles of procedure for allocating broadcasting time for election programmes, the scope of their registration, their method of preparation and broadcast, as well as the methods of publishing information on the timetable for broadcasting such programmes.

4. The National Council of Radio and Television shall, after seeking the opinion of the boards of the companies referred to in Article 181, paragraph 1, as well as the competent programme council, determine in order:

1) the total length of time of broadcasting on each of the national and regional channels;

2) the schedule of time allocation referred to in Article 181, paragraph 2, in the period of time between the 15<sup>th</sup> day before polling day up to the day ending the election campaign..

**Article 183.**

1. No later than the 18<sup>th</sup> day before polling day the editors-in-chief of the national television channels and of Television Polonia, as well as the editors-in-chief of Polish Radio, in the presence of the persons who submitted the lists, shall determine by lot the sequence of election programmes to be broadcast each day.

2. A decision on the allocation of broadcasting time referred to in Article 182, paragraphs 1 and 2, may be subject to complaint by the person who submitted a list to the National Electoral Commission. The complaint shall be lodged no later than within two days after the issuing of the decision. The National Electoral Commission shall immediately examine the complaint and shall issue a decision. There shall be no legal recourse against the decision of the National Electoral Commission.

**Article 184.**

1. The election programmes of an election committee shall be delivered to Polish Television or Polish Radio no later than 24 hours before the day of broadcast.

2. The length of time of the programme delivered shall not exceed the time limit determined pursuant to the provisions of Article 182, paragraphs 3 and 4.

3. In the event that Polish Television or the Polish Radio shall ascertain that the election programmes delivered by an election committee exceeds the allotted time limit for such broadcasts, they shall immediately require the respective election committee to shorten the programmes. If that summons has no effect, Polish Television or Polish Radio shall terminate the broadcast of that election programme at the moment when the time limit allocated to the respective election committee expires.

**Article 185.**

1. Notwithstanding the length of time allotted for the broadcast of election programmes, each election committee may broadcast, from the day beginning the election campaign, paid election advertisements emitted by radio and television broadcasters.

2. Rates charged for the broadcast time of election advertisements referred to in paragraph 1 above shall be fixed on equal terms for all participants in accordance with the price list in force on the day of the proclamation of elections.

3. The rules concerning advertising on television and radio shall apply to election programmes, but the time assigned for the

broadcasting of paid election advertisements shall not be subject to the time limits for commercials established by other regulations.

**Article 186.**

1. Broadcasters bear no responsibility for the contents of election programmes and election advertisements.
2. Broadcasters shall not refuse access for paid election programmes and advertisements.

**PART III**

**Special provisions concerning elections  
to the Senate of the Republic of Poland**

**CHAPTER 24**

**General Rules**

**Article 187.**

Elections to the Senate are universal and direct and held by secret ballot.

**Article 188.**

A member of the Senate may be a citizen of Poland who has the right to vote and who is at least 30 years of age on polling day.

**Article 189.**

There shall be 100 senators elected to the Senate of the Republic of Poland by majoritarian principles.

**Article 190.**

The appropriate provisions of Part II shall apply to proceedings in matters that are not regulated by this Part.

**CHAPTER 25**

**Electoral constituencies**

**Article 191.**

1. For the purpose of elections to the Senate there shall be created electoral constituencies on the territory of the voivodeships.
2. The number of senators to be elected in an electoral constituency shall range from 2 to 4.
3. An electoral constituency shall cover the territory of a voivodeship or a part thereof. The boundaries of an election constituency shall not cut across the boundaries of electoral constituencies created for elections to the Sejm.

**Article 192.**

1. The number of Senators elected in the respective voivodeship shall be:

- 1) the Dolnoslaskie Voivodeship – 8 senators;
- 2) the Kujawsko-Pomorskie Voivodeship – 5 senators;
- 3) the Lubelskie Voivodeship – 6 senators;
- 4) the Lubuskie Voivodeship – 3 senators;
- 5) the Lodzkie Voivodeship – 7 senators;
- 6) the Malopolskie Voivodeship – 8 senators;
- 7) the Mazowieckie Voivodeship – 13 senators;
- 8) the Opolskie Voivodeship – 3 senators;
- 9) the Podkarpackie Voivodeship – 5 senators;
- 10) the Podlaskie Voivodeship – 3 senators;
- 11) the Pomorskie Voivodeship – 6 senators;
- 12) the Slaskie Voivodeship – 13 senators;
- 13) the Swietokrzyskie Voivodeship – 3 senators;
- 14) the Varminsko-Mazurskie Voivodeship – 4 senators;
- 15) the Wielkopolskie Voivodeship – 9 senators;

16) the Zachodnio-Pomorskie Voivodeship – 4 senators.

2. If the territory of a voivodeship, in elections to the Sejm, does not form one electoral constituency, then the number of senators shall be established on the basis of a uniform quota of representation.
3. The uniform quota of representation referred to in paragraph 2 above, shall be calculated by dividing the number of inhabitants of a voivodeship by the number of senators to be elected in that voivodeship.
4. The number of senators elected in individual electoral constituencies, their number and the boundaries as well as the seats of constituency electoral commissions shall be specified in Appendix No. 2 to this Act.
5. Information about electoral constituencies shall be made public to the voters of each electoral constituency in the form of an announcement by the National Electoral Commission no later than the 52<sup>nd</sup> day prior to polling day. The Head of the National Electoral Office shall ensure the printing and posting of such announcements.

## CHAPTER 26

### Special tasks of electoral commissions

#### Article 193.

1. Elections to the Senate shall be conducted by:

- 1) the National Electoral Commission;
- 2) constituency electoral commissions;
- 3) ward electoral commissions.

2. The tasks of a constituency electoral commission referred to in paragraph 1, subparagraph 2 above, may be carried out by the constituency electoral commission created for elections to the Sejm, as designated by the National Electoral Commission.

3. In event of a by-election, referred to in Article 215, a constituency electoral commission and ward electoral commissions shall be created pursuant to the provisions of this Act.

## CHAPTER 27

### Submission of candidates for senators

#### Article 194.

The provisions of this Act concerning election committees shall apply to election committees that nominate candidates for senators, except that:

- 1) a political party that is a member of an election coalition created to submit jointly candidates for deputies and candidates for senators or for joint submission of candidates for senators cannot submit candidates for senators independently;
- 2) the name and a short version of the name of an election committee of electors created solely for the purpose of nominating candidates for senators shall be different to the names and shortened names of election committees created to nominate candidates for deputies and senators or candidates for deputies.

#### Article 195.

1. An election committee may submit in each electoral constituency no more candidates for senators than the number of senators to be elected in a given electoral constituency.

2. A candidate for senator may stand for election only in one electoral constituency and may be nominated by one election committee only.

#### Article 196.

1. Nomination of a candidate for a senator shall be supported by the signatures of at least 3,000 voters.

2. A voter may support more than one candidate for senator. A withdrawal of support given shall have no effect.

3. A voter supporting a candidate nominated for a senator shall put his/her signature beside his/her legibly written surname and forename, address of residence and the identity card (PESEL) number.

4. Each page of signatures shall include thereon the name of the election committee that submits the candidate, the number of the electoral constituency in which the candidate is nominated as well as the annotation:

"I hereby declare my support for..... (forename and surname) as the candidate for senator, submitted by ..... (name of the election committee) in the electoral constituency (number of constituency) in elections to the Senate of the Republic of Poland, held on.....(day, month, year )."

5. Only a voter that resides permanently on the territory of a given electoral constituency may support the nomination of a candidate for a senator.

**Article 197.**

1. The collection of signatures of persons who support candidacy for a senator may be realised in the place, time and in a manner excluding threats, deceits, or other pressures to obtain such signatures.
2. It shall be forbidden to collect signatures supporting a candidacy for senator on the territory of army units and other organisational units subordinated to the Minister of National Defence, and defence units and quartered units subordinated to the minister responsible for internal affairs.

It shall be forbidden to grant payment for collecting signatures or for a signature in support of a candidate for senator.

**Article 198.**

1. Each candidate for senator shall be nominated separately. When an election committee submits more than one candidate for senator, then the submission of each one shall be supported by separate lists of signatures of electors, prepared in the manner indicated in Article 196, paragraphs 3 and 4.
2. The provisions of Article 142, paragraph 2, shall not apply to the nomination of candidates for senators.

**CHAPTER 28****Ballot papers****Article 199.**

The constituency electoral commission shall, after the registration of candidates for senators, order the printing of ballot papers and shall ensure their delivery to ward electoral commissions pursuant to the method established by the National Electoral Commission.

**Article 200.**

On a ballot paper there shall be placed, in alphabetical order, the surnames and forenames of registered candidates for senator, together with the name or shortened name of an election committee.

**CHAPTER 29****Voting procedure and validity of the vote****Article 201.**

1. A voter shall cast a vote for the respective candidates by putting an "x" mark on the left side of the names of as many candidates as are to be elected in the electoral constituency.
2. A voter may vote for fewer candidates than the number of senators elected in the electoral constituency.

**Article 202.**

1. If, on the ballot paper the "x" mark has not been placed in the box on the left side thereof adjacent to the name of any candidate, then such a ballot paper shall be deemed valid with an invalid vote. (cast for no candidates).
2. If, on the ballot paper the "x" mark has been put in the box on the left side thereof adjacent to the names of more candidates than the number of senators elected in given electoral constituency, then such a ballot paper shall be deemed valid but the vote shall be deemed invalid. (cast for no candidates).
3. If, on the ballot paper the "x" mark has only been put in the box on the left side thereof adjacent to the name of a deleted candidate, then such a ballot paper shall be deemed valid with an invalid vote (cast for no candidates).

**CHAPTER 30****Establishment of results of voting and of elections in the electoral constituency****Article 203.**

1. The ward electoral commission shall establish the numbers of:
  - 1) persons entitled to vote;
  - 2) voters to whom ballot papers were issued;
  - 3) ballot papers taken from the ballot box, specifying: the number of invalid ballots as defined in Article 72, and the number of valid ballots, specifying:
    - a) the number of valid ballot papers with invalid votes cast, as referred to in Article 202;
    - b) the number of valid ballot papers with valid votes cast;
  - 4) valid votes from valid ballot papers cast for individual candidates.
2. The numbers referred to in paragraph 1 shall be inscribed in the record of voting in the ward.

**Article 204.**

After having received the record of voting in the ward, the constituency electoral commission shall immediately examine the accuracy of the results of voting in the ward. In the event of flaws in the establishment of the voting results, the commission shall order the ward electoral commission to repeat its calculations and shall notify the National Electoral Commission of that fact.

#### **Article 205.**

1. The constituency electoral commission shall, on the basis of the records referred to in Article 204, determine the results of voting and of elections and shall prepare, in two copies, the record of the results of voting and of the election of senators in the electoral constituency.
2. If the competent constituency electoral commission does not receive the results of the vote from electoral wards created abroad or on board Polish maritime vessels within 24 hours after the end of the poll, specified in Article 59, paragraph 2 – voting in those wards shall be deemed null and void. Such fact shall be inscribed in the record of the vote in an electoral constituency, specifying the electoral wards and probable reasons.
3. The total numbers referred to in Article 203, paragraph 1, shall be specified in the record, as well as the surnames and forenames of senators elected, together with the name or shortened name of an election committee.
4. All the members of the commission present at its creation shall sign the record. The record shall be stamped with the commission's seal.
5. Persons submitting a letter authorising their right to do so may be present at the establishment and creation of the record and shall have the right to make comments on the record, specifying precise complaints.
6. The chairperson of the constituency electoral commission shall immediately transmit the data from the record concerning the number of valid votes and votes validly cast for each of the candidate to the National Electoral Commission, according to the procedure prescribed by the commission, via public telecommunications or computerised data transmission networks. Agents may be present at such transmission of recorded data.

#### **Article 206.**

1. Candidates elected as senators in a given electoral constituency shall be have received the successive highest numbers of valid votes cast.
2. Where, after counting the votes is completed, two or more candidates are found to have received equal votes, priority shall be decided by the number of electoral wards in which the largest number of votes were cast for one of the candidates, and where the number of wards is identical, priority shall be decided by the drawing of lots by the chairperson of the commission in the presence of members of the commission and persons who submitted letters of authorisation; the absence of the person who submitted a letter shall not invalidate the results of the lottery.
3. The method of drawing lots referred to in paragraph 2 shall be decided by the National Electoral Commission.

#### **Article 207.**

The constituency electoral commission shall immediately publish the results of the voting and of the election, taking into account the data referred to in Article 205, paragraph 3.

#### **Article 208.**

1. The chairperson of the constituency electoral commission shall immediately deliver the record of voting results and of the elections to the National Electoral Commission in a sealed envelope pursuant to the procedure prescribed by it. The remaining documents shall be stored by the head of the unit of the National Electoral Office, territorially competent for the seat of the electoral constituency commission.
2. After having received the records referred to in paragraph 1 above, the National Electoral Commission shall examine the accuracy of the results of elections in electoral constituencies.
3. In the event of any inaccuracy in establishing the election results, the National Electoral Commission shall order the repeat establishment of those results.

### **CHAPTER 31**

#### **Announcement of the results of elections to the Senate**

#### **Article 209.**

The National Electoral Commission shall announce in the Journal of Laws of the Republic of Poland, in an announcement, and shall publish the results of elections to the Senate.

The announcement shall comprise, separately for each electoral constituency, the basic information contained in the records of constituency electoral commissions and the names and surnames of the senators elected.

#### **Article 210.**

The National Electoral Commission shall submit to the Court of Appeal in Warsaw, immediately after the results of elections to the Senate have been declared, the declarations or information referred to in Article 144, paragraph 5, subparagraph 3, provided by the candidates elected as senators.

#### **Article 211.**

The National Electoral Commission shall issue senators certificates confirming their election.

#### **Article 212.**

The National Electoral Commission shall submit to the Marshal of the Senate and to the Supreme Court a report on elections no later, than the 14<sup>th</sup> day following the announcement referred to in Article 209.

### **CHAPTER 32**

#### **Vacancy in the seat of a senator and completion of membership of the Senate**

#### **Article 213.**

1. The seat of a senator shall become vacant as a result of:

- 1) the forfeiture of eligibility;
- 2) the deprivation of the seat by a valid resolution of the Tribunal of State;
- 3) the resignation of the seat;
- 4) the death of a senator;
- 5) the holding of a post or function, which according to the provisions of the Constitution of the Republic of Poland or by law cannot be discharged by a senator, with regard to the provisions of paragraph 3 below;
- 6) the appointment to the post or function which cannot be discharged by a senator according to the provisions of the Constitution of the Republic of Poland or by law, during the term of office as senator;
- 7) the holding by a senator or his/her appointment to the post or function:
  - a. of councillor of a council of a commune, a county or a voivodeship;
  - b. on the executive board of a commune, of a county, of a voivodeship, or in board of a union of communes;
  - c. on the board or council of a regional or sectoral health care fund
- 8) the submission of a false declaration, as referred to in Article 144, paragraph 5, subparagraph 3, in connection with Article 190.

2. A refusal to take the oath of senator shall be regarded as resignation of the seat.

3. The seat of a senator who, during his/her term of office has been appointed to a post or function referred to in paragraph 1, subparagraph 5, and paragraph 7, shall become vacant, if he/she fails to submit to the Marshal of the Senate resignation from the office held, within 14 days following the announcement by the National Electoral Commission of the results of elections to the Senate.

4. A vacancy in the seat of a senator, nominated during his/her term of office to a post or function referred to in paragraph 1, subparagraphs 6 and 7, shall become vacant on the day of such appointment.

#### **Article 214.**

1. The Marshal of the Senate shall certify, in a statement, the vacancy in a Senate seat.
2. The statement referred to in paragraph 1 shall be published in the Official Gazette of the Republic of Poland "Monitor Polski".
3. The above mentioned statement shall be immediately delivered to the President of the Republic of Poland and to the National Electoral Commission.

#### **Article 215.**

1. In the event of vacancy in the Senate, the President of the Republic of Poland shall order by-elections to the Senate to be conducted.
2. A by-election shall be ordered and conducted within three months following the ascertainment of the vacancy in the seat of a senator. The by-election shall not occur within six months prior to the day, on which the term of promulgation of the order on elections to the Sejm elapses.
3. The order of elections, referred to in paragraph 1 above, shall be issued pursuant to the provisions of Article 9, paragraph 2; the statement of the President of the Republic on by-elections shall be immediately published by the National Electoral Commission in an announcement, given in the electoral constituency where the by-election is to take place. The National Electoral Office shall ensure printing and posting of announcements.
4. Voting in by-elections shall be conducted only on the territory of the Republic of Poland.
5. The provisions of Article 23 concerning the issue of certificates of eligibility to vote shall apply only to electors residing on the territory of an electoral constituency where the by-election is conducted.

### **CHAPTER 33**



## Election campaigning in radio and television programmes

### Article 216.

1. An election committee shall have the right to election campaigning in radio and television programmes pursuant to the provisions of this Act, in the form of election broadcasts and election announcements on:

- 1) nationwide channels – if it has registered candidates for senators in at least half of the electoral constituencies;
- 2) regional channels – if it has registered at least one candidate for senator.

2. The total time of broadcast shall amount to:

- 1) on nationwide channels – five hours on Polish Television, and 10 hours on Polish Radio;
- 2) on regional channels – three hours on Polish Television and 6 hours on Polish Radio.

3. The length of time devoted to the broadcasting of election agitation on nationwide channels shall be divided into equal parts amongst the election committees so entitled.

4. The length of time devoted to broadcasting of election agitation on regional channels shall be divided among the election committees so entitled, proportionally to the number of candidates for senators registered by them in electoral constituencies in the area covered by a regional programme.

5. The National Council of Radio and Television shall, in agreement with the National Electoral Commission, determine the principles and methods of joint conduct of election campaigning in radio and television programmes by election committees so entitled in elections to the Sejm and to the Senate.

### Article 217.

1. The provisions of Article 216, paragraph 1, shall not apply to by-elections, when the total time of broadcasting, without payment, of election programmes on regional programmes shall amount to two hours on Polish Television and four hours on Polish Radio.

2. The length of time referred to in paragraph 1 above shall be divided proportionally among the election committees so entitled, for each of the regional channels.

## CHAPTER 34

### Special rules of financing Election Campaigning to the Senate

### Article 218

1. An election committee that has registered a candidate or candidates for senators has the right to an allocation on the basis described in Article 128.

2. In a by-election, the amount of allocation to which an election committee that submitted a candidate is entitled, shall be calculated as follows:

The total amount of allocations gained by all election committees in the most recent elections to the Sejm and to the Senate shall be divided by 560, the result being multiplied by the index of the average increase in the price of consumer goods and services. That ratio shall be calculated by the Central Statistical Office for the period of time beginning from the month of the last general elections to the Sejm and Senate to the month of the by-election in question.

## PART IV

### PUNITIVE AND SPECIAL PROVISIONS

## CHAPTER 35

### Punitive Provisions

### Article 219

Any person who publishes the results of opinion polls on the probable behaviour of voters in violation of the prohibitions referred to in Article 86

- shall be punished by a fine of between 500,000 to 1,000,000 Zł.

### Article 220

Any person who:

1. violates the prohibitions referred to in Article 87, or in Article 88, paragraph 1, 2 or 3;
2. affixes poster and slogans or places announcements in violation of the interdicts referred to in Article 90 –

- shall be punished by a fine.

### Article 221

Any person who, during an election campaign shall organise raffles, lotteries or contests in violation of the interdicts referred to in Article 88, paragraph 4 –

- shall be punished by a fine.

#### **Article 222**

Any person who during an election campaign serves or supplies alcoholic beverages in violation of the interdicts referred to in Article 88, paragraph 5-

- shall be punished by a fine.

#### **Article 223**

Any person who:

- 1) contributes or spends funds of an election committee in violation of the interdicts referred to in Article 110, paragraph 1, 2 or 3;
- 2) contributes or spends funds of an election committee in violation of the interdicts referred to in Article 110, paragraph 4, or exceeds the limits referred to in Article 114, paragraph 1 and 2, and Article 236;
- 3) transfers to an election committee of a coalition, or to an election committee of voters, or receives funds or in-kind contributions in the name of such committee, in violation of the interdicts referred to in Article 111, paragraphs 2 – 4;
- 4) organises public collections in contravention of the prohibitions specified in Article 112, paragraph 2;
- 5) acting in the name of an election committee of a political party receives funds derived from other sources than the Election Fund of the party –

- shall be punished by a fine of between 1,000 and 100,000 Zl.

#### **Article 224**

Any person who:

- 1) violates the rules referred to in Article 113, paragraph 1 concerning methods of collection of financial resources of an election committee;
- 2) fails to insert a stipulation in a bank account agreement, concluded in the name of an election committee, that all contributions must be made in accordance with the provisions specified in Article 113, paragraph 2 only;
- 3) collects funds for the benefit of one election committee of a coalition or election committee of electors in excess of the limitations specified in Article 113, paragraph 3 –

- shall be punished by a fine.

#### **Article 225**

Any person who:

- 1) transfers financial or in-kind resources to another election committee in contravention of the prohibitions specified in Article 112, paragraph 1, or who collects funds for an election committee after polling day, or incurs expenditure following the submission of the election report;
- 2) incurs expenditure for election campaigning, produced in the forms and methods proper for advertisement, in excess of the limit specified in Article 115 –

- shall be punished by a fine.

#### **Article 226**

1. A financial agent, who in a prescribed time shall not fulfil:

- 1) the obligation of transferring to a charitable institution the excess of financial resources referred to in Article 116;
- 2) the obligation of submitting the election report referred to in Article 120, paragraph 1, to the National Electoral Commission

- shall be liable to a fine, to limitation of liberty, or imprisonment for a term not exceeding two years.

2. Any person who prevents a financial agent from realising the realises duties referred to in paragraph 1, subparagraphs 1 and 2 above, or impedes him or her, shall be liable to penalty, specified in paragraph 1 above.

3. Where the person referred to in paragraph 2, acts unintentionally s/he

- shall be punished by a fine.

#### **Article 227.**

1. Any person who prevents an auditor to realise the duties of preparing the opinion or report referred in Article 120, paragraph 1, or impedes these duties -

- shall be liable to a fine, to limitation of liberty, or imprisonment for a term not exceeding two years.

2. Where the person referred to in paragraph 1, acts unintentionally he or she

- shall be punished by a fine

#### **Article 228.**

Any person who collects signatures on a list of support for a constituency list or for a list of candidate or candidates for senator in violation of the interdicts referred to in Article 141, paragraphs 1, 2 or 3, or Article 197, paragraphs 1, 2 or 3

- shall be punished by a fine of between 1,000 up to 10,000 Zl.

#### **Article 229.**

Any person, who:

1) conducts election campaigning for a candidate for a deputy or a senator without permission of the election committee, when its cost amounts to a sum from 1,000 up to 50,000 Zl.

- shall be punished by a fine no less than the cost of such action;

2) realises the acts referred to in paragraph 1 above when their cost exceeds 50,000 zlotys

- shall be liable to a fine no less than the cost of such action and to limitation of liberty or imprisonment for a term not exceeding two years.

#### **Article 230.**

The appropriate provisions on procedures in cases of misdemeanour shall apply to proceeding in the matters referred to in Articles 220, 222, 224 and 225.

### **CHAPTER 36**

#### **Special provisions**

#### **Article 231.**

All written documentation, judicial and administrative proceedings in election matters shall be without payment.

#### **Article 232.**

Whenever in this Act references are made to non-litigious proceedings in courts, the appropriate provisions of the Code of Civil Procedure on non-litigious proceedings shall apply.

#### **Article 233.**

1. Whenever in this Act references are made to the expiry of a time limit for lodging a complaint or an appeal to the court or an electoral body, this shall be understood as the day of filing a complaint or appeal with the court or with the electoral body.

2. If the expiry of time limit for performance of an action specified in the Act falls on a day which is statutorily not a day of work, the time limit shall expire on the first working day after that day.

3. If this Act does not state differently, the electoral actions described in the election calendar as well as the actions referred to in paragraph 1 shall be performed within the working hours of courts and electoral bodies.

#### **Article 234.**

1. If the date of elections to the Sejm and to the Senate coincides with the election of the President of the Republic, election commissions appointed to the elections of the Sejm shall also administer the election of the President of the Republic.

2. The provisions of paragraph 1 above shall apply when by-elections to the Senate coincide with the election of the President of the Republic.

3. In the cases referred to in paragraphs 1 and 2, there shall be separate records of voting in wards as well as separate records of the results of voting and establishing results of elections.

#### **Article 235**

The Minister in charge of matters of culture and protection of the national heritage shall determine by order, issued on the motion of the National Electoral Commission submitted in consultation with the Director General of the State Archives, the manner of delivery, retention and access to documents pertaining to elections.

#### **Article 236**

1. If average price index of consumer goods and services shows an increase above five per cent, the minister responsible for public finance shall, by order, raise the quota referred to in Article 114, paragraph 2, relative to the price increase.

2. The index of the increase in the price of consumer goods and services prices referred to in paragraph 1 above shall be established on the basis of a communiqué of the President of the Central Statistical Office, published quarterly, by the 20<sup>th</sup> of the first month of the quarter, in the Official Gazette of the Republic of Poland "Monitor Polski"

## PART V

### PROVISIONS ON AMENDMENTS TO THE PROVISIONS IN FORCE, TRANSITIONAL, ADJUSTMENT AND FINAL PROVISIONS

#### CHAPTER 37

##### Provisions on amendments to the provisions in force

###### Article 237.

In the Act of 5 July, 1990 – Law on Assemblies (Journal of Laws No. 51, item 297; of 1999, No. 41, item 412 and of 2000, No. 12, item 136), in Article 4:

- 1) the comma at the end of the paragraph 2 shall be replaced by a full stop;
- 2) paragraph 3 shall be deleted.

###### Article 238.

In the Act of 27 June 1997 on Political Parties (Journal of Laws No. 98, item 604 and of 1998, No. 106, item 668) the following amendments shall be made:

- 1) in Article 11, paragraph 1, term: "Voivodeship" shall be replaced by: "Constituency";
- 2) the title of Chapter 4 shall read as follows:

**"The Finances and Financing of Political Parties"\*;**

- 3) in Chapter 4 Article 23a shall be added, to read as follows:

Article 23a. The sources of political party finance are public.

- 4) Articles 24 and 25 shall read as follows:

"Article 24. 1. The funds of a political party arise from membership fees, donations, and legacies, endowments, interest on funds, allowances and subventions described by acts of law.

1. The funds of a political party may be used for statutory or charitable purposes only.
2. A political party is prohibited from engaging in any economic activities.
3. A political party is allowed to draw income from its funds that arise exclusively from:

- 1) interest on investments and funds deposited in bank accounts;
- 2) trading of State Treasury obligations and of Treasury bills;
- 3) sale of any assets belonging to the political party;
- 4) activity referred to in Article 27.

4. A political party may hand over its property and premises for exclusive use as offices for deputies, senators, and councillors of a commune, a county or a voivodeship.

5. A political party may not organise public collections.
6. A political party may contract loans for statutory purposes.

7. A political party may accrue its financial resources only in bank accounts.

Article 25. 1. A political party may collect financial resources exclusively from individuals, with regard to the provisions of paragraph 2 below, and Article 24, paragraph 4 and 7, and Article 28, paragraph 1, and to the provisions of Acts relating to elections to the Sejm and to the Senate of the Republic of Poland regarding subject allocations.

2. A political party may not receive any financial resources from:

- 1) Individuals with no place of residence on the territory of the Republic of Poland, excluding citizens of Poland living abroad;
- 2) foreign nationals resident on the territory of the Republic of Poland.
3. The provisions of paragraphs 2 and 3 shall apply to non-cash values.

4. The total value of contributions made by an individual to a political party, including membership fees but excluding contributions transferred to the Election Campaign Fund of a political party, cannot exceed 15-times the minimum monthly wage of a worker on the day preceding transfer.

5. A single transfer that exceeds the minimum monthly wage of a worker may be paid to a political party by cheque, bank transfer or bank card only."

5) Article 26 shall be deleted.

6) Articles 27 – 30 shall read as follows:

"Article 27. Such activities as: the sale of statutes and party programmes, or small items symbolising the political party, or publications informing of its aims and activities, petty paid services for third parties using a party's office fittings – do not constitute economic activity within the meaning of separate Acts of law.

Article 28. 1. A political party that:

1) forms its own election committee in elections to the Sejm and has gained in that elections at least three per cent of valid votes given for its constituency lists of candidates for deputies; or

2) is a member of an election committee in elections to the Sejm and such committee has gained in that elections at least six per cent of valid votes given for its constituency lists of candidates-

shall have the right to receive, during the term of office of the Sejm, a subvention for its statutory activities paid by the State budget, later called "a subvention", in the manner and on the basis described by this Act.

2. The subvention vested in an election coalition of political parties shall be divided among the parties that are members of such coalition, in proportions determined in the coalition agreement concluded. The agreed proportions shall not be changed.

3. The National Electoral Commission, having confirmed its validity, shall register an agreement establishing an election coalition.

4. When the political parties that form an election coalition have not determined the proportions referred to paragraph 2 above in the agreement establishing the coalition, they shall not be entitled to the above subvention.

5. In event of dissolution of an election coalition after the right to subvention has been vested, the political parties of such a coalition shall retain their right to subvention in proportions determined in the agreement on creation of the election coalition.

"6. the right to obtain a subvention, referred to in paragraph 1, shall enter into force on the 1<sup>st</sup> January of the year following the election year. The subvention shall be paid up to the end of the year, in which the next elections is hold, with reservation to Article 32.";

Article 29

1. The amount of yearly subvention, referred to in Article 28 vested to given political party or an election coalition shall be determined pursuant to the principle of gradual reduction, in proportion to the quota of valid votes gained by constituency lists of candidates for deputies of that political party or election coalition. The subvention shall be determined respectively for each of intervals, determined by percent, and summed up, pursuant to the Formula:

$$S = W1 \times M1 + W2 \times M2 + W3 \times Ms + W4 \times M4 + W5 \times M5$$

Where:

**S** = the amount of the yearly subvention

**W1-5** = the number of valid votes, established separately for each line of the table shown below, as a result of dividing of the total amount of valid votes gained in the whole country by constituency lists of candidates for deputies of given political party or an election coalition, respectively to the interval, determined by percent;

**M1-5** = the amount valued in Polish Zloty given for consecutive lines of the table:

Line	Valid votes gained in the whole country <b>by constituency lists of candidates for deputies</b> of a given political party or an election coalition, divided <u>respectively into each interval</u>  <b>Percent (%)   Number   of votes (W)</b>	Amount (M) in Polish Zl.
1	to 5%	10
2	above 5% to 10%	8

<b>3</b>	above <b>10% to 20%</b>		<b>7</b>
<b>4</b>	above <b>20% to 30%</b>		<b>4</b>
<b>5</b>	above <b>30%</b>		<b>1.50</b>

1. The subvention established pursuant to the provisions of the paragraph 1 and of Article 28 shall be paid to a given political party during the term of office of the Sejm in four equal yearly parts, paid in quarterly instalments, with regard to Article 32"

2. The basis for payment of subvention creates "a motion for payment of the subvention in a given year", submitted no later than 31 March each year by an organ of a political party that is authorised to represent a party in its external contacts.

The motion shall be drawn up on an official form and confirmed by the National Electoral Commission as to the possessed rights and the amount of the subvention.

3. The financial resources of the subvention shall be deposited in a separate bank sub-account of the political party. The transfer of the subvention to the bank account indicated by the political party shall be realised by the Minister responsible for public finance.

4. The subvention due to a political party in the year of elections to the Sejm shall be paid within three months following the determination of the validity of the election, no later than 31 March of the following year.

5. The first instalment of the subvention due to the Political Party shall be paid no later than 30 days following the announcement of an information of the National Electoral Commission, in the Official Gazette of the Republic of Poland "Monitor Polski", on accepted and rejected election reports, submitted by election committees.

6. The Minister responsible for public finance, in a resolution, shall raise the value of the subvention mentioned in paragraph 1 above in an amount equal to the index of price increases if the index of prices of consumer goods and services rises above five per cent.

7. That index shall be fixed by the Central Statistical Office and published as a communiqué of the President of the Office, in the Official Gazette of the Republic of Poland "Monitor Polski", no later than the 20<sup>th</sup> day of the first month of a quarter.

Article 30. 1. A political party shall create an Expert Fund.

2. Financial resources collected in the Expert Fund may be derived solely from payments from their own party.

3. A political party that receives subvention shall transfer from five per cent to fifteen per cent of the subvention to the Expert Fund.

4. Financial resources collected in the Expert Fund may be used top finance expertise in the field of law, politics, sociology, social-economic matters, as well as for financing education publications connected with the statutory activity of the political party.

5. The financial resources of the Expert Fund shall accrue in a bank in a separate sub-account of the political party."

7) Article 31 shall read as follows:

"Article 31. 1. In event of a merger of a political party with another party or parties the subvention referred to in Article 28 above shall be granted to the new political party in an amount equal to the subventions for the parties that are merging.

2. The subvention shall be paid on the basis of a request, submitted by the proper body of the new political party, beginning from the month in which the Court registered it.

2. In the case referred to in Article 45 the subvention granted to such a political party shall not be paid, beginning from the month following the month of dissolution or decision of the Court on the liquidation of such party."

8) Articles 32 – 34 shall read as follows:

"Article 32. If the term of office of the Sejm is shortened, the rights to the subvention granted to political parties shall expire at the end of the quarter in which the term of office of the Sejm expires.

Article 33. 1. The expenses connected with subvention shall be covered by the State budget's section on the Budget, public finances and financial institutions.

2. The minister responsible for public finance shall, by order:

1) specify the method of submission of the request referred to in Article 29, paragraph 3, as well as the rules for

transferring the subvention;

2) determine a specimen of the form of the request referred to in Article 29, paragraph 3, after seeking the opinion of the National Electoral Commission.

Article 34. 1. Political parties shall prepare a yearly financial statement of the subvention received and the expenditures covered by this subvention, later called "information".

2. Political parties shall submit information covering a calendar year no later than 31 March of the following year.

1. The Minister responsible for public finance, after seeking the opinion of the National Electoral Commission, shall determine by order, a specimen that enumerates the detailed scope of the information to be included therein, to enable honest verification of all the data concerning the expenses covered by subvention, and also the expenses covered by Expert Fund.

2. The information shall be submitted together with the opinion of an auditor appointed by the National Electoral Commission. The political party shall cover the cost of the preparation of the above opinion and of the enclosed information.

3. The information shall be published by the National Electoral Commission in the Official Gazette of the Republic of Poland "Monitor Polski" within 14 days following its submission to the National Electoral Commission."

9) Articles 34a – 34c shall be added as follows:

"Article 34a. 1. The National Electoral Commission shall, within four months following the day of submitting information, accept it or shall reject it if it is found that the political party has spent resources of the subvention for purposes not connected with its statutory activity, or if the opinion of the auditor is negative.

2. In the event of doubts concerning the accuracy of the information, the National Electoral Commission may ask the political party concerned to remove defects or submit explanation within a specified time limit.

3. In its examination of election reports, the National Electoral Commission may order submissions from experts.

4. In its examination of election reports, the National Electoral Commission may request necessary assistance to be given by the State organs.

1. Within 14 days following the publication of the information referred to in Article 34, paragraph 5:

1) political parties;

2) associations and foundations which in their statutes include tasks connecting with the analysis of political party finance –

have the right to submit to the National Electoral Commission their written reservations on committees' election reports, specifying reasons.

1. The National Electoral Commission shall, within 60 days following the submission of the reservations referred in paragraph 5 above, respond in writing.

Article 34b. 1. In the event that the National Electoral Commission rejects the information lodged by a political party, within 7 days following the delivery of the decision rejecting a report, a complaint may be issued to the Supreme Court against the decision of the National Electoral Commission in that case.

2. The Supreme Court, by bench of 7 judges, shall examine the complaint. The complaint shall be examined pursuant to the provisions of the Code of Civil Procedure in a non - litigious procedure.

3. The Supreme Court shall examine the complaint and shall issue a ruling within 60 days following the delivery of a complaint. There shall be no legal recourse against the ruling of the Supreme Court.

4. If the Supreme Court upholds the complaint referred to in paragraph 1, the National Electoral Commission shall immediately issue a resolution accepting the information in question.

Article 34c. A political party shall forfeit the right to subvention in the following year, if:

1) it does not submit the information within the time limit referred to in Article 34, paragraph 2; or

2) the information submitted is rejected by the National Electoral Commission; or

3) the Supreme Court has decided to reject the complaint referred to in Article 34b, paragraph 1."

10) Article 35 shall read as follows:

"Article 35. 1. A political party shall create an Election Fund to finance the participation of such political party in elections to the Sejm, Senate, to the office of the President of the Republic of Poland, in local elections, as well as in referendum campaigns.

2. The expenditures of a political party for the tasks referred to in paragraph 1 may be realised, from the day the election or referendum campaign begins, exclusively through the Election Fund.

1. A political party shall notify the National Electoral Commission on the establishment or liquidation of the Election Fund.

2. An Election Fund shall bear the name: "The Election Fund of:.....(name of the political party)".

11) Article 35a shall be added :

"Article 35a. 1. The financial agent realises and is responsible for the administration of the Election Fund.

2. The following person shall not be financial agents:

1) a candidate for: the President of the Republic of Poland, a deputy or a councillor;

2) a public functionary, within the meaning of Article 115 paragraph 13 of the Criminal Code.

3. A person may be a financial agent of one Election Fund only."

12) Article 36 shall read as follows:

"Article 36. 1. Financial resources collected for the Election Fund may be derived from transfers of political party's own resources, donations, legacies, and instruments.

2. (Deleted)

3. Financial resources of the Election Fund shall be deposited in a separate bank account."

13) Articles 36a and 36b shall be added as follows:

"Article 36a. 1. The total amount of the sum contributed by an individual for one election committee of a coalition or an election committee of electors cannot exceed 15-times the minimum monthly wage of a worker on the day preceding the day of the announcement of elections.

2. If in a given year more than one election or national referendum is held, the total amount of contributions for the Election Fund referred to in paragraph 1 shall be increased up to 25-times the minimum monthly wage of a worker on the day preceding the day of payment. The provision of the first sentence does not apply to by-elections to the Senate or generally to by-elections, re-elections or premature elections, or to new elections to the organs of the legislatures of territorial self-government units, held during the term of office.

3. A contribution must be made by cheque, bank transfer, or credit card only.

Article 36b. All appeals and written information issued by a political party to raise resources for elections or referendum shall bear information with the content of the provisions of Article 25, Article 36a, Article 40c and of Article 49g, paragraph 2."

14) Article 37 shall read as follows:

"Article 37. Financial resources of the Election Fund of a political party:

1) in event of a merger with another party or parties, shall be transferred to the Election Fund of the new party;

2) in event of the division of a party, shall be transferred to the newly created parties in equal parts, unless another proportion is fixed by the dividing party.

3) In event of dissolution of a party, its financial resources shall be transferred to a charitable institution."

15) Article 38 shall read as follows:

"Article 38. 1. No later than 31 March each year, a political party must submit to the National Electoral Commission a report, later called "report", covering the sources of financial funds gained (including bank loans and specification of conditions set forth to the political party and to the Election Fund by a lending institution) and on expenditures paid from the Election Fund in the previous calendar year.

2. The minister responsible for public finance, after seeking the opinion of the National Electoral Commission, shall specify, in a regulation, the form of the report. The form shall describe, in particular the method of separately accounting for the resources of the Election Fund of a political party.

3. An opinion and an auditor's report on funds raised by an Election Fund of a political party shall be annexed to the report. The National Electoral Commission shall appoint the competent auditor and a political party is obliged to cover the cost of preparing the opinion and report.

1. The National Electoral Commission shall publish the report, together with the opinion and audit report referred to in paragraph 3, in the Official Gazette "Monitor Polski" no later than 14 days following its delivery to the National Electoral Commission.

16) Articles 38a – 38d shall be added as follows:

"Article 38a. The National Electoral Commission shall, within four months following the day of submitting of a report, accept it or reject it if it is found that the political party has violated the provisions of this Act. The provisions of



Articles 34a, paragraphs 2-6 shall apply accordingly.

Article 38b. In the event that the National Electoral Commission shall reject the report, a political party may lodge, within seven days following delivery of the decision rejecting the report, a complaint to the Supreme Court against that decision. The provisions of Article 34b, paragraph 2-4 shall apply accordingly."

Article 38c. 1. In the event that the report is not provided within the time limit referred to in Article 38, paragraph 1, the National Electoral Commission shall notify the Court of its motion to delete that political party from the register.

2. The Court after hearing the case referred to in paragraph 1 above, shall decide whether to delete the political party from the register.

Article 38d. If the National Electoral Commission rejects a report or – if the appeal against a decision to reject report is refused by the Supreme Court – the political party is deprived of the rights to obtain subvention for the next three years during which it has such entitlement. The provisions of Article 34c, paragraphs 2 and 3 shall apply accordingly."

17) Article 39 shall be deleted

18) Article 39a shall be added as follows:

"Article 39a. 1. Material benefits transferred or accepted by a political party or by an Election Fund in violation of the prohibitions referred to in Article 24, paragraphs 3-6, Article 25, Article 35, paragraph 2, Article 36, paragraphs 1 and 3, or Article 36a – shall be forfeited to the State treasury. If that benefit is exhausted or lost, its equivalent shall be forfeit.

2. The District Court in Warsaw shall have jurisdiction in cases of the forfeit of material benefits referred to in paragraph 1

3. The National Electoral Commission shall enter a motion with the Court concerning a decision on the forfeit of material benefits.

1. Appropriate provisions of the Code of Civil Procedure shall apply to the forfeit of material benefits."

19) Article 40 shall read as follows:

"Article 40. The provisions on income tax shall apply to political party taxation."

Article 41. Political parties shall assure accounting procedures according to the rules described in separate provisions of law, with the inclusion of this Act.

20) Chapter 6a shall be added, as follows:

Chapter 6a

Punitive provisions

Article 49a. Any person who organises public collections in violation of the interdicts referred to in Article 24, paragraph 6 -

shall be punished by a fine.

Article 49b. Any person who:

1) acting on behalf of a political party hands over its property or premises for other purposes than for use as offices for deputies, senators, and counsellors of a commune, a district or a voivodeship;

2) violates the rules described in Article 24, paragraph 8, concerning methods of collecting financial resources of a political party –

shall be punished by a fine.

Article 49c. Any person who:

1) provides funds of a political party for other purposes than determined by Article 24, paragraph 2;

2) conducts economic activity on behalf of a political party in violation of Article 24, paragraph 3;

3) transfers to a political party or receives on behalf of a political party financial resources or non-cash assets in violation of the interdicts referred to in Article 25 –

shall be punished by a fine of between 1,000 and 100,000 ZL.

Article 49d. Any person who fails to realise or obstructs the performance and submission of the information referred to in Article 34, paragraph 1, or who gives untrue information in such a report –

shall be punished by a fine, or limitation of liberty, or deprivation of liberty for up to 2 years.

Article 49e. Any person who provides financial resources accrued in the Election Fund for other purposes than determined by Article 35, paragraph 1 –

shall be punished by a fine of between 1,000 and 100,000 Zł.

Article 49f. Any person who:

- 1) spends funds belonging to a political party for financing election or referendum campaigning outside the Election Fund;
- 2) fails to realise or obstructs the preparation or submission of the report referred to in Article 38 or who gives false information in such a report –

shall be punished by a fine, or limitation of liberty, or deprivation of liberty for up to two years.

Article 49g. Any person who:

- 1) violates the rules described in Article 36, paragraph 3, concerning methods of collecting the financial resources of an Election Fund,
- 2) contribute funds to an Election Fund in an amount that exceeds the limitation specified in Article 36a, paragraphs 1 or 2;
- 3) fails to specify in an agreement concluded on behalf of the Election Fund with the bank holding the account that contributions to the Election Fund may be realised pursuant to the rules specified in Article 36a, paragraph 3 –

shall be punished by a fine.

Article 49h. The appropriate provisions on procedure in cases of misdemeanour shall apply to proceedings in the matters referred to in Articles 49b and 49g.”

#### **Article 239.**

In the Act of 26 November 1998 – Law on public finances (Journal of Laws, No. 155, item 1014 and of 1999, No. 38, item 360, No. 49, item 485, No. 70, item 778, and No. 110, item 1255, and of 2000 No. 6, item 69, No. 12, item 136, No. 48, item 550, No. 95, item 1041, No. 119, item 1251, and No. 122, item 1315 and of 2001, No. 45, item 497) the following amendments shall be incorporated:

1. in Article 73, paragraph 1, paragraph 2 shall be added as follows:

“2a) subventions for political parties;”

2. in Article 69, paragraph 2, subparagraph 1a shall be added:

“ 1a) subventions for political parties;”.

#### **Article 240.**

In the Act of 20 June 2000 – On publication of legislative acts and other acts of law (Journal of Laws No. 62, item 718) the following amendments shall be incorporated:

1. To Article 9, paragraph 2, paragraph 2a is added, as follows:

“2a) premature expiration of the term of office of the Sejm;”

2. In Article 10, paragraph 2, in subparagraphs 2 and 4- the letter: b). shall be deleted.

### **CHAPTER 38**

#### **Transitional, adapting and final provisions**

#### **Article 241.**

1. The provisions of Articles 177 – 179 and Articles 213 - 215 shall not apply to deputies of the Sejm and senators who hold office on the day on which this Act enters into force.

2. Provisions of the hitherto valid Act of law shall apply to the deputies and senators referred to in paragraph 1 if a vacancy in the seat of a deputy or senator occurs.

#### **Article 242.**

The provisions of Article 138, paragraph 3 shall not apply to the first elections held pursuant to this Act.

#### **Article 243.**

Hitherto provisions refer to the provisions of the Act of 28 May 1993 – On elections to the Sejm of the Republic of Poland (Journal of Laws No. 45, item 205; of 1995, No. 132, item 640; of 1997, No. 47, item 297, No. 70, item 443, No. 88, item 554, No. 98, item 604, No. 121, item 770, and No. 141, item 943, as well as of 1999, No. 49, item 483) or of the Act of 10 May 1991 – On elections to the Senate of the Republic of Poland (Journal of Laws No. 54 of 1994, No. 54, item 224, and of 1997, No. 70, item 443, and No. 98, item 604) .

#### **Article 244.**

1. The National Electoral Commission that exists on the day on which this Act enters into force shall become the National Electoral

Commission within the meaning of this Act.

2. The National Electoral Office that exists on the day on which this Act enters into force shall become the National Electoral Office within the meaning of this Act.
3. Within 9 months following the day this Act takes effect, the National Electoral Commission shall grant to the National Electoral Office a Statute and shall adjust its working regulations to the rules of that Act.
4. The provisions of paragraph 3 above shall apply accordingly to the provisions regulating the specific organisation of the units subordinated to the National Electoral Office and to specification of posts and salaries of the personnel of the National Electoral Office.

#### **Article 245.**

1. There shall expire – with exemptions specified in paragraph 2 below:

1) the Act of 28 May 1993 – On elections to the Sejm of the Republic of Poland (Journal of Laws No. 45, item 205; of 1995, No. 132, item 640; of 1997, No. 47, item 297, No. 70, item 443, No. 88, item 554, No. 98, item 604, No. 121, item 770, and No. 141, item 943, as well as of 1999, No. 49, item 483);

2) the Act of 10 May 1991 – On elections to the Senate of the Republic of Poland (Journal of Laws of 1994, No. 54, item 224, and of 1997, No. 70, item 443, and No. 98, item 604).

2. The provisions of the Acts referred to in paragraph 1 shall be applied to changes in the composition of representatives of the Sejm and the Senate, elected in the election conducted on 21 September 1997.

#### **Article 246.**

This Act shall enter into force after 14 days of its promulgation, with the exception of Article 24, paragraphs 3 – 5 of the Act referred to in Article 238, which shall read as in this Act and shall enter into force on 1 November 2002".

PRESIDENT OF THE REPUBLIC OF POLAND

Translated for the National Electoral Office by: Henryk Bielski - January, 2002