

# THE LAW ON THE ADVOCATES' PROFESSION

Dated 26 May 1982

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## SECTION I

### GENERAL PROVISIONS

#### Art. 1.

1. The Bar is established to provide legal assistance, co-operate in protecting a person's rights and freedoms as well as to formulate and apply the law.
2. The Bar is organized as a self-governing body.
3. An advocate whilst executing his/her professional duties is accountable only to the law.
4. The professional title "advocate" is legally protected.

#### Art. 2.

The Bar comprises all advocates and trainee advocates.

#### Art. 3.

The general tasks of the professional Bar Council are as follows:

- 1) creation of conditions for the statutory performance of the Bar's tasks,
- 2) representation of the Bar and protection of its rights,
- 3) supervision over the observance of the rules regulating the practice of the profession,
- 4) development of professional skills and training of advocates,
- 5) determination and promotion of professional ethics and ensuring their observance,
- 6) management and disposal of the Bar's assets.

#### Art. 4.

1. The advocate's profession involves the provision of legal service, in particular through the provision of legal advice, drafting of legal opinions, preparing draft legislation and appearing before courts and administrative authorities.
2. Legal assistance may be provided to physical persons, commercial entities and other organized entities.

3. An organized entity is understood as a state or local government body, a legal entity, a social or political organization, as well as any other entity without legal personality.

#### **Art. 4a.**

1. An advocate can practice his/her profession in an advocates' office [*kancelaria*], Bar Association [*zespół adwokacki*] or through a registered partnership [*spółka jawna*], civil law partnership [*spółka cywilna*], professional partnership [*spółka partnerska*] or limited partnership [*spółka komandytowa*] with the exclusive participation of advocates or advocates and legal advisers [*radca prawny*] including as general partners in a limited partnership [*spółka komandytowa*], and as well as foreign lawyers with a permanent practice pursuant to the law dated 5 July 2002 on the provision of legal assistance by foreign lawyers in the Republic of Poland (Journal of Laws no.126 item 1069). The sole object of the partnership's activities must be the provision of legal services.

*1a. Section 1 is without prejudice to the provision of legal services referred to in section 1 by persons who have completed university-level legal studies, with the exception of representation in court, unless such persons act on the basis of art. 87 §1 of the Code of Civil Procedure as counsel under a permanent retainer, provided that the subject-matter of the case falls within the remit of such retainer, or administering the assets or interests of a party.*

2. [*repealed*]

#### **Art. 4b.**

1. An advocate may not practice if:

- 1) he/she is employed,
- 2) his/her spouse is a judge, a public prosecutor, or holds a position in the public prosecutor's office within the jurisdiction of the District Bar Association.
- 3) has been declared permanently unfit to work,
- 4) has been incapacitated,
- 5) if suspended or temporarily suspended from performing his/her professional duties.

2. An advocate may not practice within the jurisdiction of the District Bar Council in which a relative to the second degree or a person related to him/her to the first degree performs any of the functions referred to in paragraph 1 point. 2 above.

3. The prohibition referred to in paragraph 1 point 1 does not apply to academic employees or teachers.

#### **Art. 4c.**

1. The District Bar Council shall decide whether an advocate is permanently unable to practice the profession.

2. The resolution is passed after interviewing the advocate concerned and his attorney appointed from the list of advocates and after consideration of medical reports or opinions. If the advocate does not appoint an attorney, the District Bar Council shall appoint one.

3. If proceedings are instituted to determine whether an advocate is unfit to practice, the District Bar Council may temporarily suspend the advocate from practice. The District Bar Council may apply the same means where incapacitation measures have been instituted against an advocate.

**Art. 4d.**

1. An advocate suspended from practice may not appear before the courts or other state or local authorities. During the period of suspension an advocate may perform other functions for which the Dean [*Dziekan*] of the District Bar Council granted him permission.

2. An advocate suspended from practice is not entitled to exercise active or passive voting rights at elections of the Bar's self-governing body.

**Art. 5.**

Before commencing practice, an advocate must take the following oath before the Dean:

*"I solemnly swear that in my work as an advocate I shall use all my strength to protect citizens' rights and freedoms and to strengthen the legal order of the Republic of Poland, to perform my duties eagerly, conscientiously and in accordance with the provisions of law, to protect professional secrets and to conduct myself with dignity, honesty, propriety and according to the principles of social justice."*

**Art. 6.**

1. An advocate is obliged to maintain the confidentiality of everything he learnt in the course of providing legal assistance.

2. The duty to keep professional secrets cannot be limited in time.

3. An advocate may not be relieved from the duty to keep professional secrets with regard to facts which came to his/her knowledge whilst providing legal assistance or whilst conducting a case.

**Art. 7.**

1. While and in relation to the performance of his/her professional duties, an advocate is protected by the law in the same manner as a judge or prosecutor.

2. The Minister of Justice shall specify by ordinance the official attire to be used by advocates in the course of legal proceedings taking into account the ceremonial nature of the attire corresponding to the solemnity of the court and established tradition.

**Art. 8.**

1. An advocate, whilst performing his professional duties, enjoys the right to express himself/herself freely both orally and in writing within the limits laid down by the Bar Council and the law.

2. Any abuse of this freedom which constitutes a private insult or slander of a party, his/her attorney or defence counsel, custodian, witness, expert or translator is only subject to disciplinary action.

#### **Art.8a.**

1. An advocate must be covered by civil liability insurance for damages inflicted in the course of performing the actions described in Art.4 sec.1.
2. The duty referred to in sec.1 does not apply to non-practicing advocates.

#### **Art.8b.**

The respective minister responsible for public finances, after seeking the opinion of the Polish Bar Council and the Polish Insurance Chamber, shall by ordinance determine the general conditions of the insurance referred to in Art.8a:

- 1) the date when the duty to enter into a insurance agreement arises;
- 2) the basic scope of responsibility of the insurer;
- 3) the minimum guaranteed insurance sum in terms of amount;
- 4) the scope of rights and duties of the insurer and insured under the insurance agreement.

#### **Art. 9.**

1. The authorities of the Bar are: the National Congress of the Bar, the Polish Bar Council, High Disciplinary Court and the High Auditing Committee.
2. Only advocates may be members of the Bar's authorities.

#### **Art. 10.**

The Polish Bar Council, Bar Associations and Bar Chambers all have legal personality.

#### **Art. 11.**

1. Elections to the governing bodies of the Bar Council, Bar Associations and to the governing bodies of Bar Chambers conducted by secret ballot with no restrictions on the number of candidates.
2. The term of office of the governing bodies of the Bar Council, Bar Associations and Bar Chambers is three years, although appointees are obliged to perform their duties until the newly elected bodies are in place.
3. When acting as a presiding officer in the Polish Bar Council or Bar Association, it is not possible to exercise the same function for more than two consecutive terms of office. This restriction applies to the heads of Bar Chambers, although in particularly justified

circumstances the Chamber's meeting may elect a head of Chamber to act for another term of office.

4. Each member of the bodies referred to in point 1 can be removed before the end of the term of office by the body which elected him/her.

5. The statutory mandates of the Bar's self-governing bodies cannot be combined. This restriction does not apply to the head of a Bar Chamber.

#### **Art. 12.**

1. Resolutions of the governing bodies of the Polish Bar Council, Bar Associations and Bar Chambers which directly concern particular individuals should be factually and legally justified.

2. The time frame for lodging an appeal provided by law is fourteen days from the day on which the decision or resolution is delivered.

#### **Art. 13.**

The Polish Bar Council shall annually present to the President of the Republic of Poland a report on the activities of the Bar and specify any problem areas.

#### **Art. 14.**

1. The Minister of Justice shall request the Supreme Court to repeal resolutions of the Bar's governing bodies which are contrary to the law within a period of six months from the date of their delivery.

2. The Supreme Court shall either uphold the resolution appealed against or shall repeal the resolution and send the matter back for re-consideration to the appropriate body of the Bar together with instructions as to how the matter should be resolved. A motion which is filed behind schedule shall not be considered.

3. The Polish Bar Council, upon the motion of the Presidium of the Polish Bar Council may repeal a resolution of a Bar Association which is contrary to the law within a period of six months from the date of its delivery.

#### **Art. 15.**

The Minister of Justice may request the National Congress of the Bar or the Polish Bar Council to pass a resolution in a particular matter which falls solely within their jurisdiction. The resolution of the Polish Bar Council should be passed within one month.

#### **Art. 16.**

1. Fees for legal services are determined by agreement with the client.

2. The Minister of Justice, after obtaining an opinion from the Polish Bar Council and the National Council of Legal Advisers shall determine, by ordinance, fees for professional legal

services before judicial authorities, which constitute the basis for the courts to award costs of legal representation and those of an advocate, taking into account the fact that the determination of costs higher than the minimum rate referred to in sec.3 but not more than six times that rate may be justified by the type and complexity of the case and required work load on the part of the advocate.

3. The Minister of Justice, after obtaining an opinion from the Polish Bar Council and the National Council of Legal Advisers shall determine, by ordinance, the minimum rates for the legal services referred to in paragraph 1 above, taking into account the type and complexity of the case and work load involved.

## **SECTION II.**

### **Practicing the Advocate's Profession.**

#### **Art. 17.**

Bar Associations [*Zespół Adwokacki*] constitute organizational units of the Bar.

#### **Art. 18.**

1. Only a person entered on the list of advocates may be a member of a Bar Association.
2. The Association's meeting shall decide upon new admissions to the Association.

**Art. 19. and Art. 20.** deleted, sec.1 and 2 in **Art.21** deleted as of 10.02.2003 (Journal of Laws 2002 no.126 item 1069)

#### **Art. 21.**

1. *[deleted]*

2. *[deleted]*

3.

*3. An advocate appointed by the court to provide legal assistance shall do so within the jurisdiction of the local court where he has registered his professional place of business. Art. 71c shall apply accordingly.*

**Art. 22.**(deleted)

#### **Art. 23.**

An advocate member of a Bar Association has the right to:

- 1) participate in the Association work and income, with the exception of periods during which he/she is unable to work due to illness or parenthood,
- 2) a paid holiday every year.

#### **Art. 24.**

*1. Advocates - members of associations and their families are entitled to insurance payments in the event of illness or maternity and family insurance and universal pension entitlements for employees and their families, on the same terms as employees. When determining their rights to such benefits and the level thereof, their work in associations is deemed as employment and the remuneration received is deemed to be remuneration from employment.*

*2. Sickness benefit for advocates - members of associations is paid by the Social Security Agency [ZUS - Zakład Ubezpieczeń Społecznych] commencing the first day of their incapacity to work.*

*3. Social security contributions are paid by advocate associations, registered partnerships [spółka jawna], professional partnerships [spółka partnerska] and limited partnerships [spółka komandytowa] as referred to in art. 4a (1). Advocates who practise their profession in chambers [kancelaria] or civil law partnerships [spółka cywilna] pay their contributions personally.*

*4. The Council of Ministers shall, by way of an ordinance, specify the level of social security contributions, the rules for calculating the basis for assessing such contributions and the manner in which they are to be paid.*

*5. After obtaining the opinion of the Supreme Bar Council, the Minister responsible for social security contributions shall specify the following in an ordinance:*

*1) (deleted)*

*2) the principles and means of calculating the periods during which advocates have practiced their profession in individual chambers before January 1, 1966 for the purpose of calculating pension entitlements.*

*6. (deleted)*

#### **.Art. 25.**

1. The contract with a client is signed by the head of an Association in the name of the Association; the power of attorney is granted by the client to the advocate.

2. The head of an Association shall give due consideration to the wishes of the client in the choice of advocate unless justifiable circumstances do not permit such advocate to provide legal assistance.

3. In the event that an advocate conducting a case cannot personally appear before the court or personally perform particular actions in the case, he may delegate his duties to substitute advocate.

**Art. 26.**

The head of an Association shall designate a substitute for an advocate who is unable to temporarily or permanently conduct a case or who is struck off the list of advocates. The decision of the head of the Association must be in writing and constitutes proper authorization for an advocate to conduct a case.

**Art. 27.**

1. An advocate may terminate a power of attorney after obtaining the consent of the head of chamber.
2. An advocate, when terminating a power of attorney, shall notify the authorities concerned; he/she is also obliged to perform his/her obligations for a further two weeks unless his/her duties are assumed earlier by another advocate or he/she has been relieved from such obligation by the client.

**Art. 28.**

1. An advocate may only refuse to provide legal assistance for important reasons of which he must notify the interested party. Doubts as to whether to provide or refuse to provide legal assistance are resolved by the District Bar Council, and in situations where time is of the essence, by the Dean.
2. In cases where legal assistance is granted by virtue of legal regulations ordered *ex officio*, only the entity appointing the advocate to conduct the case may decide to relieve the advocate from providing legal assistance.

**Art. 29.**

1. The costs of unpaid legal assistance granted *ex officio* are borne by the State Treasury.
2. The Minister of Justice by ordinance and in consultation with the Polish Bar Council shall specify the rules for the reimbursement of legal costs mentioned in section 1 above, taking into account the manner of determining these costs, the expenses which constitute the grounds for such determination and the maximum amount of fees for provided legal assistance.

**Art. 30.**

The governing bodies in a Bar Association are as follows:

- 1) the meeting of the Association,
- 2) the head of the Association,
- 3) the audit committee in Associations with more than twelve members, and in smaller Associations the committee may be appointed by resolution of the Association's meeting.

**Art. 31.**

1. The responsibilities of the meeting of an Association shall be as follows:

- 1) evaluation of the professional performance of members of the Association and trainee advocates,
- 2) election of the head of the Association and his deputy as appropriate,
- 3) removal of the head of the Association or his deputy before the expiry of his term of office,
- 4) control over the activities of the head of the Association, particularly review and approval of his reports,
- 5) election of the audit committee,
- 6) planning the budget for the Association's income and expenditure,
- 7) admission of new members, revoking membership of the Association and the exclusion of members from the Association,
- 8) passing resolutions with regard to moving the Association's premises,
- 9) passing resolutions regarding the dissolution of the Association.

2. Within one month of the date that an Association's resolution regarding paragraph 1 (2) above is passed, the District Bar Council may file a justified objection against the election of the head of an Association or his deputy and order that new elections are held within one month. An objection against the election of a particular head of an Association may only be filed once.

**Art. 32.**

1. The presence of two thirds of the members of an Association is required for resolutions to be validly adopted, while resolutions on matters listed in art. 31 section 1 points 2, 3, 7 and 9 require a majority of two thirds of the members present at the meeting.

2. The resolutions of an Association's meeting may be appealed against to the District Bar Council. There is no right of appeal against resolutions of the District Bar Council.

**Art. 33.**

The District Bar Council shall repeal or amend a resolution of an Association's meeting which is contrary to the law.

**Art. 34.**

1. The District Bar Council may remove a head of an Association or his deputy if he/she neglects or breaches his duties.

2. In the event that the head of an Association is removed, the District Bar Council shall temporarily entrust the duties of the head of the Association to one of the members of the Association who is not permitted to decline such obligation.

3. In the situation described in section 2 above, the election of a head of the Association shall ensue within a time frame specified by the District Bar Council, not later, however, than within one month from the date on which the resolution dismissing the head of the Association becomes final and binding. The dismissal excludes the person elected from re-election.

**Art. 35.**

A Bar Association may be dissolved either by resolution of the meeting of the Association or by resolution of the District Bar Council.

**Art. 36.**

The District Bar Council shall visit:

- 1) Bar Associations,
- 2) advocates' offices,
- 3) partnerships with exclusive participation of advocates,
- 4) advocates in partnerships with other advocates, legal advisers and foreign lawyers entered into the list of foreign lawyers,
- 5) foreign lawyers entered into the list of foreign lawyers maintained by the District Bar Council.

**Art. 37.**

The provisions of this section shall apply respectively to advocates practicing in advocates' offices as well as partnerships referred to in art. 4a section 1.

**Art. 37a.**

1. An advocate practicing in an advocates' office or partnership referred to in art. 4a, section 1, is obliged to ensure substitution when on vacation or other temporary hindrance so that cases conducted by him are not detrimentally affected.
2. The Dean shall appoint a substitute for an advocate, referred to in paragraph 1, who is temporarily or permanently unable to perform his professional duties as well as in the situation where the advocate is struck off the list of advocates. The decision of the Dean constitutes the authorization for the advocate to conduct the case and must be in writing.

**CHAPTER III.**

**Local Bar Chambers [*Izby Adwokackie*]**

**Art. 38.**

A Local Bar Chamber comprises advocates and trainee advocates whose professional place of business is situated within its jurisdiction as stipulated by the Polish Bar Council, and in particular having regard to the territorial and administrative delineation of the courts.

**Art. 39.**

The authorities of a Local Bar Chamber are as follows:

- 1) the general meeting of the Local Bar Chamber comprising all practicing advocates and delegates of other advocates,
- 2) the District Bar Council [*Okregowa Rada Adwokacka*],
- 3) the Disciplinary Court,
- 4) the Audit Committee.

**Art. 40.**

The duties of the general meeting of the Local Bar Chamber are as follows:

- 1) election of delegates to the Bar's Annual Congress,
- 2) election of the Dean, President of the Disciplinary Court, President of the Audit Committee, members and deputy members of the District Bar Council, the Disciplinary Court and the Audit Committee,
- 3) adoption of the budget of the Local Bar Chamber and determination of annual contributions for the needs of the Chamber,
- 4) determination down the minimum and maximum number of members of the Local Bar Chamber,
- 5) reviewing and approval of annual reports on the activities of the Local Bar Council,
- 6) approval, after considering motions of the Audit Committee, the closed accounts, and discharging the District Bar Council from its duties,
- 7) the adoption of other resolutions.

**Art. 41.**

1. Ordinary Local Bar Chamber meetings called by the District Bar Council are convened once a year.
2. Extraordinary meetings are called at the request of the Presidium of the Polish Bar Council, the District Bar Council, Audit Committee or one third of the advocates members of a Local Bar Chamber. The meeting is convened within six weeks of the request being filed.

**Art. 42.**

1. The District Bar Council comprises a Dean, five to fifteen members and from two to four deputy members.
2. The President of the Disciplinary Court and the President of the Audit Committee are entitled to participate in meetings of the District Bar Council.

**Art. 43.**

1. The District Bar Council shall elect from among its members one or two deputy Deans, a Secretary, if appropriate a deputy Secretary, a Treasurer and a disciplinary spokesman, who together with the Dean shall constitute the Presidium of the District Bar Council. Moreover, the District Bar Council shall appoint from amongst its advocate members deputies for the Disciplinary Spokesman and shall appoint the chairman and members of the inspection panel.
2. The Presidium shall prepare the sessions of the District Bar Council.

**Art. 44.**

1. The District Bar Council shall be competent to deal with all matters related to advocates which this Law does not entrust to other authorities of the Bar or other authorities of Local Bar Chambers, Bar Associations or state government bodies.
2. The Local Bar Council is authorized to file motions with registration and evidential authorities for the commencement of proceedings to delete an entity providing legal services contrary to the law from a register or evidential list.
3. The Local Bar Council may suspend the professional practice of an advocate who has failed, despite being called upon to do so, to pay his contribution to the Bar Chamber for a period exceeding six months.

**Art. 45.**

1. For resolutions of the District Bar Council to be valid the presence of at least half of the members, including the Dean or deputy Dean, is required.
2. Resolutions of the District Bar Council are adopted by a majority vote; if the votes are equal the Dean shall have the casting vote.
3. Resolutions in personal matters are adopted by secret ballot. If the votes are equal the chairman's vote shall be decisive and shall be disclosed.

**Art. 46.**

Resolutions of the District Bar Council adopted at first instance may be appealed against by the interested party to the Polish Bar Council.

**Art. 47.**

1. *(repealed)* 2. A final decision refusing entry on the list of advocates or trainee advocates may be appealed against by the interested party to the Minister of Justice in accordance with the provisions of the Code of Administrative Proceedings.

**Art. 48.**

1. The Dean represents the District Bar Council, directs its work, presides over its meetings and performs the duties envisaged by this Law.

2. The deputy Dean is a permanent substitute for the Dean.
3. The Dean may caution an advocate or trainee advocate for minor infringements. A decision of the Dean may be appealed against to the District Bar Council.
4. Other decisions of the Dean are subject to appeal as provided for by this Law.

**Art. 49.**

The District Bar Council keeps a list of advocates and trainee advocates, a copy of which is sent annually to the Polish Bar Council, the relevant presidents of the Appeal Courts, Voivodship (provincial) Courts, the relevant Appeal and Voivodship Prosecutors Offices and notifies them about any amendments in the list.

Ref.**Art.49.** “Voivodship Courts” currently substituted by “District Courts” (Journal of Laws no.160 item 1064), “Voivodship Prosecutors” currently substituted by “District Prosecutors” (Journal of Laws no.162 item 1123)

**Art. 50.**

The Disciplinary Court passes judgments in disciplinary cases relating to members of the Local Bar Chamber.

**Art. 51.**

1. The Disciplinary Court comprises a President, vice-President, six to twenty three members and three substitute members.
2. The Disciplinary Court hears cases sitting in a panel of three judges.

**Art. 52.**

The Audit Committee is responsible for controlling the financial and commercial activities of the District Bar Council and ensures the execution of resolutions adopted by the meeting of the Local Bar Chambers.

**Art. 53.**

The Audit Committee comprises a President, vice-President, three to five members and two substitute members.

**CHAPTER IV**

**Authorities of the Bar**

**Part 1**

**National Congress of the Bar**

**Art. 54.**

1. The National Congress of the Bar comprises delegates elected in proportion to the number of members of Local Bar Chambers as determined by the Polish Bar Council, not less, however, than six delegates from each Local Bar Chamber.
2. Other participants at the National Congress of the Bar are the non-delegated members of the Polish Bar Council as well as the Deans of Local Bar Chambers.

**Art. 55.**

1. The National Congress of the Bar meets every three years. The Congress is convened by the Polish Bar Council. The Congress should convene within one month of the elections held in all the Local Bar Chambers.
2. An Extraordinary National Congress of the Bar can be convened at the request of the Presidium of the Polish Bar Council, the High Audit Commission, at least one third of the members of the Polish Bar Council or at least one third of the District Bar Councils.

**Art. 56.**

The duties of the National Congress of the Bar include in particular the following:

- 1) election of the President of the Polish Bar Council, President of the High Disciplinary Court and the Chairman of the High Audit Commission,
  - 2) election of advocate members (excluding Deans) of the Polish Bar Council,
  - 3) election of members and deputy members of the High Disciplinary Court and the High Audit Commission,
  - 4) reviewing and approval of reports by the Polish Bar Council, of the High Disciplinary Court and the High Audit Commission as well as the approval, after considering motions of the High Audit Commission, of closed accounts and discharging the Polish Bar Council from its duties,
  - 5) laying down guidelines for the Bar's self-governing authorities and specifying the number of Local Bar Chambers,
  - 6) adopting by-laws concerning:
    - a) the procedure(s) for electing individuals to the authorities of the Bar and Local Bar Chambers, and the manner in which these authorities operate,
    - d) manner dealing with Congress issues,
  - 7) establishing the basic principles for creating funds and managing the assets of the Bar.
- Pts.b) and c) in **Art.56** deleted.

**Part 2**

**The Polish Bar Council**

### **Art. 57.**

1. The Polish Bar Council comprises:

- 1) the President of the Polish Bar Council,
- 2) advocates elected by the National Congress of the Bar in a number corresponding to the number of Deans of District Bar Councils; not more, however, than eight advocates from the same Local Bar Chamber,
- 3) Deans of District Bar Councils.

2. The registered seat of the Polish Bar Council is the capital city of Warsaw.

### **Art. 58.**

The duties of the Polish Bar Council are as follows:

- 1) representing the Bar,
  - 1a) repealing resolutions of meetings of Local Bar Chambers which are contrary to law,
- 2) supervising the activities of the Presidium of the Polish Bar Council,
- 3) supervising the activities of District Bar Councils as well as the professional training of trainee advocates by these Bar Councils,
- 4) defining the territorial limits of Local Bar Chambers and their registered seats,
- 5) setting the number of members and their deputies, the authorities of individual Local Bar Chambers as well as the fixed number of presiding members of these authorities and the basis of their remuneration,
- 6) providing opinions referred to in art. 16 sections 2 and 3,  
pt.7 in **Art.58** deleted
- 8) hearing appeals against Local Bar Council resolutions,
- 9) providing opinions on draft legislation and presenting conclusions and proposals regarding the formulation and application of law;
- 10) managing the assets of the Polish Bar Council,
- 11) adopting the budget of the Polish Bar Council and specifying the share of individual Local Bar Chambers in budgetary expenses,  
*11a) adopting rules for exempting trainee advocates from the annual fee in whole or in part and suspending payment thereof or dividing it into instalments.*
- 12) adopting by-laws governing:
  - a) the rules of electing advocate delegates referred to in art. 39 section 1,
  - b) the rules governing the training period for advocates,
  - c) the rules of operation of Local Bar Councils,
  - d) the scope of activity and rules for remunerating inspectors,  
let.e) in pt.12 **Art.58** deleted,
  - f) specimen seals for the authorities of the Bar,

- g) the rules for establishing, organizing, operation and dissolution of Bar Associations,
  - h) the rules for practicing the profession individually or in partnership as referred to in art. 4a section 1,
  - i) the actions of disciplinary spokesmen,
  - j) the examination procedures for trainee advocates.
  - k) the principles of cooperation of an advocate with a foreign lawyer representing a client in proceedings which, as per applicable law, require a party to be represented by an advocate or legal advisor,
- 13) the suspension of individual members holding key posts in Local Bar Chambers and bodies of Bar Associations for breaching their basic duties with the exception of members of disciplinary courts and requesting the relevant authorities to have these persons removed from their posts.
- 14) performing tasks determined by the law on the provision of legal assistance by foreign lawyers in the Republic of Poland.

#### **Art. 59.**

1. The Polish Bar Council shall elect from its members two vice-Presidents, a Secretary, a Treasurer, Disciplinary Spokesman, deputy for the Secretary and two members, who together with the President constitute the Presidium of the Polish Bar Council. The Presidium is the executive arm of the Polish Bar Council.
2. The Polish Bar Council appoints from amongst its advocate members, deputies of the Disciplinary Spokesman of the Polish Bar Council.
3. The Presidium acts in the name of the Polish Bar Council, with the exception of those activities referred to in art. 58 section 1a, 2, 11 and 12.

#### **Art. 60.**

The Polish Bar Council shall repeal unlawful resolutions of District Bar Councils.

#### **Art. 61.**

The Polish Bar Council may request a District Bar Association to adopt a resolution in a particular matter falling within its competence. The resolution should be passed not later than within one month.

#### **Art. 62.**

1. The Polish Bar Council shall appoint from the rank of advocates a Central Inspectorate and a President and deputy.
2. The inspectors shall ensure that Bar Associations and advocates abide by the provisions of this Law and other legal regulations relating to the Bar.

### **Part 3**

#### **High Disciplinary Court**

##### **Art. 63.**

1. The High Disciplinary Court comprises twenty three members and three substitute members.
2. The members of the High Disciplinary Court shall elect one or two vice-Presidents from amongst their number.
3. The High Disciplinary Court, sitting as a three man tribunal, shall act as a court of appeal for cases heard in the first instance by disciplinary courts.
4. The President of the High Disciplinary Court shall participate in sessions of the Polish Bar Council and shall periodically provide information on disciplinary matters.

### **Part 4**

#### **High Audit Committee**

##### **Art. 64.**

1. The High Audit Committee controls the financial and commercial activities of the Polish Bar Council and ensures that resolutions of the National Congress of the Bar are implemented.
2. The High Audit Committee comprises a Chairman, vice-Chairmen, four members and two substitute members.
3. The chairman of the High Audit Committee shall notify the Polish Bar Council and its Presidium of the results of its inspections and has the right to participate in the sessions of these bodies.

## **CHAPTER V**

### **Entry on the List of Advocates**

### **Art. 65.**

An individual may be entered on the list of advocates if:

- 1) He/she is of unblemished character and by his/her conduct to date warrants that he/she shall properly practice the profession of an advocate,
- 2) He/she enjoys full public rights and has full capacity to enter into legal transactions,
- 3) *He/she holds a degree in law in the Republic of Poland and has obtained a Masters degree in law or has completed foreign legal studies recognized in Poland,*
- 4) *He/she completed his/her advocates training in the Republic of Poland and has passed the final bar examination, subject to art. 66 (1a).*

### **Art. 66.**

*1. The requirement to complete practical training and pass the bar examination shall not apply to:*

- 1) professors and those holding the title of habilitated doctor of law,*
- 2) persons who have passed the exams for judges, public prosecutors, legal advisers and notaries,*

*1a. The following may sit the advocate's exam before the commission referred to in art. 75a (1), without the requirement to undergo practical training:*

- 1) doctors of law,*
- 2) those who following completion of higher legal studies have been employed under an employment contract on posts connected with the application or creation of law for a period of at least 5 years over a period of no more than 8 years prior to the submission of the application to sit the bar examination.*
- 3) those who, following completion of a law degree, have personally and on a constant basis performed services under contracts falling with the provisions on retainers, consisting in the application or creation of law for a period of at least 5 years over a period of no more than 8 years prior to the submission of the application to sit the bar examination.*
- 4) those who, following completion of a law degree, have carried on a business (entered into the Small Business Register) the objects of which have encompassed the provision of legal services as referred to in art. 4 (1a) for a period of at least 5 years over a period of no more than 8 years prior to the submission of the application to sit the bar examination,*
- 5) those who have worked for a period of at least 5 years over a period of no more than 8 years as a court clerk or assistant to a judge.*

*1b. The five year period of employment under an employment contract, as referred to in s. 1a (2) is determined as the total length of all periods of work, incorporating part-time work on a pro rata basis.*

*1c. The persons referred to in s. 1a must satisfy the requirements set out in art. 65 (1) – (3).*

*2 (deleted)*

### 3) Art. 67.

Persons who were judges or public prosecutors cannot, for a period of two years after they ceased to practice that profession, practice the advocate's profession within the jurisdiction of the Local Bar Chamber where they held the above positions. This prohibition does not apply to judges of the Constitutional Tribunal and the State Tribunal, of the Supreme Court, judges of Chief Administrative Court and public prosecutors from the National Public Prosecutor's Office.

### Art. 68.

1. *A person who has passed the bar examination shall be entered onto the list of advocates upon his request, on the basis of a resolution of the appropriate district bar council for the location where the practical training is conducted or, in the case of those referred to in art. 66 (1a), the place of residence.*
2. *A person referred to in art. 66 (1) shall be entered onto the list of advocates upon his request, on the basis of a resolution of the appropriate district bar council for the location where the application for an entry is submitted*
3. *A person applying for entry onto the list of advocates shall include with his application (as referred to in s. 1 and 2) information from the National Criminal Register confirming his lack of a criminal record, dated no earlier than one month prior to the submission thereof.*
4. *The district bar council may only refuse to enter a person onto the list of advocates, if such entry would infringe the provisions of art. 65 (1)-(3) or art. 67. The district bar council may examine the personal and disciplinary files of the person applying for the entry.*
5. *The District Bar Council shall adopt a resolution regarding entry onto the list of advocates within 30 days of the date the application for an entry is submitted.*
6. *The resolution referred to in s.5 may be appealed to the Presidium of the Supreme Bar Council within 14 days of the date the resolution is served.*
7. *A final decision refusing the application for an entry onto the list of advocates, failure of the district bar council fails to adopt a resolution within 30 days of the date of submission of an application for such an entry or failure on the part of the Presidium of the Supreme Bar Council to adopt a resolution within 30 days of service may be appealed to the administrative court.*

### Art. 69.

1. The District Bar Council shall notify the Minister of Justice within 30 days of each resolution relating to the entry or refusal to enter an advocate or trainee advocate on the list.
2. *Advocates and trainee advocates are deemed to have been entered onto the list of advocates if the Minister of Justice fails to object to the entry within 30 days of the date of receipt of the resolution together with the personal data files of the individual concerned. The Minister of Justice shall express any objection in the form of an administrative decision.*

3. The decision of the Minister of Justice may be appealed against to the Chief Administrative Court <Administrative Court> by the individual affected by the decision or by a self-governing body of the Bar within 30 days of the decision being delivered.

The amendment in sec.3 of **Art.69** comes into force on 1.01.2004 (Journal of Laws 2002 no.153 item 1271)

**Art. 70.**

*Once an advocate has been entered onto the list of advocates, he shall designate his professional place of business and shall notify the relevant district bar council thereof no later than 30 days prior to the date he designates his professional place of business.*

**Art. 71.**

*1. An advocate may move his professional place of business within the area of the same bar chamber. The advocate shall notify the district bar council of this fact no later than 30 days prior to the date of commencing business at his new place of business. In the notice, the advocate shall provide the address of the new place of business and the date when professional business shall commence there.*

*2. An advocate may move to another association of advocates within the area of the same chamber, with the consent of that association.*

**Art. 71a.**

*1. An advocate may move his professional place of business to the area of another chamber, provided that this does not breach art. 4b (1)(1) and 4b (2), subject to section 2.*

*2. An advocate may not move his place of professional business to the area of another chamber if disciplinary proceedings have been commenced against him.*

*3. In the event of transfer of an advocate's professional place of business to the area of another chamber, the advocate shall notify the appropriate district bar council for the bar chamber in which his professional business shall be based and the district bar council in which he is currently entered into the list of advocates.*

*4. Notice of transfer of a professional of place of business to the area of another bar chamber shall be made in writing no later than 30 days prior to the date professional business is to be commenced at the new registered place of business within the area of another bar chamber. In this notice, the advocate shall provide the address of his new place of business and the date business activity shall commence there.*

*5. The appropriate district bar council for the chamber to which the advocate transfers his professional place of business shall enter the advocate onto the list of advocates within 30 days from the date a notice is submitted on transfer of the professional place of business to the area of another chamber and, within 14 days of the date the entry is made, shall notify the*

*district bar council for the chamber, in whose area the advocate previously had his professional place of business, of the entry made onto the list of advocates.*

*6. Following receipt of the notice on entry onto the list of advocates as referred to in s.5, the district bar council shall delete the advocate from the list of advocates and send his personal and disciplinary files to the appropriate district bar council as regards the entry in the list of advocates.*

*Art. 71b.*

*1. An advocate may have only one professional place of business.*

*2. If an advocate changes his professional place of business, as referred to in art. 71 (1) or 71a (1), this may not constitute grounds for the advocate to terminate his retainer or release the advocate from the provision of ex officio legal assistance in a given case, unless the body that appointed the advocate releases the advocate from the provision of such assistance.*

*Art. 71c.*

*In the event that no advocate has designated his professional place of business within the jurisdiction of the district court, within 30 days of the date of receipt of a notice on the change of place of business or the date a resolution is adopted on deletion of an advocate from the list of advocates, the district bar council shall designate, at the seat of the given district court, an additional professional place of business for an advocate from the area of the given chamber for a period of no more than 12 months.*

## **CHAPTER VI**

### **Removal from the List of Advocates**

**Art. 72.**

1. A District Bar Council may remove an advocate from the list of advocates in the event of:

- 1) death,
  - 2) resignation from the Bar,
  - 3) moving a professional practice to the jurisdiction of another Local Bar Chamber,
  - 4) taking up an appointment in the justice department, the police or public prosecutors office or commencing work as a notary,
  - 5) taking a professional appointment with the military,
- pt.6 in sec.1 of **Art.72** deleted.
- 7) being deprived of public law rights or the right to practice the profession by virtue of a court verdict,
  - 8) a decision of a disciplinary court removing an advocate from the Bar,

2. The District Bar Council may refuse to strike an advocate off the list of advocates for the reasons listed in section 1 points 2 or 3 if disciplinary proceedings are pending against the advocate.

**Art. 73.**

An advocate struck off the list of advocates for the reasons mentioned in art. 72 section 1 point 2, 4 or 5 may be re-entered on the list of advocates at his/her own request, unless he/she no longer satisfies the requirements laid down in art. 65 section 1 and 2.

**Art. 74.**

A District Bar Council may remove an advocate from the list of advocates for an act committed before entry on the list where such act was not known to the District Bar Council at the time of entry and if known, would have prevented the entry.

**CHAPTER VII**

***Practical training***

***Art. 75.***

*1. Recruitment for practical training shall be conducted by way of competitive examination for practical training, hereinafter referred to as the "examination". 2. A trainee advocate must satisfy the conditions set out in art. 65 (1) – (3) and must have passed the competitive examination.*

*3. An entry onto the list of advocate trainees is made following the competitive examination on the basis of a resolution of the appropriate district bar council for the place the application referred to in art. 75c (2) is submitted. Passing the competitive examination entitles a candidate to submit an application for entry onto the list of trainee advocates within 2 years from the date the results of the competitive examination are published.*

*4. A person who satisfies the conditions referred to in sections 2 and 3 cannot be refused entry onto the list.*

*5. Arts. 5-8 and art. 68 shall apply accordingly to advocate trainees and to the procedure for entry onto the list of advocates.*

***Art. 75a.***

*1. The competitive examination shall be conducted by an examination committee for practical training matters under the Ministry of Justice, appointed for the jurisdiction of one or more district bar councils, hereinafter referred to as "commissions".*

*2. The Minister of Justice is a higher-instance body in relation to the commissions.*

3. *The purpose of the competitive examination is to test the knowledge of a candidate for a trainee advocate, hereinafter called the “candidate”, in respect of the following areas of law: constitution, criminal, criminal procedure, fiscal-criminal, misdemeanours, civil, civil procedure, commercial, commercial law companies, labour and social insurance, family and care, administrative, administrative procedure, financial, European, court system, self-governing bar authority and other legal protection bodies operating within the Republic of Poland and the conditions for practising the profession of advocate and the ethics of the profession.*

4. *A competitive examination is conducted once a year, at the time appointed by the Minister of Justice, no later however than 30<sup>th</sup> September prior to the commencement of the school year, simultaneously on the same day within the Republic of Poland, subject to s. 5.*

5. *If any chance event occurs preventing a given commission from conducting a competitive examination at the time referred to in s. 4, the Minister of Justice shall set an additional period for the commission to conduct the competitive examination. Art. 75b (4) – (7) shall apply accordingly.*

*Art. 75b.*

1. *Each year the Minister of Justice shall appoint a team to prepare competitive examination questions for candidates, hereinafter called the “examination team”.*

2. *The examination team shall comprise of 5 persons, including 3 representatives of the Minister of Justice and 2 representatives delegated by the Supreme Bar Council.*

3. *The chair of the examination team, appointed by the Minister of Justice from among his representatives, shall manage the work of the team and lay down the manner in which the team shall work.*

4. *The examination team shall prepare a list of questions in the form of a multiple choice test for the competitive examination for candidates.*

5. *Each district bar council may propose questions to the examination team via the chair of the team.*

6. *The examination team shall draw up a list of questions for the purpose of the competitive examination, with regard to the need to ensure a uniform level for assessing the knowledge of candidates.*

7. *The Minister of Justice, having obtained the opinion of the Supreme Bar Council, shall lay down in an ordinance the means for making proposals regarding questions and preparing, storing and sending the examination questions to commissions, with regard to the need to safeguard these questions against unauthorized disclosure.*

*Art. 75c.*

1. *By the 30<sup>th</sup> June each year, the Minister of Justice shall place an advertisement regarding the competitive examination in a national daily newspaper and in the Public Information Bulletin, referred to in the Act of 6<sup>th</sup> September 2001 on access to public information (Journal*

*of Laws, no. 112 item 1198 as amended), hereinafter referred to as the Bulletin, providing in particular:*

- 1) the date for submitting applications to sit the advocate trainee competitive examination, hereinafter called the "application";*
- 2) the geographic jurisdiction of each commission and the address of its registered office;*
- 3) the date of the competitive examination;*
- 4) the competitive examination fee, as referred to in art. 75d (1).*

*2. The application referred to in s.1(1) should include:*

*1) an application to sit the competitive examination;*

*2) personal questionnaire;*

*3) curriculum vitae;*

*4) original or official copy of a Polish law degree and conferral of the title of Master of Law or foreign law degree recognized in Poland or a certificate on successful completion of a Master's examination;*

*5) information on lack of a criminal record bearing a date no earlier than one month prior to its submission.*

*6) two photographs.*

*3. The application should be submitted by the candidate at least 45 days prior to the date the competitive examination commences, to the commission referred to in s.1(2).*

*4. If the application does not satisfy the formal requirements set out in s. 2, the chair of the commission shall summons the candidate by registered mail to remedy the shortcomings pursuant to art. 64 (2) of the Code of Administrative Procedure.*

*5. The chair of the commission shall notify a candidate by registered mail (return receipt requested) if his application has been rejected without consideration.*

*6. In the event that a candidate fails to pay the fee for sitting the competitive examination, the chair shall summons him in the manner specified in s.4 to pay the fee within 7 days.*

*7. If, despite the summons referred to in s.6, a candidate fails to pay the competitive examination fee, the chair shall issue a decision to return the application. An appeal against such decision may be submitted to the Minister of Justice.*

*8. If the application was made after the deadline specified in s.3, the chair of the commission shall issue a decision refusing to allow the candidate to sit the competitive examination. An appeal against such decision may be submitted to the Minister of Justice.*

*9. The chair of the commission shall notify candidates who have qualified to sit the competitive examination, of the date and place of the competitive examination by registered*

*mail (return receipt requested), at least 14 days prior to the date of commencement of the competitive examination.*

*Art. 75d.*

- 1. Candidates shall pay a competitive examination fee, which shall constitute revenue of the state budget.*
- 2. After obtaining the opinion of the Supreme Bar Council, the Minister of Justice shall lay down in an ordinance the level of the fee – no higher however than the equivalent of the minimum wage for work referred to in the Act of 10<sup>th</sup> October 2002 on the minimum wage for work (Journal of Laws no. 200, item 1679 and of 2004 no. 240, item 2407), hereinafter called the “minimum wage” – taking account of the necessity to ensure the proper and effective conduct of the examination.*

*Art. 75e.*

- 1. The Minister of Justice shall appoint the commission from among persons whose knowledge, experience and authority provide a guarantee that the competitive examination shall be conducted properly.*
- 2. The commission shall consist of seven members. The commission shall be composed of:*
  - 1) three representatives of the Minister of Justice; a judge or retired judge, upon consent, may also be a representative of the Minister of Justice;*
  - 2) two representatives delegated by the Supreme Bar Council;*
  - 3) one academic employee, an academic lecturer or lecturer at the law department at a university in the Republic of Poland or the Polish Academy of Science holding at least the level of habilitated doctor in law;*
  - 4) one public prosecutor who has been appointed to at least the level of district public prosecutor, or a retired public prosecutor;*
- 3. The persons referred to in s.2 (1) and (3) cannot be advocates.*
- 4. The Minister of Justice shall appoint the chair of the commission from among his representatives.*
- 5. The commission’s term of office shall be 2 years.*
- 6. The failure of the obligated bodies to delegate representatives to work in the commission or failure of a member of the commission to appear shall not suspend the commission’s work.*
- 7. Commission members are entitled to have their travel and accommodation costs reimbursed according to the rules set out in provisions concerning receivables for national business trips of employees of state or local authority bodies funded from the state budget.*

8. *A commission member who is not an employee of the government administration shall be entitled to remuneration for work connected with participation in the commission.*

9. *The appropriate district bar council as regards the seat of the commission shall provide administrative and technical assistance for the commission's work, including conducting the competitive examinations and bar examinations, as tasks delegated by the government administration.*

10. *The appropriate councils shall cover the costs of conducting competition and bar examinations as well as expenses connected with the commission's work from the funds provided in the manner referred to in s.9.*

11. *Expenses connected with the commission's work, including conducting competition and bar examinations as well as the remuneration of commission members, shall be covered from the part of the state budget allocated to the Minister of Justice.*

12. *After obtaining the opinion of the Supreme Bar Council, the Minister of Justice shall lay down the following by way of an ordinance:*

1) *the manner and deadline for nominating candidates for commission members and appointing and dismissing commission members;*

2) *the type of documents referred to in art. 78a (4) (3)-(5).*

3) *the level of remuneration of commission members, at a level of no more than the monthly basic remuneration of a district court judge at the first pay grade.*

4) *the detailed manner and means of conducting the competition and bar examinations, in particular:*

a) *the means by which the commission shall operate;*

b) *the means by which the district bar councils shall organize administrative and technical assistance for the commission, including the means and manner for transferring funds, exercising supervision over their expenditure and settling expenses connected with such service – taking account of the need to conduct trainee recruitment, the competitive examination and bar examination properly and effectively and ensuring that the commission's work remains impartial.*

*Art. 75f.*

1. *Membership of the commission shall expire upon the death of a commission member.*

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

1) *that a member tenders his resignation;*

2) *that an illness permanently prevents the exercise of his functions as a member of the commission;*

3) of failure to satisfy the conditions referred to in art. 75e (2);

4) of failure to perform or undue performance of his duties, provided that a commission member referred to in art. 75e (2) (2) shall only be dismissed upon the consent of the Supreme Bar Council;

5) that he is sentenced by a legally binding court judgment for an intentional offence, prosecuted on the basis of an indictment.

3. The Minister of Justice may dismiss a commission member in the event that criminal proceedings are commenced against him in connection with suspicion of commission of an intention offence prosecuted on the basis of an indictment.

4. The expiry of a member's membership or his dismissal during the course of competition proceedings shall not suspend the commission's work.

5. In the event that a commission member's membership expires or a commission member is dismissed prior to the lapse of its term of office, within 7 days the Minister of Justice shall appoint a new member until the end of the term of office.

6. A commission member appointed for a full term of office may only be reappointed once, however he may not be appointed immediately after the lapse of his first term of office in the commission.

#### *Art. 75g.*

1. A commission member shall be excluded from the work of the commission during the time of a competitive examination if the candidate qualifying for the competitive examination is:

- 1) his spouse;
- 2) a person who in relation to him is:
  - a) a relative or kin to the second degree;
  - b) adopted
- 3) a co-habitee;
- 4) a subordinate employee

2. The grounds for exclusion shall continue to apply even if the marriage or adoptive relationship ends.

3. Prior to the commencement of the competitive examination, members of the commission shall submit a written statement that they are not in any of the relationships referred to in s.1 with candidates who have qualified for the competitive examination.

4. If the statement referred to in s.3 contains any false information or conceals the truth, it shall give rise to criminal liability under art. 233 (1) of the Criminal Code.

#### *Art. 75h.*

1. The competitive examination shall be held in the presence of at least three commission members.

2. *The absence of a candidate during the competitive examination, regardless of the grounds thereof, shall be deemed to constitute withdrawal from the competitive examination.*

3. *During the competitive examination, candidates may not use the text of legislation, commentaries, case law or other assistance and may not use devices for transmitting or receiving information.*

*Art. 75i.*

1. *The competitive examination consists of a test containing 250 multiple choice questions (three questions, of which only one is correct) to be answered. The candidate may only choose one answer. For each correct answer, the candidate receives 1 point.*

2. *The test is checked by a commission comprised of the same members that conducted the competitive examination.*

3. *A candidate who receives 190 or more points is deemed to have passed the examination.*

4. *Minutes shall be drawn up immediately regarding the course of the competitive examination, signed by the commission members participating in the competitive examination. Commission members may include comments in the minutes.*

5. *The chair of the commission shall send the minutes to the Minister of Justice within 7 days after they are drafted.*

*Art. 75j.*

1. *After conducting the competitive examination the commission shall determine the result of the candidate by way of a resolution. The commission shall publish the results of the competitive examination.*

2. *The candidate is entitled to appeal against the resolution of the commission concerning the result of his examination to the Minister of Justice.*

3. *The Minister of Justice shall notify the district bar councils of the results of the competitive examination and publish the list of those who passed the examination in the Bulletin.*

*Art. 76.*

1. *Practical training shall last three years and six months, at least six months of which shall be spent in a court, a public prosecutor's office, notarial office or other public institution on the basis of a referral by the district bar council.*

2. *The appropriate district bar council shall issue a certificate on completion of practical training to a trainee who completes his practical training.*

3. *The instruction of trainee advocates may be conducted in combination with trainee legal advisers.*

4. A trainee advocate receives his practical training under the supervision of a Patron\* designated by the Dean of the District Bar Council.

5. The task of the Patron is to prepare the trainee advocate to practice the profession of an advocate within the meaning of this Law.

*\*[The **Patron** is the advocate who supervises the training and general legal education of a trainee advocate until he/she successfully concludes his/her training by sitting and passing his/her final examination]*

*Art. 76a. 1. The Patron may employ the trainee advocate on the basis of an employment contract.*

*2. An employee entered on the list of trainee advocates is entitled to paid leave from work to attend obligatory training classes.*

*Art. 76b.*

*1. Practical training is subject to a fee.*

*2. The training of advocate trainees is covered from the fees paid by trainee advocates to the appropriate district bar council.*

*3. After obtaining the opinion of the Supreme Bar Council, the Minister of Justice shall determine in an ordinance the level of the annual fee, guided by the necessity to ensure a proper level of education for trainees, whereas the fee may not be higher than six times the monthly minimum wage.*

*4. The district bar council may exempt an advocate trainee from the fee referred to in s.3, in whole or in part, suspend its payment or divide it into instalments.*

*5. In the event that a resolution is adopted on exempting an advocate trainee from the fee in whole or in part, the costs of training that trainee shall be covered pro rata to the amount of the exemption from the appropriate district bar council's own funds.*

*Art. 77.*

*1. After six months of advocate's training, the trainee advocate may only substitute for an advocate before the district court, the prosecution authorities, state authorities, local government authorities and other institutions.*

*2. After one year and six months from the beginning of the advocate's training period a trainee advocate may substitute for an advocate before other courts with the exception of the Supreme Court, the Chief Administrative Court as well as the Constitutional Tribunal and the State Tribunal.*

*3. [repealed]*

*Art. 78.*

1) *The bar examination is conducted by the commission referred to in art. 75a (1). The provisions of art. 75g shall apply accordingly.*

2) *The bar examination may be taken by a person who has completed practical training and has received a certificate of completion thereof and by a person referred to in art. 66 (1a).*

3) *The purpose of the bar examination is to assess the legal preparedness of the person taking the bar examination (hereinafter the examinee) duly and independently to perform the profession of advocate, including knowledge and the ability to apply it in practice in the following fields of law: constitution, criminal, criminal procedure, fiscal-criminal, misdemeanours, civil, civil procedure, commercial, commercial law companies, labour and social insurance, family and care, administrative, administrative procedure, financial, European as well as the court system, self-governing bar authority and other legal protection bodies operating within the Republic of Poland and the conditions for performing the profession of advocate and the ethics of the profession.*

4) *The bar examination shall comprise of written and oral parts. The provisions of art. 75h (1) and (2) shall apply accordingly.*

5) *The bar examination shall be conducted once a year at a time set by the Minister of Justice, no later than by the 31<sup>st</sup> May. The written and oral parts of the examination shall commence simultaneously on the same days in the Republic of Poland. The provisions of art. 75a (5) shall apply accordingly.*

6) *Each year the Minister of Justice shall draft a set of questions and themes for the purposes of the bar examination held at the time referred to in s.5.*

7) *After obtaining the opinion of the Supreme Bar Council, the Minister of Justice shall lay down in an ordinance the means of preparing, storing and sending the questions and themes for the bar exam to commissions, mindful of the need to secure such questions and themes against unauthorised disclosure.*

#### *Art. 78a.*

1) *By 28<sup>th</sup> February each year the Minister of Justice shall place an announcement in a national daily newspaper and in the Bulletin regarding the bar examination, specifying in particular:*

- 1) *the deadline for submitting an application to sit the bar examination, hereinafter called the "application",*
- 2) *the geographic jurisdiction of each commission and the address of its registered office;*
- 3) *the deadline by which each commission shall conduct the written and oral part of the bar examination,*
- 4) *the level of the examination fee referred to in art. 78b (1).*

2) *Advocate trainees who have completed practical training conducted by the bar chamber operating within the jurisdiction of a commission and the persons referred to in art. 66 (1a) residing within the jurisdiction of a commission may submit an application at the registered office of the relevant commission.*

3. *If a person has completed practical training, he shall attach a certificate of completion of practical training to the application.*

4. *The persons referred to in art. 66 (1a) shall attach the following documents to the application, as appropriate:*

1) *personal questionnaire*

2) *curriculum vitae*

3) *document certifying that they have obtained the academic level of doctor of law*

4) *document certifying a minimum of 5-years' employment or performance of the services referred to in art. 66 (1a) respectively on a post:*

a) *connected with the application or creation of law,*

b) *court clerk or judge assistant,*

5) *document certifying that a business as referred to in art. 66 (1a) (4) has been carried on for at least a 5-year period,*

6) *original or official copy of a Polish law degree and conferral of the title of Master of Law or foreign law degree recognized in Poland or an official copy thereof;*

7) *information on lack of criminal record from the National Criminal Register, with a date no earlier than one month prior to its submission;*

8) *2 photographs*

5. *The application should be submitted at the latest 45 days prior to the commencement of the bar examination. The provisions of art. 75c (4) – (9) shall apply accordingly.*

6. *By 31<sup>st</sup> March each year, the district bar council shall provide the commission with geographic jurisdiction a list of persons who have completed practical training.*

#### *Art. 78b.*

1. *A candidate shall pay an examination fee for sitting the bar examination, which shall constitute revenue to the state budget.*

2. *After obtaining the opinion of the Supreme Bar Council, the Minister of Justice shall lay down the level of the examination fee in an ordinance, no higher however than the equivalent of the minimum wage, taking account of the necessity to conduct the bar examination properly and effectively.*

#### *Art. 78c.*

*An employee is entitled to paid leave of 30 calendar days to prepare for the bar examination and paid leave from work to sit the competitive and bar examinations.*

*Art. 78d.*

- 1. In the written part of the bar examination, the examinee shall prepare four works from various fields of law. The works shall be in the form of an appropriately drafted statement of case or opinion on the basis of court documents. In this part of the examination a legal problem may be presented for resolution by the examinee on the basis of a case study, an administrative decision or piece of local legislation.*
- 2. During the oral part of the bar examination, the examinee may use legislation, commentaries and case law. The examinee may not have in his possession any devices for transmitting or receiving information.*

*Art. 78e.*

- 1. The assessment of each work in the written part of the bar examination is assessed on a scale of 0 to 30. The examinee may not receive more than 120 points for the written part. An examinee who receives at least 80 points is deemed to have passed the written part of the bar examination.*
- 2. The assessment of the works prepared by the examinee in the written part of the bar examination shall be made by two independent members of the commission. Each of them shall provide the total number of points in writing together with grounds and shall pass them immediately to the chair of the commission. The number of points that the examinee receives is the average of the scores presented by the commission members for each work.*
- 3. The chair of the commission shall archive the documents containing the scores given by the members of the commission.*

*Art. 78f.*

- 1. An examinee who has passed the written part of the bar examination shall sit an oral examination. Art. 75h (3) shall apply accordingly.*
- 2. A person taking the oral bar examination shall answer a set of 19 questions selected at random by him.*
- 3. The examinee's answers to the questions are assessed separately by each member of the commission using a scale from 0 to 4 points, the examinee may not receive more than 4 points. The examinee may receive a total of 76 points for the oral part of the bar examination.*
- 4. Members of the commission shall immediately provide the chair of the commission with their written assessments of the answers, as referred to in s.3. Art. 78e (3) shall apply accordingly.*
- 5. The commission shall determine the number of points obtained by each examinee in the oral stage of the bar examination, which shall be the arithmetic average of the number of points granted to the examinee by each of the members of the commission.*

*Art. 78g.*

*An examinee is deemed to have passed the bar exam if he obtains at least 130 points for the written and oral parts of the examination.*

*Art. 78h.*

*1. Minutes shall be drawn up immediately regarding the course of the bar examination, signed by the commission members participating in the bar examination. Commission members may include comments in the minutes.*

*2. The chair of the commission shall send the minutes to the Minister of Justice within 7 days after they are drafted.*

*Art. 78i.*

*1. After conducting the bar examination the commission shall determine the result of the examinee by way of a resolution. The commission shall publish the results of the bar examination.*

*2. An examinee is entitled to appeal against the resolution of the commission concerning the result of his examination to the Minister of Justice.*

*3. The Minister of Justice shall notify the district bar councils of the results of the bar examination and publish a list of those who passed the examination in the Bulletin.*

*4. The commission's resolution that the bar examination has been passed shall constitute the basis for issuing a resolution on entry onto the list of advocates.*

**Art. 79.**

*1. The district bar council shall strike a trainee advocate from the list in the following circumstances:*

*1) the circumstances mentioned in art. 72 (1) and art. 74,]*

*2) his failure without justification to complete practical training within the period referred to in art. 76 (1)*

*2. The District Bar Council may strike a trainee advocate from the list of trainee advocates during the first two years of his/her training period if it considers the trainee advocate to be unsuitable to practice as an advocate.*

*3. Art. 68 (5) – (7) shall apply accordingly to the striking of a trainee advocate from the list of trainees.*

## **CHAPTER VIII**

### **Disciplinary Liability**

#### **Art. 80.**

Advocates and trainee advocates are subject to disciplinary liability for their conduct which is contrary to law, professional ethics or dignity or the violation of their professional duties.

#### **Art. 81.**

1. Disciplinary penalties are as follows:

- 1) admonition,
- 2) reprimand,
- 3) pecuniary fine,
- 4) suspension from practicing the profession for a period from three months to five years, pt.5 sec.1 of **Art.81** deleted.
- 6) removal from the Bar.

2. Along with a reprimand and a fine it may additionally be ruled that the advocate be banned from acting as a Patron for a period of time from one to five years.

3. When an advocate is suspended from practicing the profession, that advocate shall additionally be prohibited from acting as a Patron for a period from two to ten years.

4. A reprimand and a fine cause the advocate to lose his active voting rights to the Bar's self-governing bodies for a period of three years from the date the judgment comes into force.

5. The suspension from practicing the profession carries with it the loss of passive and active voting rights to the advocates' self-governing bodies for a period of six years calculated from the date the judgment comes into force.

#### **Art. 82.**

1. A fine is imposed and calculated on the basis of five to fifty basic Local Bar Chamber contributions. The income generated from fines shall be used by the District Bar Council for the Bar's purposes.

2. When an advocate is removed from the Bar, his/her name is deleted from the list of advocates without the right to re-apply for entry.

#### **Art. 83.**

1. Fines cannot be imposed on trainee advocates.

2. The provisions governing the suspension from practicing the profession apply respectively to trainee advocates, but the suspension period is not counted towards the advocate's training period.

**Art. 84.**

1. Where several disciplinary infringements are punished simultaneously, the Disciplinary Court shall impose penalties for particular infringements, and then an aggregate penalty.
2. When imposing an aggregate penalty, the Court shall apply the following rules:
  - 1) When deciding upon an admonition and a reprimand, the aggregate penalty shall be a reprimand,
  - 2) The penalties of admonition and reprimand cannot be combined with a fine,
  - 3) When fines are imposed, the total fine cannot exceed the sum of these fines and may not be lower than the highest [individual] fine imposed,
  - 4) When suspended from practice, the suspension may not be combined with an admonition, reprimand or fine,
  - 5) Where several infringements are decided upon by different penalties and there is a decision to remove from the Bar, the aggregate penalty of removal from the Bar shall be imposed, and where fines are simultaneously imposed, this penalty shall be imposed in accordance with the principles laid down in point 3 above.
3. The principles described in section 2 apply respectively when a combined decision is made.

**Art. 85.**

1. The Dean of the District Bar Council may admonish members of the Local Bar Chamber.
2. The admonition mentioned in paragraph 1 above may be appealed against to a disciplinary court which shall examine the case for the second time hearing it as a court of the last and final instance.

**Art. 86.**

Disciplinary proceedings are carried out independently of penal proceedings in the same case, but may be suspended until the conclusion of the penal proceedings.

**Art. 87.**

1. Disciplinary proceedings may not be filed and, if already filed, must be discontinued if circumstances arise which, according to the provisions of the Code of Criminal Proceedings, exclude criminal prosecution.
2. If the accused dies before the conclusion of disciplinary proceedings the decision to discontinue becomes void and the proceedings shall continue as normal if so requested by the spouse, direct relative, brother or sister within a period of two months of the death of the accused.

**Art. 88.**

1. Disciplinary proceedings may not be filed if three years have elapsed from the moment the infringement was committed and in the circumstances described in art. 8 section 2 this period shall be six months.

2. Nonetheless, if the infringement possesses the symptoms of criminal offence the limitation period for disciplinary proceedings cannot be shorter than that for the criminal action.

3. Every action of the prosecuting authorities breaks the limitation period for the disciplinary action.

4. Disciplinary infringement cannot be penalized if five years have elapsed from the infringement and in the circumstances referred to in art. 8 section 2, this period shall be two years.

#### **Art. 89.**

1. The Disciplinary Court is independent in its judgments.

2. The Disciplinary Court examines individually all legal problems and shall pass judgments according to on its own convictions based on its independent view of the evidence, having regard to the circumstances both in favour and against the accused.

#### **Art. 90.**

1. The Disciplinary Court shall commence proceedings on the motion of a duly authorized prosecutor.

2. The Minister of Justice may order the commencement of disciplinary proceedings against an advocate or trainee advocate.

3. The Disciplinary Court which instituted proceedings shall forthwith notify the appropriate body in the European Union member state where the advocate provides legal assistance pursuant to the provisions regulating legal assistance in that country provided by European Union advocates, and sends to that body a copy of the motion referred to in sec.1.

Sec.3 of **Art.90** comes into force on the date of admission of Poland to the EU (Journal of Laws 2002 no.126 item 1069).

#### **Art. 91.**

1. Disciplinary matters are decided by:

- 1) The Disciplinary Court of the Local Bar Chamber,
- 2) The High Disciplinary Court.

2. The Disciplinary Court of the Local Bar Chamber shall consider all cases as a court of first instance, excluding the matters set out in art. 85 section 2.

3. The High Disciplinary Court shall consider:

- 1) as a court of second instance all cases considered at first instance by the Disciplinary Court of the Local Bar Chamber,
- 2) other matters envisaged by the provisions of this Law.
4. A judgment and justification issued by the High Disciplinary Court in the second instance shall be delivered to the parties, the Minister of Justice and the Polish Bar Council.

**Art. 91a.**

1. The parties, the Minister of Justice, the Ombudsman and the President of the Polish Bar Council may file for cassation to the Supreme Court.
2. The judgment against which the entities mentioned in sec.1 may file for cassation shall not be enforced until cassation is filed for or the time for filing it elapses ineffectually.

**Art.91b**

Cassation may be filed for in cases of blatant violation of law or evident inappropriateness of the disciplinary penalty.

**Art.91c**

Cassation is filed for in the Supreme Court through the High Disciplinary Court within 30 days of delivery of the judgment and justification.

**Art.91d**

1. No court fees shall be charged on cassation referred to in Art.91a sec.1.
2. The judgment against which cassation has been filed shall not be enforced until cassation has been heard.
3. The Supreme Court shall hear the cassation at a trial with three judges sitting.

**Art.91e**

For hearing a cassation as referred to in Art.91a sec.1 the provisions of the Code of Criminal Proceedings on cassation with the exception of Art.526 § 2 and Art.530 § 2 and 3 shall apply respectively.

**Art. 92.**

1. The competent court to hear a case is the Disciplinary Court of the Local Bar Chamber of which the accused is a member at the time the disciplinary proceedings are instituted.
2. If the guilt for one infringement lies with two or more accused entered on the list of advocates of different Local Bar Chambers, the appropriate forum to hear the case is the Disciplinary Court of the Local Bar Chamber where the infringement was committed. If it is not possible to determine such a place, the Disciplinary Court which first instituted the proceedings shall hear the case.

3. Disputes as to the correct forum, if it cannot be determined in accordance with section 2 above, shall be resolved by the High Disciplinary Court.

4. Where the appropriate court cannot, due to some difficulties, hear a case or undertake other action, or where the purpose of the action so requires, the High Disciplinary Court shall designate another Disciplinary Court to hear the case.

**Art. 93.**

1. The parties to disciplinary proceedings are: the prosecutor, the accused and the victim.

2. The prosecutor in the proceedings shall be the disciplinary spokesman.

3. The accused must be an advocate or trainee advocate, against whom the disciplinary proceedings are instituted.

4. The victim is a person whose legal rights were directly violated by the conduct of the advocate or trainee advocate as defined in art. 80.

**Art. 94.**

The accused has the right to appoint defence counsel.

**Art. 95.**

1. The Disciplinary Court shall judge at the hearing or a special session.

2. The decisions of the Disciplinary Court are passed in the form of judgments or decisions. A judgment may only be passed during the hearing, unless special provisions state otherwise.

**Art. 95a.**

Trial before the Disciplinary Court is open for members of the Bar and representatives of the Minister of Justice, unless the circumstances indicated in the Code of Criminal Proceedings state that the proceedings are to be held *in camera*.

**Art. 95b.**

The Minister of Justice and persons authorized by him have the right at any time to inspect the court files and demand information on the state of the disciplinary proceedings as well as the right to demand the valid disciplinary judgments together with the case file documentation.

**Art. 95c.**

Disciplinary proceedings encompass:

- 1) investigation,
- 2) proceedings before the Disciplinary Court,
- 3) enforcement proceedings.

**Art. 95d.**

The Disciplinary Court or disciplinary spokesman may discontinue disciplinary proceedings in less serious cases.

**Art. 95e.**

1. The [Disciplinary] Court can summons and examine witnesses and experts in observance of the provisions of the Code of Criminal Proceedings.
2. The penalty for unjustified non-attendance at a hearing, for the refusal to testify or take oath shall be imposed against a witness or expert upon the motion of the Disciplinary Court or disciplinary spokesman by the District Court where the witness or expert lives. Neither the witness nor the expert shall be subject to a penalty if they were not forewarned of the consequences of not attending or refusing to give evidence or take oath.
3. The forcible summons of a witness shall be ordered by the appropriate District Court at the request of the Disciplinary Court or the disciplinary spokesman.

**Art. 95f.**

The parties are entitled to lodge an appeal against judgments and decisions concluding the proceedings in the first instance and in circumstances set out in this Law within 14 days of delivery of a certified copy of the judgment or decision, together with a justification and instructions regarding the timing and manner of lodging an appeal.

**Art. 95g.**

The withdrawal of an appeal before the commencement of the appeal hearing is binding upon the High Disciplinary Court.

**Art. 95h.**

1. The High Disciplinary Court shall consider the case within the framework of an appeal; however, it shall take into consideration of an individual's substantive rights as well as blatant violations of the rules of procedure.
2. The decision can be changed in favour of the accused or can be repealed regardless of the appeal process if the decision is glaringly unjust.

**Art. 95i.**

The High Disciplinary Court may only pass a judgment against an accused where an appeal against him/her has been lodged.

**Art. 95j.**

1. An advocate or trainee advocate against whom disciplinary or criminal proceeding are pending may be temporarily suspended from practice by the Disciplinary Court in particularly

justified circumstances. The decision to suspend is either made by the court of its own accord or at the request of the parties.

2. The decision of a Disciplinary Court to temporarily suspend an advocate is immediately enforceable. If the period of temporary suspension lasts more than three months, the High Disciplinary Court shall investigate the justification for the suspension of its own accord..

**Art. 95k.** - deleted

**Art. 95l.**

1. The costs of the disciplinary proceedings comprise all the expenses related to these proceedings.

2. The costs of proceedings are borne by the accused if found guilty, otherwise the costs are borne by the Local Bar Chamber.

**Art. 95l.**

1. The notice of disciplinary punishment is automatically removed from the record:

1) three years after the disciplinary judgment admonishing, reprimanding or fining the advocate became final,

2) five years after the suspension from practice has been concluded, where the advocate or trainee advocate has not [during that period] been indicted or has not become liable for disciplinary proceedings.

2. The punishment consisting in dismissal from the Bar is not removed from the record.

**Art. 95m.**

The Minister of Justice, after obtaining an opinion from the Polish Bar Council, shall by ordinance, issue detailed regulations regarding disciplinary proceedings.

## **CHAPTER IX**

### **Amendments to Existing Provisions; Transitory and Final Provisions**

**Art. 97.**

1. Advocates and trainee advocates entered on the list of advocates on the day of this Law comes into force are advocates and trainee advocates within the meaning of the Law on the Advocate's Profession.

2. Trainee advocate entered on the list of trainee advocates before this Law comes into force shall complete a two year training period.

**Art. 98.** (deleted)

**Art.96** and sec.2 in **Art.87** omitted, text in the announcement.

**Art. 99.**

1. The requirement to complete training as an advocate does not apply to individuals who, after completing law studies have been employed full time as legal advisors for a period of five years.
2. The Polish Bar Council, in agreement with the self-governing bodies for the legal advisers profession, shall specify in by-laws the rules and manner whereby individuals mentioned in section 1 above shall sit for a supplemental advocates' examination.

**Art. 100.** – omitted, text in the announcement

**Art. 101.**

1. The Law dated the 19 December 1963 on the Organization of the Bar (Journal of Laws [1963] No. 57, item 309 and [1967] No. 13, item 55) is hereby repealed.
2. The existing executive provisions issued pursuant to the Law mentioned in section 1 above, insofar as they are not inconsistent with the provisions of this Law, shall remain in force until new provisions issued pursuant to this Law are issued.

**Art. 102.**

This Law comes into force on 1 October, 1982.