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2007 No. 70, item.  
473, No. 115, item 793,  
No. 176, item 1238, of  
2008 No. 227, item  
1505, of 2009 No. 18,  
item 97, No. 144, item  
1175.**

**ACT  
of 26<sup>th</sup> October 1982****on Upbringing in Sobriety and Counteracting Alcoholism**

Assuming that citizens' life in sobriety is a necessary condition of the moral and material well-being of the Nation, the following is agreed:

**Chapter 1  
General Provisions****Article 1.**

1. Government administration authorities and local government units shall be obliged to undertake activities aimed at limiting the consumption of alcoholic beverages and changing the structure of alcohol consumption, as well as initiating and supporting actions directed at changing alcoholic beverage consumption habits, promoting sobriety at the workplace, counteracting alcohol abuse and eliminating its consequences, as well as supporting the activity of social organisations and employers within this scope.
2. The authorities mentioned in paragraph 1 shall also support the establishment and development of social organisations whose aim is to promote sobriety and abstinence by influencing alcohol-abusing persons and providing the families of alcohol-abusing persons with aid, as well as to ensure conditions conducive to the activity of such social organisations.
3. The authorities mentioned in paragraph 1 shall also cooperate with the Catholic Church and other churches and religious associations within the scope of upbringing in sobriety and counteracting alcoholism.

**Article 2.**

1. Activities within the scope of counteracting alcoholism shall be carried out by contributing to the appropriate shaping of social policy, especially by:
  - 1) creating conditions conducive to meeting needs, the appeasement of which motivates to refrain from consuming alcohol;
  - 2) engaging in educational and informative activity;
  - 3) determining the appropriate level and correct structure of the production of alcoholic beverages destined for consumption in Poland;

- 4) reducing alcohol availability;
  - 5) providing alcohol-dependent persons with treatment, rehabilitation and reintegration;
  - 6) preventing alcohol abuse and eliminating its negative consequences;
  - 7) counteracting domestic violence,
  - 8) supporting social employment by financing social integration centres.
2. The activities mentioned in paragraph 1 shall be included in the underlying principles of the social and economic policy formulated in the National Programme for Preventing and Resolving Alcohol-Related Problems approved by the Council of Ministers.

### **Article 2<sup>1</sup>.**

The following terms, when used in the Act, shall have the following meaning:

- 1) the nearest surroundings of the point of sales (POS) of alcoholic beverages – the area measured from the border of the point of sales, constituted by a physical obstacle, such as a road edge, a building which prevents access to the point of sales, as well as prevents eye and voice contact with the point of sales, a wall without openings or a watercourse without crossings in the vicinity of the POS;
- 2) promotion of alcoholic beverages – public tasting of alcoholic beverages, distribution of gadgets connected with alcoholic beverages, organisation of sales promotions of alcoholic beverages, as well as any other form of public encouragement to purchase alcoholic beverages;
- 3) Alcoholic beverage advertisement – public promotion of alcoholic beverage trademarks and graphic symbols connected with such beverages, as well as the public promotion of names and graphic symbols of entrepreneurs producing alcoholic beverages, which do not differ from the names and graphic symbols of alcoholic beverages and are used in order to promote alcoholic beverage trademarks; information used for trading purposes by entrepreneurs professionally engaged in the production, wholesale turnover and retail trading of alcoholic beverages shall not be considered an advertisement;
- 4) Sponsorship – direct or indirect financing or co-financing of the activity of natural persons, legal entities or organisational units without legal personality for the purpose of promoting, consolidating or enhancing the reputation of the name, producer or distributor, trademark or any other mark discerning the entrepreneur, his activity, goods or service, in return for information about the sponsorship;
- 5) Informing about sponsorship – presenting information including the name of the sponsor or the trademark of the sponsor in relation with the sponsorship;
- 6) separate stand – a stand separated from the remaining space of the point of sales, shopping arcade or counter, enclosed and with own cash register recording sales;
- 7) wholesale turnover of alcoholic beverages – purchase of alcoholic beverages with the purpose of selling them to entrepreneurs with relevant licences;
- 8) sales value – amount receivable to the seller for the sold alcoholic beverages, including the value added tax (VAT) and excise duty;
- 9) specialist store selling alcoholic beverages – point where the annual sales value of alcoholic beverages amounts to not less than 70% of total sales value;

- 10) reintegration – professional and social reintegration pursuant to the provisions on social employment.

### **Article 3.**

1. Preventing and resolving alcohol-related problems is the aim of the State Agency for Prevention of Alcohol-Related Problems, hereinafter referred to as “the Agency”.
2. The Agency is subordinate to the Minister of Health.
3. The activities of the Agency include especially:
  - 1) preparing the draft National Programme for Preventing and Resolving Alcohol-Related Problems and drafting the document on the distribution of funds for the Programme’s implementation;
  - 2) issuing opinions and preparing bills and action plans regarding policies on alcohol and alcohol-related problems;
  - 3) carrying out informative and educational activity, preparing expert opinions, as well as developing and implementing new methods of preventing and resolving alcohol-related problems;
  - 4) providing factual support to local authorities, institutions, associations and natural persons who implement tasks connected with preventing and resolving alcohol-related problems, as well as commissioning and financing such activities;
  - 5) cooperating with the province government authorities and proxies specified in article 4 paragraph 3;
  - 6) coordinating and initiating activities aimed at increasing the effectiveness and accessibility of withdrawal treatment;
  - 7) commissioning and financing tasks connected with resolving alcohol-related problems;
  - 8) cooperating with international organisations and institutions concerned with solving alcohol-related problems;
  - 9) intervening in cases of infringement of the provisions stipulated in article 13<sup>1</sup> and 15 of the Act and appearing before courts as public prosecutor.
4. The Agency is a state budget entity.
5. The Director of the Agency shall be appointed by the Minister of Health from among persons selected in an open and competitive recruitment process. The Minister of Health shall dismiss the Director of the Agency.
- 5a. The person appointed as Director of the Agency should meet the following requirements:
  - 1) hold a master’s (magister) or equal degree;
  - 2) be a citizen of Poland;
  - 3) enjoy full civil rights;
  - 4) not have a criminal record or valid conviction for a wilful tax offence;
  - 5) have managerial competences;

- 6) have at least a 6-year-long employment record, including at least 3 years of employment in a managerial position;
  - 7) have education and expertise within the scope of issues with which the Agency is concerned.
- 5b. Information about the process of selecting the Director of the Agency shall be made available by placing the announcement in a publically accessible location at the office of the Agency and publishing it in the Public Information Bulletin mentioned in the Act on Access to Public Information of 6<sup>th</sup> September 2001 (Journal of Laws No. 112, item 1198, as amended<sup>1</sup>), and the Public Information Bulletin of the Chancellery of the Prime Minister. The announcement should include:
- 1) the name and address of the Agency;
  - 2) position title;
  - 3) the list of requirements for the position resulting from provisions of law;
  - 4) scope of activities performed by the person assigned to the position;
  - 5) list of required documents;
  - 6) final date and place of document submission;
  - 7) information about recruitment methods and techniques.
- 5c. The time period mentioned in paragraph 5b point 6 cannot be shorter than 10 days from the date of publishing the announcement in the Public Information Bulletin of the Chancellery of the Council of Ministers.
- 5d. The process of selecting the Director of the Agency is carried out by a team appointed by the Minister of Health, composed of at least 3 persons whose knowledge and expertise guarantee recruiting the best candidates. During the selection process the professional expertise of the candidate, the knowledge necessary for performing activities connected with the given position and managerial competences are assessed.
- 5e. At the request of the team, the assessment of the knowledge and managerial competences mentioned in paragraph 5d may be carried out by a person who is not a member of the team and who has the appropriate qualifications for carrying out the evaluation.
- 5f. The members of the team and the person mentioned in paragraph 5e are obliged to keep secret all information regarding persons applying for the post obtained during the recruitment process.
- 5g. During the recruitment process the team selects not more than 3 candidates, who are then presented to the Minister of Health.
- 5h. The team drafts a recruitment process protocol confirming:
- 1) the name and address of the Agency;
  - 2) the title of the position, for which the recruitment process was carried out, and the number of candidates;

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<sup>1</sup> Amendments to the said Act were published in the Journal of Laws of 2002 No. 153, item 1271 of 2004 No. 240 item 2407 and of 2005 No. 64 item 565 and No. 132 item 1110.

- 3) The names, surnames and addresses of not more than 3 best candidates. The applicants' data shall be listed accordingly to the level in which the candidates meet the requirements specified in the announcement;
  - 4) information about the adopted recruitment methods and techniques.
  - 5) Justification of the candidate choice or reasons for not selecting a candidate;
  - 6) Composition of the team.
- 5i. The results of the recruitment process shall be announced immediately by way of publishing them in the Public Information Bulletin mentioned in paragraph 5b. Information about the results of the selection process shall include:
- 1) the name and address of the Agency;
  - 2) title of the position, for which the recruitment process was carried out;
  - 3) names, surnames of selected candidates and their addresses of residence pursuant to the provisions of the Civil Code or information about not selecting a candidate.
- 5j. Publishing the announcement and results of the recruitment process in the Public Information Bulletin is free of charge.
6. The organisation of the Agency is specified in its statute, which is provided by the Minister of Health.

#### **Article 3a.**

1. The process of selecting candidates for the vacancy in the Agency shall be open and competitive.
2. The announcement about the recruitment process shall be published in the Public Information Bulletin mentioned in the Act on Access to Public Information of 6<sup>th</sup> September 2001 (Journal of Laws No. 112, item 1198, as amended<sup>2</sup>), and in a publically accessible place at the organisational unit where the recruitment process is conducted.

#### **Article 3b.**

Information about the candidates who have applied for the post is public information within the scope subject to the requirements specified in the announcement.

#### **Article 3c.**

The time period for submitting the documents specified in the announcement cannot be shorter than 14 days from the date of publishing the announcement in the Public Information Bulletin.

#### **Article 3d.**

1. After the final date of document submission specified in the recruitment announcement, the list of candidates meeting the requirements specified in the recruitment announcement

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<sup>2</sup> Amendments to the said Act were published in the Journal of Laws of 2002 No. 153, item 1271 of 2004 No. 240 item 2407 and of 2005 No. 64 item 565 and No. 132 item 1110.

shall be immediately made available by placing it in a publically accessible place at the organisational unit where the recruitment process is conducted, as well as publishing it in the Public Information Bulletin.

2. The list mentioned in paragraph 1 shall include the candidates' names, surnames and addresses of residence pursuant to the provisions of the Civil Code.

#### **Article 3e.**

1. A protocol on the conducted process of selecting candidates for the vacancy in the Agency shall be drafted.
2. The protocol shall include especially:
  - 1) The title of the position for which the recruitment process was carried out, the number of candidates and the names, surnames and addresses of not more than five best candidates listed accordingly to the level in which they met the requirements specified in the announcement;
  - 2) information about the adopted recruitment methods and techniques.
  - 3) justification of the results of the selection process.

#### **Article 3f.**

1. Information about the results of the selection process shall be made publically available within 14 days from the date of employing the selected candidate or, in the case of not employing any candidate, from the date of closing the recruitment procedure.
2. The information mentioned in paragraph 1 shall include:
  - 1) the name and address of the office;
  - 2) Job position title;
  - 3) the candidate's name, surname and address of residence pursuant to the provisions of the Civil Code;
  - 4) justification of the candidate choice or reasons for not selecting any candidate;
3. The information about the results of the recruitment process shall be published in the Public Information Bulletin and in a publically accessible place at the organisational unit where the recruitment process was conducted.

#### **Article 3g.**

If the employment relation with the person selected in the recruitment process ceased within 3 months from employment relations commencement, it is possible to employ a person selected from among the best candidates listed in the protocol of the given recruitment process for that position. The provisions of article 3f shall apply respectively.

#### **Article 4.**

1. The Province Self-Government carries out the activities mentioned in paragraphs 1 and 2, in the form of a province programme for preventing and resolving alcohol-related problems which constitutes part of the province strategy within the scope of social policy.
2. The Province Government shall be responsible for coordinating the preparation and realisation of the programme mentioned in paragraph 1, and shall provide factual support to institutions and natural persons performing activities covered by this programme and cooperate with other public administration authorities within the scope of resolving alcohol-related problems.

3. The programme mentioned in paragraph 1 is realised by the regional social policy centre specified in the provisions regarding social aid, or any other entity specified in the programme. In order to realise the programme the Province Government may appoint a proxy.
4. The funds allocated for carrying out the activities mentioned in paragraph 2 shall be included in the budget of the province.

#### **Article 4<sup>1</sup>.**

1. Carrying out activities connected with the prevention and resolving of alcohol-related problems and social integration of alcohol-dependent persons belongs to the own tasks of communes. These tasks include especially:
  - 1) Increasing accessibility of therapeutic and rehabilitation aid for alcohol-dependent persons;
  - 2) Providing families in which alcohol-related problems occur with psychological, social and legal support, especially regarding protection against domestic violence;
  - 3) Carrying out preventive measures involving informative and educational activity within the scope of solving alcohol-related problems and counteracting drug abuse, especially activity aimed at children and youth, including extra-curricular sports classes, as well as acting to the benefit of nutrition programmes for children participating in care and educational and socio-therapeutic programmes.
  - 4) (annulled);
  - 5) Supporting the activity of institutions, associations and natural persons who contribute to the resolving of alcohol-related problems;
  - 6) intervening in the cases of infringing provisions stipulated in article 13<sup>1</sup> and 15 of the Act and appearing at courts as a public prosecutor;
  - 7) supporting social employment by organising and financing social integration centres.
2. The activities mentioned in paragraph 1 shall be carried out in the form of a communal programme for the prevention and resolving of alcohol-related problems which shall constitute part of the strategy for solving social problems adopted by the Commune Council. The Programme shall be realised by the social aid centre specified in the provisions regarding social aid or any other entity specified in the programme. In order to realise the programme the Head of the Commune (Mayor, President of the City) may appoint a proxy.
3. The Heads of Communes (Mayors, Presidents of Cities) shall convene communal committees on resolving alcohol-related problems, especially committees initiating activities within the scope specified in paragraph 1 and taking actions aimed at issuing decisions on imposing the obligation to undergo treatment at a withdrawal treatment facility on an alcohol-dependent person.
4. The communal committees on resolving alcohol-related problems shall be composed of persons trained in prevention and resolving of alcohol-related problems.
5. The remuneration rules and regulations regarding members of communal committees on resolving alcohol-related problems shall be determined by the Commune Council within communal programmes for resolving alcohol-related problems.

**Article 5.**

The Minister of Education shall include the issue of sobriety and abstinence in the aims of education policies and shall ensure that information about the harmfulness of alcohol to individuals and family and social life is included in educational programmes.

**Article 6.**

The Minister of Health and the minister responsible for issues related to higher education, as well as the Minister of Education, shall ensure that a sufficient number of experts is trained in prevention and prophylactic activities, and research on alcohol and alcohol-related problems is conducted.

**Article 7.**

The Minister of Culture and National Heritage, the Minister of Higher Education, public radio and television public entities as well as other competent bodies and institutions shall take appropriate actions within the scope of developing and supporting various forms of informative, cultural and scientific activity aimed at promoting knowledge about the harmfulness of alcohol abuse for individuals and family and social life, promoting sobriety and abstinence and eliminating harmful habits and ways of drinking alcohol.

**Article 8. (annulled).****Article 9.**

1. Wholesale turnover of alcoholic beverages containing above 18% of alcohol may be conducted in Poland only on the basis of a licence issued by the Minister of the Economy.
2. Wholesale turnover of alcoholic beverages containing above 18% of alcohol may be conducted in Poland only on the basis of a permit issued by the Marshal of the Province.
3. The body mentioned in paragraph 2 shall issue permits for wholesale turnover to entrepreneurs with registered offices on the territory of the province.
- 3a. The permits mentioned in paragraph 1 and 2 shall be issued on the basis of a written application of the entrepreneur.
- 3b. Application for the issuance of a permit shall include:
  - 1) identification of the entrepreneur;
  - 2) the registered office and address of the entrepreneur;
  - 3) number under which the entrepreneur is entered into the Register of Entrepreneurs;
  - 4) place of pursuing economic activity;
  - 5) the requested limit – applicable only in the case of an application for the issuance of the permit mentioned in paragraph 1;
  - 6) requested permit validity date.
- 3c. The Minister of the Economy or the competent Marshal of the Province may issue duplicates of the permits specified in paragraph 1 and 2 in the case of their loss or damage.

4. The Minister of the Economy shall specify and provide, by way of a resolution, the type of documentation required for submitting the application for the issuance of permits for the wholesale turnover of alcoholic beverages, templates of applications and information about alcoholic beverages sales.

#### **Article 9<sup>1</sup>.**

1. The permits mentioned in article 9 paragraph 1 and 2 shall be issued separately for wholesale turnover of the following types of alcoholic beverages:
  - 1) beverages containing less than 4.5% of alcohol and beer;
  - 2) beverages containing between 4.5% and 18% of alcohol, with the exception of beer;
  - 3) beverages containing more than 18 % of alcohol.
2. Permits for wholesale turnover shall be issued for a fixed period of time:
  - 1) for alcoholic beverages specified in paragraph 1 point 1 and 2 – not longer than 2 years;
  - 2) for alcoholic beverages specified in paragraph 1 point 3 – not longer than 1 year;
3. In the case of the permits specified in paragraph 1 point 3, a limit of minimum 500,000 litres of 100% alcohol annually shall be established.
- 3a. The limit mentioned in paragraph 3 may be increased at the request of the entrepreneur submitted not later than within 30 days from the date of using up the limit specified in the permit.
4. The provisions of paragraph 3 shall not apply in relation to entrepreneurs supplying ships, trains and aircrafts. The maximum limit for such entrepreneurs shall amount to 2,000 litres of 100% alcohol annually.
5. Producers of alcoholic beverages shall be obliged to obtain permits for wholesale turnover of alcoholic beverages, if they sell their products to entrepreneurs holding the permits specified in article 18 paragraph 1.

#### **Article 9<sup>2</sup>.**

1. The issuance of the permits mentioned in article 9 paragraph 1 and 2, as well as the issuance of decisions amending the permits and duplicates of permits shall be subject to a fee.
2. The fees mentioned in paragraph 1 shall be paid prior to permit or decision issuance to the account of the authority issuing the permit, subject to paragraph 5.
3. The fees for the issuance of permits mentioned in article 9<sup>1</sup> paragraph 1 point 1 and 2, shall amount to PLN 4,000 for entrepreneurs applying for permits for the first time and for entrepreneurs, whose sales value for the year preceding the expiry of the permit did not exceed PLN 1,000,000.
4. In the case of entrepreneurs whose wholesale turnover value for alcoholic beverages in the year preceding the expiry of the permit exceeded PLN 1,000,000, the fee for the issuance of permits specified in article 9<sup>1</sup> paragraph 1 point 1 and 2 shall equal 0.4% of the sales value for the previous year, rounded up to PLN 100.

5. The fee mentioned in paragraph 3 shall be paid to the account of the authority issuing the permit after the submission of a written statement on the alcoholic beverages wholesale value for the previous calendar year.
6. The alcoholic beverages wholesale value should be calculated separately for each type of beverage.
7. The fee for the issuance of the permit mentioned in article 9<sup>1</sup> paragraph 1 point 3 shall amount to PLN 45,000 for 500,000 litres of 100% alcohol, subject to paragraph 8.
8. In the case of entrepreneurs supplying ships, trains and aircrafts, the fee for the issuance of the permit mentioned in article 9<sup>1</sup> paragraph 1 point 3 shall be determined in accordance with the declared turnover.
9. The fee for issuing a decision on including a new place of pursuing economic activity, increasing the number of seats in relation into the issued permits specified in article 9<sup>1</sup> paragraph 1, shall equal 50% of the rate specified for the permit on its issuance date.
10. The fee for the issuance of other decisions introducing amendments to the permits shall amount to PLN 200.
11. The fee for issuing the permit for the sale of reserves of alcoholic beverages containing up to 18% of alcohol amounts to PLN 1,000.
12. The fees for the issuance of a permit for the sales of alcoholic beverages containing more than 18% of alcohol shall be calculated in accordance with the amount of litres of 100% of alcohol declared in the application, proportionally to the fee specified in paragraph 7.
13. The fee for increasing the limit mentioned in article 9<sup>1</sup> paragraph 3, shall be calculated depending on the number of litres of 100% alcohol declared in the application, proportionally to the fee specified in paragraph 7.
14. The fee for the issuance of duplicates of permits mentioned in article 9 paragraph 1 and 2 shall equal PLN 50.
15. The permits and decisions mentioned in paragraphs 9–14 and article 9 paragraph 1 and 2 shall not be subject to stamp duties.

#### **Article 9<sup>3</sup>.**

1. The fees mentioned in article 9<sup>2</sup> paragraph 1, may be allocated by Province Governments solely to the financing of:
  - 1) tasks specified in article 4 paragraph 1 of the Act;
  - 2) tasks specified in the Province Programme mentioned in article 9 paragraph 1 of the Act on Counteracting Drug Addiction of 29<sup>th</sup> July 2005 (Journal of Laws No. 179, item 1485 of 2006 No. 66 item 469 and No. 120 item 826 and of 2007 No. 7 item 48).
2. The Province Governments may commission, by way of making agreements, tasks within the scope of preventing and resolving alcohol-related problems to poviats self-government entities and transfer funds for the performance of these tasks.

#### **Article 9<sup>4</sup>.**

In order to pursue activity on the basis of the permits mentioned in article 9<sup>1</sup> paragraph 1, the following conditions must be met:

- 1) the entrepreneur shall be obliged to provide the authority issuing the permit with information about the sales volume of alcoholic beverages for each ended year by 31<sup>st</sup> January;
- 2) the entrepreneur shall be obliged to sell the alcoholic beverages specified in the permit only to entrepreneurs holding permits for conducting wholesale turnover of such beverages or permits for carrying out retail sales of alcoholic beverages;
- 3) the entrepreneur shall be obliged to conduct wholesale turnover only of alcoholic beverages bearing an excise stamp, on condition that the requirement to place such markings on the beverages results from other provisions;
- 4) the entrepreneur shall be obliged to obtain alcoholic beverages specified in the permit from producers and entrepreneurs holding permits for conducting wholesale turnover of such beverages;
- 5) the entrepreneur shall be obliged to have the right to use the warehouse where the alcoholic beverages are stored;
- 6) the entrepreneur shall be obliged not to have tax or social and health insurance arrears;
- 7) the entrepreneur shall be obliged to be the only entity pursuing economic activity within the scope covered by the permit and to pursue activity solely at the locations listed in the permit;
- 8) the entrepreneur shall be obliged to report any changes in the factual and legal status in relation to the data included in the permit to the Minister of the Economy or the competent Marshal of the Province within 14 days from the date of the change.
- 9) the entrepreneur shall be obliged to observe other requirements specified in legal provisions.

#### **Article 9<sup>5</sup>.**

1. The permits mentioned in article 9<sup>1</sup> paragraph 1, may be withdrawn by the Minister of the Economy or the competent Marshal of the Voivodeship in the following cases:
  - 1) Failure to observe the conditions specified in article 9<sup>4</sup> point 3, 4 and 7.
  - 2) Putting alcoholic beverages obtained from illegal sources on the market;
  - 3) Committing a crime for private financial gain by the person responsible for the activity of the entrepreneur holding the permit;
  - 4) Presenting false data in the statement mentioned in article 9<sup>2</sup> paragraph 5;
  - 5) The issuance of a decision banning the entrepreneur from pursuing economic activity covered by the permit. This shall apply to decision regarding entrepreneurs who are natural persons, and the persons responsible for the activity of the entrepreneur holding the permit.
  - 6) Commissioning, on the basis of agreements, the trading in alcoholic beverages to other entrepreneurs by the entrepreneur holding the permit.
2. The permits mentioned in paragraph 9<sup>1</sup> paragraph 1, may be withdrawn by the Minister of the Economy or the competent Marshal of the Province in the following cases:
  - 1) Failure to observe the conditions specified in article 9<sup>4</sup> point 1, 2, 5, 6, 8 and 9;
  - 2) repeated disturbance of public order in the point of trading.
3. The permits mentioned in paragraph 9<sup>1</sup> paragraph 1, shall expire in the following cases:

- 1) liquidation of the enterprise or notification about cessation of wholesale turnover of alcoholic beverages;
  - 2) permit expiry;
  - 3) Change in the composition of shareholder structure in the civil law partnership.
4. At the request of the entrepreneur whose permit expired for reasons listed in paragraph 3, the Minister of the Economy or the competent Marshal of the Province may issue a permit specifying the date of sales of alcoholic beverages reserves. The time period specified in the sales permit may not be longer than 6 months from the day of permit expiry.
  5. The entrepreneur whose permit was withdrawn may request the reissuance of the permits specified in article 9<sup>1</sup> paragraph 1 not earlier than after 3 years from the date of issuing the decision on permit withdrawal.

#### **Article 9<sup>6</sup>.**

The retail sale of alcoholic beverages containing more than 4.5% of alcohol (except for beer) destined for off-site consumption, shall be carried out in points of sales which are:

- 1) Specialist shops selling alcoholic beverages;
- 2) separate stands – at self-service sales outlets with sales space exceeding 200 m<sup>2</sup>;
- 3) Other self-service facilities and other sales facilities where the seller carries out direct sales of alcoholic beverages.

#### **Article 10.**

Legal acts influencing the pricing structure of alcoholic beverages should serve the purpose of limiting alcohol beverage consumption and amending the structure of alcohol consumption to the benefit of beverages with low percentage of alcohol.

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

1. Annually 1% of the excise duty on alcoholic products from the state budget shall be allocated to the National Programme for Preventing and Resolving Alcohol-Related Problems.
2. The funds specified in paragraph 1 shall be allocated especially to various forms of aid for alcohol-dependent persons and their families, informative and educational activity, training experts and conducting research on alcohol-related problems.
3. (annulled).

#### **Article 11<sup>1</sup>.**

1. In order to obtain additional funds for the financing of the tasks specified in article 4<sup>1</sup> paragraph 1, communes shall collect fees for using the alcoholic beverages sales permits mentioned in article 18.
2. The fees mentioned in paragraph 1 shall be paid to the account of the commune prior to permit issuance, in the amount of:
  - 1) PLN 525 for the sales of beverages containing up to 4.5% of alcohol and beer;
  - 2) PLN 525 for the sales of beverages containing between 4.5% and 18% of alcohol (with the exception of beer);
  - 3) PLN 2,100 for the sales of beverages containing more than 18 % of alcohol.

3. The fees mentioned in paragraph 2 concern entrepreneurs commencing business activity within this scope.
4. Entrepreneurs who carried out sales of alcoholic beverages in the previous year shall be obliged to submit, by 31<sup>st</sup> January, a written statement about the sales value of the particular types of alcoholic beverages at the point of sales for the previous year.
5. In the case of entrepreneurs carrying out sales of alcoholic beverages at points of sales where the annual sales value of alcoholic beverages in the previous year exceeded:
  - 1) PLN 37,500 for alcoholic beverages containing up to 4.5% of alcohol and beer – the fee mentioned in paragraph 1 shall equal 1.4% of the total sales value of these beverages for the previous year;
  - 2) PLN 37,500 for alcoholic beverages containing between 4.5% and 18% of alcohol (except for beer) – the fee mentioned in paragraph 1 shall equal 1.4% of the total sales value of these beverages for the previous year;
  - 3) PLN 77,000 for alcoholic beverages containing more than 18 % of alcohol – the fee mentioned in paragraph 1 shall equal 2.7 % of the total sales value of these beverages for the previous year;
6. Entrepreneurs whose annual sales value of particular types of alcoholic beverages did not exceed the values specified in paragraph 5 shall be obliged to pay the fee in the amount specified in paragraph 2.
7. Each calendar year covered by the permit the entrepreneur shall pay the fee mentioned in paragraph 1 to the account of the commune in three equal instalments by 31<sup>st</sup> January, 31<sup>st</sup> May and 30<sup>th</sup> September of the given calendar year.
8. In the year of obtaining the permit or its expiry, the fees mentioned in paragraph 1–5 shall be paid in the amount proportional to the validity period of the permit.
9. The sales value should be calculated separately for each type of alcoholic beverage.
10. The permits mentioned in paragraph 18, 18<sup>1</sup> and 18<sup>4</sup> shall not be subject to stamp duties.

#### **Article 12.**

1. The Commune Council shall determine, by way of resolution, the number of point of sales of alcoholic beverages containing above 4.5% of alcohol (except for beer) destined for onsite and off-site consumption, for the territory of the given commune (city).
2. The Commune Council shall establish, by way of resolution, the principles of situating points of sales and points of serving alcohol on the territory of the commune.
3. In localities where army units are deployed, the number of points of sales of alcoholic beverages for onsite or off-site consumption and the location of points of sales, serving and consuming alcoholic beverages shall be determined by the Commune Council in consultation with the relevant heads of garrisons.
4. The number of the points of sales mentioned in paragraph 1, as well as the location of the points of sales, serving and consuming alcoholic beverages should be adapted to the needs of limiting alcohol availability, specified in the Communal Programme for Preventing and Resolving Alcohol-Related Problems.

**Article 13.**

1. Alcoholic beverages shall be delivered to points of sale and serving alcohol only in sealed containers bearing the name of producer and information about the type and alcohol content of the delivered beverage.
2. Information about the harmfulness of alcohol consumption should be made visible at points of sale and serving alcoholic beverages.
3. (annulled).

**Article 13<sup>1</sup>.**

1. It is prohibited to advertise and promote alcoholic beverages in Poland, except for advertising and promoting beer, provided that the beer advertisements:
  - 1) are not aimed at minors,
  - 2) do not depict minors,
  - 3) do not link alcohol consumption with physical fitness or driving,
  - 4) do not contain statements about medicinal, stimulating or calming properties of alcohol, or present alcohol as a means of resolving personal conflicts,
  - 5) do not encourage excessive use of alcohol,
  - 6) do not present abstinence or moderate alcohol consumption in a negative way,
  - 7) do not highlight high alcohol content of beverages as a factor positively influencing their quality,
  - 8) do not evoke associations with:
    - a) sexual attractiveness,
    - b) relaxation and resting,
    - c) education and work,
    - d) personal or professional success.
2. Advertising and promoting beer, as specified in paragraph 1, cannot be conducted:
  - 1) on television, in radio, cinema and theatre between 6.00 a.m. and 8.00 p.m., with the exception of advertisements presented by the organiser of a competitive or professional sport event during the event itself;
  - 2) on videotapes and other media;
  - 3) in press aimed at children and teenagers;
  - 4) on covers of daily newspapers and magazines;
  - 5) on advertising pillars and billboards, as well as on other immobile or mobile spaces which can be used for advertising purposes, unless 20% of the advertisement's surface is covered with visible and legible written information about the harmful effects of alcohol consumption or the ban on selling alcoholic beverages to minors;
  - 6) cannot involve minors.
3. It is prohibited to advertise and promote products and services whose names, trademarks, graphic layouts or packaging exploit the similarities with or are identical to markings of alcoholic beverages or any symbols which objectively refer to alcoholic beverages.

4. It is prohibited to advertise and promote business or any other party which in their advertising use names, trademarks, graphic layouts or packaging connected with alcoholic beverages, their manufacturers and distributors.
5. It is prohibited to inform about the sponsoring of sports events, music concerts and other mass events by manufacturers and distributors whose core business activity consists in production or sale of alcoholic beverages with alcohol content between 8% and 18% in any other form than by placing the names of the manufacturers or distributors and their trademarks inside daily newspapers or magazines, on invitations, tickets, posters, products or information boards connected with particular event, subject to paragraph 6.
6. Information about sponsorship may be distributed via radio and television, provided that it will be limited to providing the name of a manufacturer or distributor of alcoholic beverages containing up to 18% of alcohol, and provided that this information shall not be presented on television by an individual or in a way that employs an image of an individual.
7. It is prohibited for manufacturers and distributors whose core business activity consists in producing or selling alcoholic beverages with alcohol content between 8% and 18% to inform about other forms of sponsoring than those specified in paragraph 5, as well as to inform about sponsorship provided by manufacturers and distributors of alcoholic beverages with alcohol content over 18%.
8. The prohibition specified in paragraph 1 shall also apply to advertising and promotional publications distributed by manufacturers, distributors and entities selling alcoholic beverages to retail customers.
9. The prohibitions specified in paragraphs 1-8 shall not apply to the advertisements and promotions of alcoholic beverages placed on the premises of wholesalers, separate stands or points of sale selling only alcoholic beverages, as well as on the premises of the points that sell alcoholic beverages for on-site consumption.
10. Prohibitions specified in paragraphs 1-8 apply to any natural person, legal entity or organisational unit without legal personality who take part in advertising as contracting or contracted party, regardless of the manner and form of its presentation.
11. The Minister of Health shall specify, by way of regulation, the size, content, design and manner of incorporating written information about the harmful effects of alcohol consumption or the ban on selling alcoholic beverages to minors into the advertisements specified in paragraph 2 point 5, in consideration of alcohol consumption reduction and counteracting alcoholism among the youth.

### **Article 13<sup>2</sup>.**

1. Entities providing services which consist in advertising alcoholic beverages shall pay a fee amounting to 10 % of the value added tax base on the taxable goods and services resulting from this service to a dedicated account established for this purpose by the Minister of Physical Culture and Sports.
2. Entities referred to in paragraph 1 shall prepare monthly recapitulative statements according to the prescribed format pursuant to paragraph 4 and deliver them by the 20<sup>th</sup> day of the month succeeding the month in which the obligation to issue an invoice for the remuneration or part of the remuneration arose, in accordance with provisions on value added tax.

3. Statements referred to in paragraph 2 shall be delivered to the tax services office to which the entity delivers the tax statements concerning goods and services resulting from the service specified in paragraph 1.
4. The Minister of Physical Culture and Sports together with the Minister of Finance shall specify, by way of regulation, the form of a monthly recapitulative statement on the fee specified in paragraph 1, and detailed scope of the data it should contain, including specifically the first name and surname or the name (company) of the entity obliged to pay the fee, their place of residence or company's registered office, tax identification number and data connected with invoices which shall be the basis for establishing the amount of the due fee referred to in paragraph 1.
5. The fee referred to in paragraph 1 shall be paid not later than by the last day of the month in which the obligation to submit a monthly recapitulative statement arose, pursuant to specifications of paragraph 2.
6. For the entity obliged to cover the fee referred to in paragraph 1, the fee shall constitute tax deductible expenses within the meaning of the term defined in article 15 item 1 of the Act of 15 February 1992 on Tax on Legal Persons' Income Tax (Journal of Laws of 2000, No. 54, item 654, as amended<sup>3</sup>) or article 22 item 1 of the Act of 26 July on Personal Income Tax (Journal of Laws of 2000, No. 14, item 176, as amended<sup>4</sup>).
7. Relevant provisions of the Act of 29 August 1997 – Tax Ordinance (Journal of Laws of 2005 No. 8, item 60, as amended<sup>5</sup>) shall apply to all matters not regulated in respect to the fee specified in paragraph 1.

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<sup>3</sup> Amendments to the consolidated text of the Act were published in the Journal of Laws of 2000 No. 60, item 700 and 703, No. 86, item 958, No. 103, item 1100, No. 117, item 1228 and No. 122, item 1315 and 1324 of 2001, No. 106, item 1150, No. 110, item 1190 and No. 125, item 1363, of 2002 No. 25, item 253, No. 74, item 676, No. 93, item 820, No. 141, item 1179, No. 169, item 1384, No. 199, item 1672, No. 200, item 1684 and No. 230, item 1922, of 2003 No. 45, item 391, No. 96, item 874, No. 137, item 1302, No. 180, item 1759, No. 202, item 1957, No. 217, item 2124 and No. 223, item 2218, of 2004 r. No. 6, item 39, No. 29, item 257, No. 54, item 535, No. 93, item 894, No. 121, item 1262, No. 123, item 1291, No. 146, item 1546, No. 171, item 1800, No. 210, item 2135 and No. 254, item 2533, of 2005 No. 25, item 202, No. 57, item 491, No. 78, item 684, No. 143, item 1199, No. 155, item 1298, No. 169, item 1419 and 1420, No. 179, item 1484 and No. 183, item 1538 and of 2006 No. 94, item 651, No. 107, item 723, No. 136, item 970, No. 157, item 1119, No. 183, item 1353, No. 217, item 1589 and No. 251, item 1847.

<sup>4</sup> Amendments to the consolidated text of the Act were published in the Journal of Laws of 2000 No. 22, item 270, No. 60, item 703, No. 70, item 816, No. 104, item 1104, No. 117, item 1228 and No. 122, item 1324, of 2001 No. 4, item 27, No. 8, item 64, No. 52, item 539, No. 73, item 764, No. 74, item 784, No. 88, item 961, No. 89, item 968, No. 102, item 1117, No. 106, item 1150, No. 110, item 1190, No. 125, item 1363 and 1370 and No. 134, item 1509, of 2002 No. 19, item 199, No. 25, item 253, No. 74, item 676, No. 78, item 715, No. 89, item 804, No. 135, item 1146, No. 141, item 1182, No. 169, item 1384, No. 181, item 1515, No. 200, item 1679 and No. 240, item 2058, of 2003 No. 7, item 79, No. 45, item 391, No. 65, item 595, No. 84, item 774, No. 90, item 844, No. 96, item 874, No. 122, item 1143, No. 135, item 1268, No. 137, item 1302, No. 166, item 1608, No. 202, item 1956, No. 222, item 2201, No. 223, item 2217 and No. 228, item 2255, of 2004 No. 29, item 257, No. 54, item 535, No. 93, item 894, No. 99, item 1001, No. 109, item 1163, No. 116, item 1203, 1205 and 1207, No. 120, item 1252, No. 123, item 1291, No. 162, item 1691, No. 210, item 2135, No. 263, item 2619 and No. 281, item 2779 and 2781, of 2005 No. 25, item 202, No. 30, item 262, No. 85, item 725, No. 86, item 732, No. 90, item 757, No. 102, item 852, No. 143, item 1199 and 1202, No. 155, item 1298, No. 164, item 1365 and 1366, No. 169, item 1418 and 1420, No. 177, item 1468, No. 179, item 1484, No. 180, item 1495 and No. 183, item 1538, of 2006 No. 46, item 328, No. 104, item 708 and 711, No. 107, item 723, No. 136, item 970, No. 157, item 1119, No. 183, item 1353 and 1354, No. 217, item 1588, No. 226, item 1657 and No. 249, item 1824 and of 2007 No. 35, item 219.

<sup>5</sup> Amendments to the consolidated text of the Act were published in the Journal of Laws of 2005 No. 85, item 727, item 86, item. 732 and No. 143, item 1199 and of 2006 No. 66, item 470, No. 104, item. 708, No. 143, item 1031, No. 217, item 1590 and No. 225, item 1635.

8. (annulled).
9. (annulled).
10. (annulled).

### **Article 13<sup>3</sup>.**

1. The Fund of Leisure and Sport Activities for Students, hereinafter referred to as the “Fund”, shall be established. The Minister of Physical Culture and Sports shall be the disposer of the Fund.
2. The Fund is state special-purpose fund.
3. The revenues of the Fund shall be constituted by inflows from the fees specified in article 13<sup>2</sup> item 1.
4. The resources of the Fund shall only be used for financing sport and leisure activities aimed at students, organised by sports clubs operating as associations or other non-governmental organisations whose statutory activities also cover tasks in the field of popularising physical culture and sport among children and young people, as well as activities organised by local government units.
5. The Minister of Physical Culture and Sports together with the Minister of Finance shall specify by way of regulation:
  - 1) conditions and procedure of granting financial support, taking into consideration the aims of providing equal access to physical culture;
  - 2) procedure of submitting applications and data which should be included in the application the party applying for financing, as well as information about sports and leisure activities;
  - 3) procedure of transferring funds, with consideration for the dates of the planned sports and leisure activities;
  - 4) amount of granted co-financing, where the maximum amount of financing in the case of sports clubs operating as associations and other non-governmental organisations cannot be higher than 80%, and in the case of activities organised by local government units – cannot exceed 50% of the planned costs of the activities.

### **Article 14.**

1. It is prohibited to sell, serve or consume alcohol:
  - 1) on the premises of schools and other educational institutions, adoption and care centres and students’ dormitories;
  - 2) in workplaces and at employees’ cafeterias;
  - 3) at the venue of and during mass gatherings;
  - 4) in vehicles and facilities of public transportation;
  - 5) (annulled);
  - 6) on the premises occupied by military forces and internal affairs authorities, as well as in barracks and temporary military quarters;
- 1a. (annulled).
1. (annulled).

- 2a. It is prohibited to consume alcoholic beverages in streets, squares and parks, with the exception of places designated for on-premises alcohol consumption, at the points of sales.
3. It is prohibited to sell, serve or consume beverages containing more than 18% of alcohol in training centres.
4. It is prohibited to sell or consume beverages containing more than 18% of alcohol in holiday resorts.
5. Sale, serving and consumption of beverages containing more than 4.5% of alcohol can take place during open-air events only with permission and only in the areas designated for this purpose.
6. Each Commune Council can introduce permanent or temporary ban on selling, serving, consuming and bringing in alcoholic beverages in other places, premises or particular territory of a given commune unspecified here.
7. The Minister of Sports and the Minister of Economy shall specify, by way of regulation, the rules and conditions of selling, serving and consuming alcoholic beverages on sea-going merchant vessels and on trains and planes travelling to international destinations, as well as in international harbours and international airports.
8. The Minister of Foreign Affairs shall specify, by way of regulation, conditions and circumstances in which, with respect to international customs, serving and consumption of limited amount of alcoholic beverages shall be permitted.

#### **Article 15.**

1. It is prohibited to sell or serve alcoholic beverages:
  - 1) to individuals whose behaviour indicates that they are under the influence of alcohol;
  - 2) to persons under the age of 18;
  - 3) on credit or in pledge.
2. In case of doubts as to whether a customer is of legal drinking age, persons serving or selling alcoholic beverages shall be entitled to demand a document confirming their age from the customer.

#### **Article 16.**

1. It is prohibited to bring any alcoholic beverages into workplace premises, places enumerated in article 14 paragraph 1 point 6, as well as into stadiums and other places where mass sport and entertainment events take place, and any facilities or places where bringing in alcoholic beverages is banned.
2. Persons in possession of alcoholic beverages shall be obliged to place the beverages in deposit or they shall be refused entry to the places enumerated in paragraph 1 or removed from their premises.
3. Alcoholic beverages brought into the places enumerated in article 14 paragraph 1 point 6 by soldiers shall be confiscated and placed in the deposit.
4. The Minister of National Defence and the Minister of Internal Affairs, in cooperation with relevant ministers, each in their area of expertise, shall specify, by way

of a regulation, the detailed rules and regulations and procedures in the cases described in paragraph 2 and 3, and the amount to be paid for storing alcohol in the deposit.

#### **Article 17.**

1. The manager of the workplace or a person appointed by him/her for this purpose shall be obligated to prevent employees from work, if there is a reasonable suspicion that the employee arrived at work under the influence of alcohol or consumed alcohol during work. The employee shall be informed of the reasons for such a decision.
2. The powers vested in manager of the workplace, as specified in paragraph 1, shall also be vested in the body to which the workplace is subordinate and to a body entitled to supervise the workplace.
3. At the request of the employee mentioned in paragraph 1, the manager of the workplace or a person appointed by him/her for this purpose shall be obligated to arrange for examination of the employee's sobriety.

#### **Article 18.**

1. Alcoholic beverages for onsite and off-site consumption can be only sold on the basis of a permit issued by the Head of Commune (Mayor, President of the City) with jurisdiction over the location of the given point of sale, hereinafter referred to as "the Permitting Body".
  - 1a. (annulled).
  2. The permit mentioned in paragraph 1 shall be issued on the basis of a written application submitted by the entrepreneur.
  3. The permit mentioned in paragraph 1 shall be issued separately for each type of alcohol:
    - 1) beverages containing up to 4.5 % of alcohol and bear;
    - 2) beverages containing from 4.5 % to 18 % alcohol (except for beer);
    - 3) beverages containing over 18 % of alcohol.
  - 3a. The permits mentioned in paragraph 3 shall be issued by the Permitting Body after the Communal Commission for Resolving Alcohol-related Problems gives a positive opinion on the compliance of the point of sale with communal regulations mentioned in article 12 item 1 and 2.
4. Alcoholic beverages in locations controlled by military or organisational units of the Ministry of Interior – situated outside the premises of places enumerated in article 14 paragraph 1 point 6 – can be only sold on the basis of the permit mentioned in paragraph 1 and with the consent of military bodies specified by the Minister of National Defence or relevant bodies specified by the Minister of Internal Affairs.
5. Application for permit shall include:
  - 1) information about the requested permit type;
  - 2) identification of the entrepreneur, the registered office and address, and in the case of proxies – their names, surnames and places of residence;
  - 3) number under which the entity is entered in the Register of Entrepreneurs or Register of Business Activity;

- 4) scope of business activity;
  - 5) address of the point of sale;
  - 6) address of point of storage of alcoholic beverages (distribution warehouse).
6. The following documents should be included in the application:
- 1) a certificate of registration in the Register of Business Activities, or excerpt from the Register of Entrepreneurs;
  - 2) a document confirming the applicant's right to the property which is to become the point of sale of alcoholic beverages;
  - 3) written consent of the owner, tenant, manager or administrator of the building in which the point of sale is to be located, if the point of sale is to be located in a multi-family residential building;
  - 4) decision of the relevant state sanitary inspector on the compliance of the point of sale with sanitary requirements, as described in article 65 paragraph 1 item 2 of the Act of 25 August 2006 on Safety of Food and Nutrition (Journal of Laws No. 171, item 1225).
7. The conditions for selling alcoholic beverages for onsite or off-site consumption are as follows:
- 1) possession of the permit specified in paragraph 1;
  - 2) payment of the fee specified in paragraph 11<sup>1</sup>;
  - 3) acquiring alcoholic beverages from manufacturers and companies who have appropriate permits for wholesale of alcoholic beverages;
  - 4) obtaining a payment confirmation of the fee specified in paragraph 11<sup>1</sup> from the commune and presenting it to the entity supplying alcoholic beverages to the given point of sale by 1<sup>st</sup> February, 1<sup>st</sup> June and 1<sup>st</sup> October of the calendar year covered by the permit;
  - 5) possession of the document confirming the applicant's right to the property which constitutes the premises of the point of sale;
  - 6) conducting business activities within the scope specified by the permit and only by the entrepreneur and in the place indicated in the permit;
  - 7) notifying the Permitting Body of any change in the factual and/or legal status with regard to the data contained in the permit within 14 days after the change occurred;
  - 8) conducting sales at a point of sale which is compliant with the requirements of the commune, as specified in article 12 item 1 and 2;
  - 9) compliance with other rules and provisions of law.
- 7a. (annulled).
8. The Permitting Body or, upon its authorisation, municipal police or members of the Communal Commission for Resolving Alcohol-related Problems shall monitor compliance with regulations and conditions of the permit.
9. The permit mentioned in paragraph 1 shall be issued for a fixed period of time, for minimum 4 years, or, in the case of alcoholic beverage sale for off-site consumption, for minimum 2 years.

10. The permit mentioned in paragraph 1 can be by withdrawn the Permitting Body:
  - 1) if the rules of selling alcoholic beverages specified in this Act are not adhered to, especially the ones concerning:
    - a) selling and serving alcoholic beverages to minors or people under the influence of alcohol, or selling and serving alcoholic beverages on credit or in pledge;
    - b) selling and serving alcoholic beverages in breach of bans enumerated in article 14 item 3 and 4;
  - 2) if the conditions of selling alcoholic beverages specified in this Act are not adhered to;
  - 3) if, due to alcoholic beverage sales, peace is disturbed at the point of sale or in its nearest surroundings at least twice within 6 months, and the manager of the point fails to notify the authorities responsible for the protection of public order;
  - 4) if alcoholic beverages obtained from illegal sources are sold at the point of sale;
  - 5) if any of the information provided in the statement described in article 11<sup>1</sup> item 4 prove false;
  - 6) if the person responsible for conducting business activity of the entrepreneur holding the permit commits a crime for private financial gain;
  - 7) if a decision banning the entrepreneur from pursuing economic activity covered by the permit is issued. This shall apply to decision regarding entrepreneurs who are natural persons, and the persons responsible for the activity of the entrepreneur holding the permit.
11. The entrepreneur whose permit was withdrawn may request the reissuance of the permit not earlier than after 3 years from the date of issuing the decision on permit withdrawal.
12. The permit mentioned in paragraph 1 shall expire if:
  - 1) point of sale is liquidated;
  - 2) permit expires;
  - 3) the character of business activity conducted at the point of sale changes;
  - 4) the composition of shareholder structure in the civil law partnership changes;
  - 5) the statement mentioned in article 11<sup>1</sup> item 4 is not submitted, or the fee mentioned in article 11<sup>1</sup> item 2 and 5 is not paid within the period specified in article 11<sup>1</sup> item 7.
13. Entrepreneurs whose permits expired for the reasons mentioned in article 12 item 5 may request the reissuance of permit not earlier than after 6 months from the date of issuing the decision on permit withdrawal.
14. Entrepreneurs who serve or sell various mixes of alcoholic beverages prepared on the basis of their recipes and with the use of beverages containing over 18% of alcohol shall be obligated to obtain the permits mentioned in article 3 paragraph 3.

### **Article 18<sup>1</sup>.**

1. One-off permits for sales of alcoholic beverages may be granted to entrepreneurs holding alcohol sales permits and Voluntary Fire Service units. In the case of one-off permits, the provisions of article 18 paragraph 4, paragraph 5 point 5, paragraph 6, par 7 points 4 and 6, and paragraph 9-14 shall not apply.

2. The permits specified in paragraph 1 shall be issued for a period of time not exceeding two days.
3. The fee for the one-off permits specified in paragraph 1 shall be paid to the account of the commune prior to permit issuance and shall amount to 1/12 of the annual fee for the particular types of permits specified in article 11<sup>1</sup> paragraph 2 and article 18 paragraph 3.
4. Alcohol sales permits for the period of time not exceeding two years may be granted to entrepreneurs whose business activity consists in organising parties. In the case of such permits, article 18 paragraph 5 point 5, paragraph 6 points 2-4, paragraph 7 points 4, 5 and 7, paragraph 9, paragraph 10 point 3 and paragraph 12 points 1 and 3 shall not apply.
5. The fee for the permits specified in paragraph 4 shall be paid to the account of the commune prior to permit issuance and shall equal the amount specified in article 11<sup>1</sup> paragraph 2 and 5.

### **Article 18<sup>2</sup>.**

Revenues from the fees for permits issued on the basis of article 18 or article 18<sup>1</sup> and revenues from fees specified in article 11<sup>1</sup> shall be allocated to the execution of communal programmes for preventing and resolving alcohol-related problems and the Communal Programmes specified in article 10 paragraph 2 of the Act on Counteracting Drug Addiction of 29 July 2005, and shall not be allocated to other aims.

### **Article 18<sup>3</sup>.**

The provisions of Chapter 5 of the Act of 2 July 2004 on Freedom of Economic Activity (Journal of Laws of 2007 No. 155, item 1095 as amended<sup>6</sup>) shall apply to the control of business activity of the entrepreneur specified in articles 9, 18 and 181.

### **Article 18<sup>4</sup>.**

1. At the request of an entrepreneur whose permit expired due to reasons specified in article 18 paragraph 12, the authority issuing the permits may grant a permit for a fixed period of time for the sales of alcoholic beverage reserves, which are owned by the entrepreneur and included in the inventory. The period of time specified in the sales permit cannot exceed 6 months from the date of permit expiry.
2. The fee for issuing a permit for the sales of alcoholic beverage reserves, which are owned by the entrepreneur and included in the inventory, shall be paid to the account of the commune, and shall amount to:
  - 1) 1.4 % of the sales value of beverages included in the inventory and containing up to 4.5 % of alcohol or beer;
  - 2) 1.4 % of the sales value of beverages included in the inventory and containing between 4.5% and 18% of alcohol (except for beer);

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<sup>6</sup> Amendments to the consolidated text of the Act have been published in the Journal of Laws of 2007 No. 180, item 1280, of 2008 No. 70, item 416, No. 116, item 732, No. 171, item 1056 and No. 216, item 1367 and of 2009 No. 3, item 11 and No. 18, item 97.

- 3) 2.7 % of the sales value of beverages included in the inventory and containing more than 18 % of alcohol.
3. Entrepreneurs who have obtained sales permits for alcoholic beverage reserves, which are owned by the entrepreneurs and included in the inventory, may apply for the issuance of a new permit for the sales of alcoholic beverages not earlier than after 12 months from the expiry date of the permit specified in paragraph 1.

#### **Article 19.**

1. The Council of Ministers, taking into account public safety and order, by way of a resolution, may introduce a full or partial ban on the sales and serving of alcoholic beverages for a fixed period of time in the whole country or in selected areas.
2. In situations requiring the immediate action, the Council of Ministers may introduce the ban specified in paragraph 1 in a different mode.

#### **Article 20.**

The Council of Ministers shall submit an annual report on the performance of this Act to the Sejm of the Republic of Poland.

### **Chapter 2**

#### **Procedure for Treatment of Alcohol-Abusing Persons**

#### **Article 21.**

1. The withdrawal treatment of alcohol-dependent persons shall be provided by inpatient and outpatient withdrawal treatment facilities and other health care facilities.
2. Undergoing withdrawal treatment shall be voluntary. The Act shall specify exceptions to this rule.
3. Alcohol-dependent persons shall not be obliged to cover the cost of health care services within the withdrawal treatment received at the health care facility.

#### **Article 22.**

1. The Province Government shall organise 24-hour withdrawal treatment facilities on the territory of the Province, as well as establish a Province Centre for Treatment of Alcohol Dependent and Co-Dependent Persons.
  - 1a. The Head of the Poviats shall establish withdrawal treatment facilities other than those listed in paragraph 1 on the territory of the Poviats.
2. The Minister of Health shall specify by way of resolution:
  - 1) the organisation, Staff qualifications, operating rules and types of withdrawal treatment facilities, as well as of other health care facilities concerned

with the treatment of alcohol-dependent persons, and shall establish the rules of cooperating with public institutions and social organisations within this scope;

- 2) requirements which should be met by facilities providing treatment for alcohol-dependent persons other than public health care facilities;
- 3) rules and regulations of inpatient withdrawal treatment facilities and social aid homes for alcohol-dependent persons, in consultation with the Minister of Justice.

#### **Article 23.**

1. The family of the alcohol-dependent person suffering from the consequences of alcohol abuse on behalf of the alcohol-dependent person, shall receive health care services within the scope of therapy for co-dependency and co-dependency treatment and prevention at public health care facilities. The provided health care services shall be free of charge.
2. The children of alcohol-dependent persons suffering from the consequences of alcohol abuse on behalf of their parents shall receive free psychological and socio-therapeutic help at public health care facilities and public specialist counselling centres and educational and care facilities and resocialisation centres.
3. The children may be provided with aid by persons or institutions against the will of parents or guardians who are in a state of intoxication.

#### **Article 24.**

Persons who due to alcohol abuse have a destructive impact on family life, demoralize minors, avoid work or regularly disrupt peace or public order, shall be referred for examination by an expert in order to issue an opinion on alcohol dependency and establishing the type of health care facility needed.

#### **Article 25.**

The referral specified in article 24 shall be issued by a communal commission for resolving alcohol-related problems with jurisdiction over the place of residence or stay of the person subject to the procedure, at the request of the alcohol-dependent person or upon own initiative.

#### **Article 26.**

1. The persons specified in article 24, if they are addicted to alcohol, may be obliged to undergo treatment at an inpatient or outpatient withdrawal treatment facility.
2. The district court with jurisdiction over the place of residence or stay of the person subject to the proceedings shall decide in non-litigious proceedings whether the alcohol-dependent person shall be obliged to undergo treatment at the withdrawal treatment facility.
3. The court shall commence proceedings at the request of the communal commission for resolving alcohol-related problems or the prosecutor. The request shall include the collected documentation and the expert opinion, if an examination had been conducted by a specialist.

**Article 27.**

1. If no expert opinion regarding the alcohol-dependency of the person concerned had been issued, the court orders the person to undergo appropriate examinations.
2. If the court considers it necessary on the basis of the expert opinion, the court may order the examined person to undergo observation at the treatment facility for a period of time not exceeding two weeks. In exceptional cases, at the request of the facility, the court may prolong the observation period to six weeks.
3. Prior to issuing a decision, the court hears the person concerned.
4. The decision ordering the person to undergo observation at the facility shall be subject to a grievance.

**Article 28.**

1. Should the person concerned be obliged to undergo specialist examination or observation at a treatment facility by a court decision, the person concerned shall be obliged to undergo psychological and psychiatric clinical examinations on condition that the examinations are carried out by authorised medical personnel in compliance with medical recommendations and shall not pose a threat to the health of the person concerned.
2. (annulled).

**Article 28a.**

The Minister of Health, in consultation with the Minister of Justice, shall specify, by way of a resolution, the mode of appointing alcohol dependence specialists, the manner of drafting expert opinions and the procedure of performing examinations necessary for issuing opinions regarding alcohol dependency, taking into account the protection of personal rights of the person concerned.

**Article 29.**

The opinion on the obligation to undergo treatment shall be issued after the court case, which should be held within one month from the date of request submission.

**Article 30.**

1. In the case of an unexcused absence at the hearing or avoidance of undergoing the ordered expert examination or observation at the health care facility, the court may issue a bench warrant requiring the Police to bring the person concerned into court.
2. If the bench warrant concerns a soldier, the warrant is executed by the Military Gendarmerie or a military order unit.

**Article 31.**

1. When issuing the opinion on the obligation to undergo treatment, the court may establish curator supervision for the time of fulfilling this obligation.

2. The person subject to curator supervision shall be obliged to appear before court or report to the curator at their request and carry out their orders regarding the proceedings during supervision which may contribute to shortening the obligation to undergo treatment.
3. The Minister of Justice and the Minister of Health, by way of resolution, shall specify the detailed rules and regulations and supervision mode specified in paragraph 1.

#### **Article 32.**

1. The court shall summon the person obliged to undergo withdrawal treatment on the basis of a valid court decision, to voluntarily appear at the specified withdrawal treatment facility on the specified date. Should the person concerned fail to fulfil this obligation, the court shall have the right to issue a bench warrant.
2. Persons obliged to undergo withdrawal treatment connected with a stay at an inpatient withdrawal treatment facility on the basis of the court decision cannot leave the premises of the facility without the consent of the head of the facility.
3. The court shall issue a bench warrant for the person avoiding the fulfilment of obligations specified in paragraph 1 and 2 at the health care facility.
4. If the bench warrant concerns a soldier, the warrant shall be executed by the Military Gendarmerie or a military unit.

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

Inpatient and outpatient withdrawal treatment facilities specified in article 21 paragraph 1 accept persons obliged to undergo withdrawal treatment out of turn until reaching the limit amounting to 20% of the total number of beds allocated for withdrawal treatment at the withdrawal treatment facility.

#### **Article 33.**

1. When carrying out the bench warrant, the Police, Military Gendarmerie and the military unit responsible for maintaining order may arrest the persons specified in article 30 and article 32 paragraph 3 and 4 only in cases in which it is necessary and only for the time necessary to carry out the bench warrant.
2. The Minister of the Interior, in consultation with the Minister of Justice and the Minister of Health shall specify, by way of resolution, the rules and regulations and manner of executing the bench warrant in the case of persons specified in article 30 paragraph 1 and article 32 paragraph 3.
3. (annulled).

#### **Article 34.**

1. The obligation to undergo treatment shall remain valid for as long as it is required to achieve the aim of the treatment. However, the obligation cannot be valid for more than two years from the date of the entering into force of the obligation.

2. <sup>7</sup>While the treatment obligation is in force, the court may, at the request of the curator, and after obtaining the opinion of the health care facility, or at the request of the health care facility, amend decisions on the type of administered withdrawal treatment.
3. While the treatment obligation is in force, the inpatient health care facility may, for medical reasons, refer the person concerned for a different facility so as to continue treatment. The health care facility shall notify the court about the change.
4. The court shall decide about the cessation of the obligation to undergo treatment before the time period specified in paragraph 1. The decision shall be met at the request of the obliged person, the curator, the procurator or ex officio, after obtaining the opinion of the facility where the person is treated.
5. After the expiry of the obligation to undergo treatment, this obligation cannot be imposed on the same person within 3 months from its cessation.

#### **Article 35.**

1. If the court which imposed the obligation to undergo withdrawal treatment on the alcohol-dependent person decides that due to the person's alcohol dependence it is necessary to incapacitate the person, the court shall notify the relevant procurator.
2. If the family court decides on incapacitation, the court also issues a decision on placing the person at a social aid house for alcohol-dependent persons, unless there are other possibilities of providing the person concerned with constant care.
3. The provisions regarding the duties and obligations of the curator specified in article 31 shall also apply to the duties and obligations of the guardian of the incapacitated person.

#### **Article 36.**

1. The judge has the right to access the inpatient health care centre and social aid house at any time in order to monitor the lawfulness of referring and admitting the persons obliged to undergo withdrawal treatment to the facilities and to control the conditions in which they are staying.
2. The Minister of Justice, in consultation with the Minister of Health, shall specify, by way of resolution, the detailed rules and regulations and mode of performing the supervisory activities specified in paragraph 1, and specify the detailed scope of issues subject to supervision, the form in which the supervisory activities shall be carried out, the manner of documenting the supervisory process and its results and the post-supervisory proceedings, including the mode of transmitting results to the entities concerned, especially the controlled organisational units and their superior units.
3. The provisions of paragraph 1 and 2 do not breach the statutory rights of the procurator within this scope.

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<sup>7</sup> As at 16th November 2001 became invalid within the scope in which it excludes the right of the person obliged to undergo withdrawal treatment to apply for a change of the type of withdrawal treatment facility, in accordance with the verdict of the Constitutional Tribunal of 8th November 2001, file no. P. 6/2001 (Journal of Laws 131, item 1478).

### **Article 37.**

1. Alcohol-dependent persons committed to juvenile detention facilities and juvenile shelters shall be obliged to undergo the ordered withdrawal treatment.
2. Withdrawal treatment is ordered by the administrative authorities of the facility or shelter in the case of minors upon the consent of a statutory representative, and in the case of lack of such a consent, or in the case of adults – upon permission of the court issuing the statement after receiving the expert opinion.
3. The Minister of Justice, in consultation with the Minister of Health, shall specify, by way of resolution, the detailed rules and regulations and mode of proceeding in cases of withdrawal treatment of persons specified in paragraph 1.

### **Article 38.**

The Minister of Justice, in consultation with the Minister of Health, shall specify, by way of resolution, the rules and regulations and mode of proceeding in cases of withdrawal treatment of persons committed to correction, detention and social adjustment units<sup>8</sup>.

### **Article 39.**

Territorial self-government authorities in cities with more than 50,000 residents and poviats authorities may establish and manage sobering stations.

### **Article 40.**

1. Intoxicated persons behaving scandalously in a public place or at their workplace, whose life or health are under threat or who pose a threat to the life or health of third persons, may be placed at sobering stations, health care facilities or other relevant facilities established or indicated by a territorial self-government unit or brought to their place of residence or stay.
2. In the case of lack of a sobering station, such persons may be taken to a police station.
3. Persons taken to sobering or police stations shall remain there until they become sober and not longer than for 24 hours. Persons under 18 are placed in separate rooms, in isolation from adults.
  - a. Persons taken to sobering or police stations, health care facilities or other relevant facilities established or indicated by a territorial self-government unit as specified in paragraph 1 have the right to submit a grievance to the court. In the grievance the person taken to a sobering facility or arrested may request that the justification and legal basis for the proceedings be examined, which also applies to the decision on arresting the person concerned and the correctness of performing the procedures.
- 3b. The grievance shall be immediately delivered to the district court for the location to which the person concerned was taken or arrested. The grievance shall be considered pursuant to the provisions of the Penal Code. The person submitting the grievance may participate in the court sitting.

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<sup>8</sup> Eliminated on the basis of article 1 point 1 of the Penal Code Amendment Act of 24 February 1990 (Journal of Laws No. 14, item 85), which entered into force on 27<sup>th</sup> March 1990 .

- 3c. If it is found that committing or arresting of the person were unjustified or illegal, or that gross irregularities occurred during their performance, the district court shall notify the procurator and authorities superior to the authorities responsible for the acts.
4. If the person specified in paragraph 1 is a soldier, then the person shall be transmitted to the Military Gendarmerie or a military unit responsible for maintaining order.
5. The relevant communal commission for resolving alcohol-related problems shall be immediately notified of events justifying the initiation of proceedings on fulfilling the obligation to undergo withdrawal treatment.
6. The following persons shall be immediately notified about committing a given person to a sobering station:
  - 1) in the case of minors – their parents or guardians or the family court;
  - 2) in the case of other persons – at their request, the persons indicated by them.

#### **Article 41.**

1. (annulled).
2. Money, valuable objects and alcoholic beverages held by the persons specified in article 40 paragraph 1 shall be kept in the deposit.
3. Sobering stations are entitled to deduct fees for services rendered at the station from the money placed in the deposit.
4. Other items stored in the deposit shall be subject to statutory right of pledge in order to secure receivables for the due fees.

#### **Article 42.**

1. In the case of persons admitted to sobering stations and posing a threat to their own life or health, or the life or health of third persons, destroying items in their immediate surroundings, it is admissible to use physical coercion consisting in holding or immobilising.
2. Holding is a temporary, short-term immobilisation of the person with the use of physical force.
3. Immobilisation consists in longer overpowering of the person with the use of straps, holds, sheets or a straitjacket.
4. Physical coercion may be applied only for as long as the person provides reasons for its use.
5. Being transported and placed at a sobering or police station is subject to fees.
- 5a. Enforcement of receivables specified in paragraph 5 shall be carried out in accordance with provisions on administrative enforcement proceedings.
6. The Minister of Health in consultation with the Minister of the Interior shall specify, by way of resolution, the mode of transporting and admitting the persons specified in article 40 to sobering stations, police stations, other facilities established or indicated by territorial self-government units, as well as of release from these stations, units and facilities, and the organization of sobering stations and other facilities, including requirements regarding the qualifications of staff and technical

conditions of the rooms, scope of health care administered to the persons admitted and maximum value of fees for staying at the sobering station, other facility established of indicated by the territorial self-government unit or Police station.

### **Chapter 3**

#### **Penal Provisions**

#### **Article 43.**

1. Persons selling or serving alcoholic beverages in cases, in which it is prohibited, or without the required permit or not in accordance with the permit, shall be obliged to pay a fine.
2. Managers of the sales or catering facility who fail to fulfil the obligation to perform supervisory activities and therefore allow for the commitment of the crime specified in paragraph 1 shall also be obliged to pay a fine.
3. In the case of committing the crimes specified in paragraph 1 or 2 a decision on the confiscation of the alcoholic beverages may be issued, even if they were not the property of the responsible party, the decision banning the pursuit of business activity consisting in the sales or serving of alcoholic beverages may be issued.
4. Announcements of decisions on cases regarding the crimes specified in paragraph 1 and 2 shall be made on the basis of provisions of the criminal procedure code.

#### **Article 43<sup>1</sup>.**

1. Persons consuming alcoholic beverages in a way breaching the provisions of article 14 paragraphs 1 and 2a-6 or purchasing or consuming alcoholic beverages in points of illegal sale, or consuming alcoholic beverages brought by themselves or other persons in places allocated for their sale or serving, shall be obliged to pay a fine.
2. Attempting to commit the offence specified in paragraph 1 shall be a punishable offence.
3. In the case of committing the offence specified in paragraph 1, it is possible to announce the confiscation of alcoholic beverages, even if they are not the property of the responsible party.

#### **Article 44.**

Persons selling, serving or consuming alcoholic beverages at the workplace despite the special supervisory obligation, or who fail to initiate the foreseen proceedings in the case of learning about the sales, serving or consumption of alcoholic beverages on the premises of the workplace, shall be obliged to pay a fine.

#### **Article 45.**

The provisions of article 13 paragraphs 1 and 2 shall be breached by:

- 1) delivering alcoholic beverages to points of sales, or

- 2) not placing a visible sign informing about the harmfulness of alcohol consumption, and shall be subject to a fine.

#### **Article 45<sup>1</sup>.**

Announcements of decisions on cases regarding the acts specified in articles 43<sup>1</sup>–45 shall be made on the basis of provisions of the petty offences procedure code.

#### **Article 45<sup>2</sup>.**

1. Persons who breach the provisions of article art. 13<sup>1</sup> and advertise or promote alcoholic beverages or inform about the sponsorship of a mass event, subject to article 13<sup>1</sup> paragraph 5 and 6, shall be obliged to pay a fine amounting to between PLN 10,000 and PLN 500,000.
2. Announcements of decisions on cases regarding the act specified in paragraph 1 shall be made on the basis of provisions of the criminal procedure code.
3. If the act specified in paragraph 1 is committed within the scope of the entrepreneur's business activity, the person responsible for ordering or managing the advertising of alcoholic beverages shall be the person responsible for committing the act.

#### **Article 45<sup>3</sup>.**

1. Persons who carry out wholesale turnover of alcoholic beverages without the required permit or breach the conditions specified in the permit, shall be obliged to pay a fine amounting to between PLN 10,000 and PLN 500,000.
  - 1a. If the crime specified in paragraph 1 has been committed, it is possible to announce the confiscation of alcoholic beverages, even if they are not the property of the responsible party, and it is possible to issue a ban on pursuing business activity consisting in the wholesale turnover of alcoholic beverages.
2. In cases of lesser significance, the party responsible for committing the act specified in paragraph 1 shall be obliged to pay a fine amounting to PLN 5,000.
3. Announcements of decisions on cases regarding the act specified in paragraph 1 shall be made on the basis of provisions of the criminal procedure code.
4. If the act specified in paragraph 1 is committed within the scope of the entrepreneur's activity, then the person responsible for ordering or managing the advertising of alcoholic beverages shall be the person responsible for committing the act.

#### **Article 46.**

1. Pursuant to this Act, an alcoholic beverage is a beverage designated for consumption and containing agricultural ethanol, the concentration of which exceeds 0.5%.
2. A person is in the state after alcohol consumption when the alcohol content in the organism amounts to:
  - 1) blood alcohol content from 0.2 o/oo to 0.5 o/oo of alcohol, or

- 2) concentration in exhaled air from 0.1 mg to 0.25 mg of alcohol in 1 dm<sup>3</sup>.
3. A person is in the state of intoxication when the alcohol content in the organism amounts to:
- 1) blood alcohol content above 0.5 o/oo of alcohol, or
  - 2) concentration in exhaled air above 0.25 mg of alcohol in 1 dm<sup>3</sup>.

#### **Article 47.**

1. If the suspicion that a crime or offence was committed after the consumption of alcohol arises, the suspect may be obliged to undergo an examination determining the alcohol content in the organism, especially the collection of a blood sample. The blood sample shall be collected by a qualified employee of the health care service.
2. The Minister of Health in consultation with the Minister of Justice, the Minister of the Interior, and the Minister of Labour, by way of a resolution, shall specify the conditions and manner of carrying out the examinations specified in paragraph 1 and article 17 paragraph 3.

### **Chapter 4**

#### **Interim and Final Provisions**

#### **Article 48.**

1. The term “state indicating alcohol consumption” used in previous provisions shall be understood as the state after the consumption of alcohol.
2. (omitted).<sup>9</sup>

#### **Article 49.**

The Act on Counteracting Alcoholism of 10<sup>th</sup> December 1959 shall become invalid (Journal of Laws No. 69, item 434, of 1969 No. 13, item 95 and of 1971 No. 12, item 115).

#### **Article 50. (omitted).<sup>10</sup>**

#### **Article 51.**

The Act shall enter into force after 6 months from the date of its publication.

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<sup>9</sup> Included in the publication.

<sup>10</sup> Included in the publication.