

Certified translation from Polish

ACT of 30 June 2005 on Cinematography

[drafted on the basis of: Journal of Laws of 2005, No. 132, Item 1111; of 2006, No. 249, Item 1832; of 2007, No. 50, Item 331, of 2008, No. 180, item 1112]

Chapter 1 General provisions

Article 1

1. The Act defines the principles of supporting film creativity and other activities in the area of cinematography and the protection of film art resources.

Article 2

This Act shall not apply to the following:

- 1) audiovisual recordings:
 - a) of performance of verbal, verbal-musical, musical and stage works,
 - b) events from political, social, cultural, religious, economic and sports life,
 - c) made for the purposes of science, education, technology, advertising, promotion, information and instruction,
 - d) made for the internal use of churches and other religious communities,
 - e) events from private lives;
- 2) production of films and dissemination of films by organizational units subordinate to the Minister of National Defence or the minister responsible for internal affairs or production of which has been commissioned by such units, to be used for purposes related with state defence and security, public order, as well as the production of films and dissemination of films by organizational units of the penitentiary system subordinate to the Minister of Justice or the production of which has been commissioned by such entities for the purposes of instruction, protection activities and social rehabilitation.

Article 3

1. The activities in the field of cinematography, as part of the national culture, shall be subject to the State patronage. The patronage shall consist, in particular, in the reinforcement of production and promotion of films, dissemination of film culture and the protection of the national heritage in the area of cinematography.
2. Cinematography shall encompass film creation, film production, film services, film distribution and films dissemination, including the activities of cinemas, popularisation of film culture, promotion of Polish films and collection, protection and dissemination of the resources of film art.

Article 4

1. A film shall be considered a work of unspecified length, including a documentary or animated work, consisting of a series of successive images with or without sound, recorded on any medium enabling multiple reproduction, producing the impression of movement and forming an original whole, expressing action (content) in an individual form and moreover - with the exception of documentary and animated films - intended to be screened in cinemas as the primary field of exploitation in the meaning of regulations concerning copyright and neighbouring rights.
2. A film shall be deemed to be a Polish film, if its producer or co-producer is an entity having its seat in the territory of the Republic of Poland, and moreover, at least one of the following requirements is fulfilled:
 - 1) the author of the script or adapted literary work, the director or an actor playing one of the main characters are Polish nationals, the share of funds contributed by the producer having its seat in the territory of the Republic of Poland constitutes 100% of the production costs, provided that up to 80% of the production costs are to be expended in the territory of the Republic of Poland and, moreover, the master copy has been made in the Polish language;

- 2) the author of the script or adapted literary work, the director or an actor playing one of the main characters are Polish nationals, the share of funds contributed by the co-producer having its seat in territory of the Republic of Poland constitutes at least 20% of the production costs in the case of films that are bilateral co-productions and at least 10% of the production costs in the case of films that are multilateral co-productions, provided that up to 80% of the production costs are to be expended in the territory of the Republic of Poland and, moreover, the master copy has been made in the Polish language.

Article 5

The following terms used in this Act shall have the following meanings:

- 1) film distribution – the acquisition of the right to exploit a film, including the right to make copies thereof and to adapt the film for exploitation in a language version other than the one in which the film was produced, as well as the right to transfer these rights to other entities for the purposes of dissemination of the film;
- 2) a low-budget film – a film whose production costs are lower than twice the amount of the maximum subsidy for a film, determined for a given year by the Council of the Polish Film Institute.
- 3) a cinema – a location and technical installations, the purpose of which is to screen films for the public,
- 4) a master copy – copy of a film that is a master template for the production of viewing copies;
- 5) a film co-producer – an entity that along with the producer, organizes, conducts and carries responsibility for the production of the film, or which co-finances the production of the film, or acquires a share in the copyrights;
- 6) a film producer – a natural person, a legal person or an organizational unit, as referred to under Article 33 §1 of the Polish Civil Code, who/which initiates, actually organizes, conducts and carries responsibility for the creative, organizational and financial process of film production;
- 7) film production – a series of creative, organizational, economic, legal and technical activities, aimed creating a film in the form of a master copy;
- 8) dissemination of film – making the film publicly available in any way whatsoever except for screening it by television broadcasters,
- 9) popularisation of film culture – activities consisting of organizing film shows, festivals, film culture events, symposia and other similar cultural and educational activities, as well as publishing of periodicals and scientific and cultural publications devoted to the art of film making;
- 10) film services – services rendered by entrepreneurs as part of their business activity on behalf of producers for the purposes of producing films, encompassing in particular activities performed by their own employees, provision of access to film studios and premises for filming, filming equipment without operators and the performance of specialist transportation services.

Article 6

1. The responsibilities of the state administration with regard to cinematography shall be performed by the minister responsible for matters of culture and national heritage protection, hereinafter referred to as “the Minister”.
2. The Minister’s scope of responsibilities includes, in particular:
 - 1) to determine the directions for the implementation of the state’s cultural policy in respect of cinematography;
 - 2) to ensure general access to the Polish, European and world’s film heritage,
 - 3) to create conditions for the development of all film genres and types of film-making;
 - 4) to support the artistic development of young creative film makers;
 - 5) to support the education, professional training and protection of film-related professions;
 - 6) to reinforce the dissemination of film culture and to act for the benefit of the development of a film community movement and film-related publications.

Chapter 2

Polish Film Institute

Article 7

1. Polish Film Institute, hereinafter referred to as “the Institute”, shall hereby be created, the object of which is to support the development of cinematography. The Institute shall be a state-owned legal entity.
2. The headquarters of the Institute shall be the city of Warsaw.

Article 8

1. The Institute shall implement the goals of the state policy in respect of the cinematographic industry through, in particular:
 - 1) creating conditions for the development of Polish film productions and co-productions,
 - 2) inspiring and supporting the development of all types of Polish film making, and in particular artistic films, including the preparation of film projects, production of films and dissemination of films;
 - 3) supporting activities aimed at creating conditions for general access to Polish, European and world film heritage;
 - 4) supporting film débuts and the artistic development of young creative film makers;
 - 5) promoting Polish films;
 - 6) subsidising enterprises in the field of film projects preparation, production of films, distribution and dissemination of films, promotion of Polish film-making and popularisation of film culture, including the production of films undertaken by Polish communities abroad;
 - 7) providing expert services to bodies of public administration;
 - 8) supporting the keeping of film archives;
 - 9) supporting the development of potential of independent Polish film-making and production, in particular small- and medium-sized enterprises operating in the cinematographic sector.
2. In the carrying out of its responsibilities referred to under Section 1, the Institute shall cooperate with bodies of public administration and local government units.

Article 9.

1. The Institute shall manage its assets independently, within the resources it possesses, with a view to ensuring an effective use of these resources.
2. The Institute cannot undertake business activities.

Article 10.

1. The activity of the Institute shall be supervised by the Minister.
2. The Minister shall within 30 days review resolutions adopted by the Institute’s Council, which shall be forwarded to the Minister without delay, so that their compliance with the law can be checked. The Minister shall declare a resolution invalid in whole or in part, if the resolution violates the law or poses a threat of generating a negative financial result.
3. The Minister shall approve the annual plan of activity and the annual financial plan of the Institute. The approved draft of the annual financial plan of the Institute is submitted to the minister responsible for public finances pursuant to regulations governing works on the budget bill.
4. The Minister shall examine and approve the annual report on activity and the annual financial statement of the Institute.

5. The Minister shall appoint a certified auditor to audit the annual financial statement.

Article 11.

1. The Institute shall operate in pursuance with this Act and its Memorandum of Association.
2. The Minister, by way of an order, shall endow the Institute with a Memorandum of Association, in which the following shall be defined in particular:
 - 1) detailed scope of the Institute's activities;
 - 2) internal organisation of the Institute;
 - 3) detailed responsibilities of the Institute's bodies and procedures of their operation- with a view to ensuring appropriate conditions for the proper carrying out of the Institute's responsibilities.
3. The order referred to under Section § 2 above shall be published in the "Monitor Polski", the Official Journal of the Republic of Poland.

Article 12.

The bodies of the Institute shall be:

- 1) the Director of the Institute, hereinafter referred to as the 'Director';
- 2) the Council of the Institute, hereinafter referred to as the 'Council'.

Article 13.

1. The Director shall manage the Institute's operation and represent it outside.
2. The Director's responsibilities shall include in particular:
 - 1) drafting the annual plan of activity and the annual financial plan of the Institute and filing motions with the minister regarding the amount of subsidies for the carrying out of the Institute's responsibilities;
 - 2) preparing the annual report on the Institute's activity and the annual financial statement of the Institute;
 - 3) providing additional funding for enterprises in the field of film projects preparation, production of films, distribution and dissemination of films, promotion of films and popularisation of the film culture, upon consultation with experts selected by the Minister from among the representatives of the film community;
 - 4) managing the Institute's assets;
 - 5) performing tasks in the area of financial management of the Institute.
3. The Director may provide grants and awards from the Institute's resources.

Article 14.

1. The Director shall be appointed in the course of a competition procedure. The competition commission shall be appointed by the Minister, in particular from amongst the candidates put forward by the film community, including film makers, film producers, and labour unions operating in the cinematographic sector.
2. The Director's term of office shall be 5 years.

3. The Director may remain in office for no more than two terms.
4. The Deputy Director shall be appointed and removed by the Minister upon the motion of the Director.
5. The Director and his/her Deputy shall be employed on the basis of appointment; however, Article 70 § 1 of the Polish Labour Code shall not apply to the Director.
6. The Minister may remove the Director before the expiry of his/her term of office, upon consultation with the Council, if:
 - 1) the Director acts in violation of the law;
 - 2) the Director renounces his/her function;
 - 3) the Director suffers from an illness which makes him/her incapable of carrying out his/her responsibilities;
 - 4) the Director has been convicted by a final court judgement for an intentional crime or intentional offence;
 - 5) the annual financial statement of the Institute has not been approved;
 - 6) the Council issues a negative opinion with regard to the matters referred to under Article 17, Section 1(3).
7. In the cases referred to under Section 6, the Minister may also remove the Director upon the request of the Council.
8. The Director of the Institute, during his term in office, may not engage in any other activities related to cinematography and, in particular, he/she may not be employed at cultural institutions or entities conducting business activity in the area of production and distribution of films; in addition, the Director may not own shares in the above-mentioned entities or be a member of their bodies.
9. The Minister shall determine, by way of a regulation, the method of announcing, organising and carrying out the competition procedure, as well as the composition, method of appointing and the responsibilities of the competition commission, taking into consideration, in particular, the need to carry out the competition procedure in an efficient manner and to thoroughly assess the candidates' qualifications.

Article 15.

1. The Council shall consist of eleven members appointed by the Minister for a period of 3 years.
2. The Minister shall appoint the following members of the Council:
 - 1) three members proposed by film authors;
 - 2) one member proposed by film producers;
 - 3) one member proposed by labour unions operating in the cinematographic sector;
 - 4) five members proposed by the entities referred to under Article 19, Sections 1-5;
 - 5) one member representing the Minister.

3. A Chairman elected by the Council from amongst its members in a secret ballot by an simple majority of votes in the presence of at least six members shall be responsible for managing the work of the Council. During the term of office the Council may change the Chairman in the same manner as stipulated herein.
4. The function of a member of the Council may not be held for more than two consecutive terms of office.
5. No remuneration is payable to members of the Council for performing their functions.

Article 16.

1. The Minister may dismiss a member of the Council before the end of the term of office if:
 - 1) the member renounces his/her function;
 - 2) the member suffers from an illness precluding his/her further administration of his/her responsibilities;
 - 3) the member has been convicted by a final court judgement for an intentional crime or offence, or an intentional fiscal offence.
2. If the member of the Council is dismissed before the end of the term of office, the Minister shall appoint a new member of the Council for the period until the end of the term of office.

Article 17.

1. The responsibilities of the Council shall in particular include the following:
 - 1) establishing the directions for the Institute's operations;
 - 2) issuing opinions on the annual activity plan and the annual draft financial plan of the Institute;
 - 3) issuing opinions on the annual report of activity and the annual financial statement of the Institute;
 - 4) issuing opinions on amendments to the Memorandum of Association.
2. The Council may present its standpoints, opinions and conclusions on all matters relating to the Institute or cinematography to the Minister, other public administration authorities and the Director.

Article 18.

1. The following shall constitute the Institute's revenues:
 - 1) subsidies granted by the Minister to specific entities from the state budget, which constitute budget funds which he/she is authorized to administer;
 - 2) revenues from the exploitation of films in respect of which the Institute enjoys economic copyrights;
 - 3) donations, inheritances and legacies;
 - 4) proceeds from the Institute's assets;

- 5) funds awarded by the Minister from the Fund for the Promotion of Culture referred to under Article 47e of the Act of 29 July 1992 on Games of Chance and Mutual Bets (Journal of Laws of 2004, No. 4, Item 27, No. 273, Item 2703);
 - 6) payments referred to under Article 19 Sections 1–5, 6 and 7;
 - 7) revenues referred to under Article 27a, Section 4 and 45b of the Act of 16 July 1987 on State Film Institutions (Journal of Laws of 2003, No. 58, Item 513; of 2005, No. 132, Item 1111).
2. The Institute may receive specific purpose subsidies from the State budget for the implementation of its investment projects.
3. The costs of the Institute's operations shall be covered by the revenues referred to under Section 1, (1), (3) and (4).

Article 19.

1. Entities running cinemas shall pay the Institute 1.5% of their revenue earned from screening films and advertisements in the cinema, before sharing it with the distributing entity.
2. Distributing entities shall pay the Institute 1.5% of their revenue earned from the sale and rental of carriers with film recordings and from agreements authorizing other entities to make such sales or rentals.
3. Television broadcasters shall pay the Institute 1.5% of the higher of the revenue earned from broadcasting commercials, telesales and sponsored programmes, or the revenue from payments collected directly from subscribers for access to the broadcast programmes.
4. Operators of digital platforms shall pay the Institute 1.5% of the revenue earned from fees for access to television programmes broadcast or re-aired on the digital platform.
5. Operators of cable television shall pay the Institute 1.5% of the revenue earned from fees for re-aired television programmes and the provision of re-airing services, on behalf of the Institute.
6. Entities controlled within a capital group, in the meaning of competition and consumer protection regulation, by the respective entities referred to under Sections 1-5, shall pay the Institute 1.5% of the revenue earned in consideration of activities referred to under Sections 1-5. In such cases, the controlling entity may deduct from the amount due to the Institute in respect of the activities referred to under Sections 1-5 in a given settlement period, amounts actually paid on behalf of the Institute in this respect in the same settlement period by the entity controlled by the capital group.
7. Public television broadcasters shall earmark at least 1.5% of their annual proceeds from subscriptions from television owners for the purposes of film production. The broadcaster shall submit to the Director an annual report on discharging this duty by the end of the first quarter of a calendar year. If the aforementioned amount is not expended in full on film production, the broadcaster shall transfer to the Institute the difference resulting from the settlement within 1 month of the end of the first quarter of a calendar year.
8. The payments referred to under Sections 1-5 and 6 shall be transferred in quarterly periods, 30 days of the end of the quarter.
9. Regulations of Division III of the Act of 29 August 1997 - the Tax Ordinance (Journal of Laws of 2005 No. 8, Item 60, No. 85, Item 727, No. 86, Item 732) shall apply respectively to amounts due in respect of the payments referred to under Sections 1-5, 6 and 7; however the rights of the tax authority are vested in the Director and the rights of the appeal authority - in the Minister.

10. The payments referred to under Sections 1-5, 6 and 7 shall constitute revenue-earning costs within the meaning of the income tax regulations, as at the date they are incurred.

Article 20.

1. The financial administration of the Institute shall be based on an annual financial plan.
2. The annual financial plan shall comprise, in particular:
 - 1) revenues, including subsidies, broken down by type;
 - 2) operating expenses, including the costs of wages and salaries and the related contributions;
 - 3) investment expenditure;
 - 4) the balance of current assets as at the beginning and as at the end of the financial year.
3. The Institute's financial year shall be the calendar year.
4. The Institute shall maintain its accounts in accordance with the requirements of the accounting regulations.
5. The Institute's annual financial statements shall be audited by a certified auditor.

Article 21.

1. The Institute shall set up:
 - 1) the statutory fund;
 - 2) the reserve fund;
 - 3) other funds, if this requirement is stipulated in other regulations.
2. The statutory fund shall reflect the value of assets received by the Institute upon its establishment.
3. The statutory fund shall be increased by:
 - 1) specific purpose subsidies granted for the implementation of the Institute's responsibilities;
 - 2) the value of assets received free-of-charge on the basis of decisions of competent authorities or on the basis of other regulations;
 - 3) net profit, subject to Section 5.
4. The statutory fund shall be decreased by:
 - 1) the value of assets transferred free-of-charge on the basis of decisions of competent authorities or on the basis of other regulations;
 - 2) the net loss not covered by the reserve fund.
5. The reserve fund shall be set up from net profit. Write-offs to the reserve fund cannot be lower than 10% of the net profit. The Institute has the right not to make any write-offs, if the balance of the reserve fund exceeds 2% of the Institute's operating expenses in a financial year.
6. The reserve fund shall be used to cover the net loss.

Chapter 3

Additional financing of enterprises in the field of preparing film projects, production of films, distribution and dissemination of films, promotion of Polish film-making and popularisation of film culture

Article 22.

1. Subject to paragraph 2, any entity operating in the cinematographic sector, both Polish and from another European Union Member State, Switzerland or from a member state of the European Free Trade Association (EFTA), - parties to the European Economic Area, irrespective of their organizational or legal status and ownership structure, may apply for additional financing in the area of preparing film projects, production of films, distribution of films and dissemination of films, promotion of Polish film-making and popularisation of film culture, hereinafter referred to as “additional project financing”.
2. The Institute may not provide additional project financing to:
 - 1) natural persons convicted by a final court judgement for crimes or offences consisting of giving false evidence, bribery, offences against the reliability of documents, offences against property, economic trading, trading in cash and securities, the banking system, fiscal offences or other offences connected with business activity or crimes perpetrated to achieve financial profit;
 - 2) legal persons or organizational entities without legal personality whose member of managing bodies or partner has been sentenced by a final court judgement for crimes or offences referred to under Section 1 above;
 - 3) entities that:
 - a) have outstanding public law liabilities, or
 - b) are under receivership or are undergoing liquidation, bankruptcy or restructuring proceedings, or
 - c) within 3 years prior to applying for additional project financing have materially violated an agreement concluded with the Institute.
3. Additional project financing shall be granted based on the following criteria:
 - 1) artistic, cognitive and ethical merit;
 - 2) significance for the national heritage and reinforcement of Polish tradition and language;
 - 3) enrichment to the European cultural diversity;
 - 4) expected results of the planned project;
 - 5) business and financial terms of the project implementation.

Article 23.

1. Additional project financing shall take the form of subsidies, and as regards preparing film projects and production of film, also the form of loans or warranties.
2. Additional project financing may not exceed 50% of a film’s budget, with the exception of low-budget films, films whose content and form are artistically ambitious and have limited

commercial potential, or are directors' débuts (difficult films). In each case the amount of additional project financing may not exceed 90% of the project's budget.

3. The Institute shall grant additional project financing under a civil law agreement concluded on its behalf by the Director, upon consultation with experts.
4. The Institute, as the authority granting additional project financing, shall monitor the settling of income and expenses of the project which was granted additional financing. The course and the method of the project implementation, as well as the correctness of the use of the additional funds received from the Institute shall also be subject to control.
5. If a project earns profits, the entities which have received additional project financing shall return the amounts of additional project financing according to the terms and conditions stipulated in the public finance regulations.
6. The Minister shall determine, by way of a regulation:
 - 1) detailed terms and procedure of granting additional project financing and the substantive elements of an application for additional project financing;
 - 2) substantive elements of the civil law agreements referred to under Section 3 above,

- taking into consideration the need to achieve the aims defined under Article 3, Section 1 and to ensure the effective use of the project financing and transparency of granting the financing.

Article 24.

1. The experts referred to under Article 23, Section 3 shall be appointed for a period of 12 months by the Minister, in a number that should not be smaller than 7, from amongst the representatives of the film community and opinion-making circles.
2. Expert opinions shall be drafted in writing and shall include a detailed analysis of the project in terms of the criteria referred to under Article 22, Section 3.
3. Experts preparing the opinions may not be involved in any way in the implementation of the project under analysis.

Article 25.

An entity that has received additional project financing shall use the funds obtained in accordance with the purpose for which they were granted and in accordance with the agreement for the additional project financing. This shall relate also to the bank interest on the funds obtained under the additional project financing.

Article 26.

1. Within the framework of the monitoring activities referred to under Article 23, Section 4, authorized employees of the Institute may audit documents and other data carriers which are or may be important in assessing the correctness of use of the additional project financing, and may require oral or written information relating to the implementation of the project covered by additional financing.

2. The Minister shall define, by way of a regulation, detailed procedures and methods of conducting the monitoring inspections referred to under Article 23, Section 4, taking into consideration the need to implement the objectives defined under Article 3, Section 1 and to ensure effective use of the additional project financing.

Article 27.

1. The Institute may rescind the agreement for the granting of additional financing, if the additional financing is not used for the purpose for which it is designated, is used in an untimely manner or in a manner violating the agreement including, in particular, a manner limiting the extent to which the project covered by the additional financing can be financed, as determined on the basis of the results of monitoring and results of implementing post-control conclusions and recommendations.
2. When rescinding the agreement the Institute shall establish the amount that has not been used according to the purpose for which it has been designated plus statutory interest accrued as of the date of the funds transfer, the deadline for the repayment of the above-mentioned amount and the name and number of the account to which the payment is to be made.

Chapter 4 Collection, protection and popularisation of the resources of film art

Article 28.

1. Activities related to the protection of national heritage in the area of cinematography shall be conducted by the National Film Archive and regional film archives.
2. The National Film Archive shall be responsible, in particular, for:
 - 1) the collecting and safeguarding of:
 - a) negative materials, master copies and other archival film copies of Polish films;
 - b) archival copies of films other than Polish, significant for the Polish culture, education or social life;
 - 2) developing a methodology for archiving Polish films and Polish historical film documentation;
 - 3) collecting and archiving documentation relating to production and dissemination of films;
 - 4) disseminating film culture and providing access to the resources of film art;
 - 5) gathering library collections and items relating to the history of film and cinematography;
 - 6) maintaining a catalogue of film works;
 - 7) cooperating with Polish and foreign entities;
 - 8) carrying out cultural and educational activities, and publishing activities.
3. The National film Archives shall make available to the Institute the collected film materials, including preliminary and promotional materials, to be used in its operations specified in the Act or the Memorandum of Association. The fees for making the materials available shall be determined by the Minister by way of an order.

4. Local authorities may establish regional film archives in the form of local government cultural institutions within the meaning of the Act on Organizing and Running Cultural Activities of 25 October 1991 (Journal of Laws of 2001, No. 13, Item 123, as amended¹). The scope of operation of regional film archives is specified under Section 2, with specific emphasis placed on the cultural heritage of cinematography in the region.

5. The Act of 14 July 1983 on the National Archive Resources and Archives (Journal of Laws of 2002, No.171, Item 1396, as amended²) shall apply to the operations of the National Film Archives and the regional archives in respect of the state archival resources as stipulated under Section 2 (1)-(3).

Article 29.

The National Film Archives shall receive a State subsidy for their operations. Proceeds from the distribution of films in respect of which the National Film Archives have copyrights and fees for services provided shall also constitute revenues of the National Film Archives.

Article 30.

Film producers shall transfer free-of-charge one unexploited copy of each film produced and the respective documentation materials related to the production of the film, and, in particular, the script, the cutting script and the dialogue stem, the photos, posters, credits and advertising materials, to the National Film Archives within 30 days after production completion, no later, however, than on the date on which film distribution is commenced.

Chapter 5 Amendments to the provisions in force

Article 31.

The Act on Cinematography of 16 July 1987 (Journal of Laws of 2003, No. 58, Item 513) shall be amended as follows:

- 1) the title of the Act shall read:

“on State Film Institutions”;

- 2) Article 2 shall be replaced by the following:

“Article 1. The Act shall apply to state film institutions established before 1 January 2006 and to the film-making teams operating therein.”;

¹ Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2002, No. 41, Item 364; of 2003, No. 96, Item 874, No. 162, Item 1568, No. 213, Item 2081; of 2004, No. 11, Item 96 and No. 261, Item 2598 and of 2005, No. 131, Item 1091.

² Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2002, No. 241, Item 207; of 2003, No. 137, Item 1302; of 2004, No. 173, Item 1808, No. 202, Item 2065 and No. 273, Item 2703 and of 2005, No. 10, Item 69 and No. 64, Item 565.

- 3) Articles 2-4 shall be deleted;
- 4) Chapter 2 shall be deleted;
- 5) the title of Chapter 3 shall read : “State film institutions”;
- 6) Articles 14 and 15 shall be deleted;
- 7) Article 16 shall be replaced by the following :

“Article 16. The founding body for the State organisational units in cinematography shall be the minister responsible for matters of culture and national heritage protection.”;

- 8) in Article 17, section 2 and the designation of section 1 shall be deleted;
- 9) Articles 18-19 shall be deleted;
- 10) the words “film institution” and “film institutions” used in Article 20, Section 1, Article 21, Sections 1-4 and 8, Article 22, Sections 1, 4 and 5, Article 23, Sections 2 and 3, Article 24, Section 3, Article 28, Section 1, Article 29 in the initial sentence, Article 30, Section 3, Article 31, Sections 1 and 2 in the initial sentence, Article 32, Sections 1 and 2, Article 34, Section 1 in the initial sentence, Article 35, Section 1 in the initial sentence and in Section 2, in Article 37, Section 1, in Article 38, Sections 1(2), Article 39, Article 40, Section 1, Article 41, Sections 1 and 2, shall be replaced with the words “State film institution” or “State film institutions”, respectively;
- 11) Article 20, Section 2 shall read:

“2. The staff of the State film institution shall participate in the management of the institution pursuant to the rules stipulated in the provisions on the self-government of staff of State-owned enterprises, subject to Article 33 and Article 39.”;

- 12) Section 7 of Article 21 shall be deleted;
- 13) Article 23a shall be deleted;
- 14) Article 25 shall be replaced by the following:

“Art. 25. 1. The minister responsible for matters of culture and national heritage protection, by way of a regulation, may consolidate State film institutions established before 1 January 2005.

2. In relation to the consolidation of State film institutions, the provisions of Article 18, Section 2 and Article 19, Sections 1-3 and 4 (the first sentence) of the Act of 25 October 1991 on Organising and Conducting Cultural Activities (Journal of Laws of 2001, No. 13, Item 123, as amended³) shall apply respectively.

3. As of the date of entry of the newly created State film institution in the register, the minister responsible for matters of culture and national heritage protection shall delete from the register the State institutions which have been consolidated.”;

- 15) Article 26 shall be deleted;

³ Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2002, No. 41, Item 364; of 2003, No. 96, Item 874, No. 162, Item 1568 and No. 213, Item 2081; of 2004, No. 11, Item 96 and No. 261, Item 2598 and of 2005, No. 131, Item 1091.

16) Article 26a shall be replaced by the following:

“Article 26a. In respect of the liquidation and bankruptcy of a State film institution the Act on State-Owned Enterprises of 25 September 1981 (Journal of Laws of 2002, No. 112, Item 981, No. 240, Item 2055, and of 2004, No. 273, Item 2703) shall apply respectively, subject to the following reservations:

- 1) the liquidation of a state-owned film institution shall involve a transfer of tangible and intangible assets of the said institution to the Polish Film Institute, subject to the provision of point 5, and the deletion of the State film institution from the register of film institutions referred to under Article 22, as soon as the creditors have been satisfied or secured. If the State Treasury is the creditor of the liquidated State film institution, the said liabilities shall be cancelled on the date on which the decision regarding the liquidation is made;
- 2) the liquidation of a state-owned film institution, subject to point 3, may be carried out upon the joint request of the director and the staff’s council of the said state-owned film institution. The decision regarding the liquidation shall be made by the minister responsible for matters of culture and national heritage protection,
- 3) if the provisions of Article 19, Section 1 of this Act apply, or if the state-owned film institution fails to carry out the responsibilities defined in its Memorandum of Association, or if by 31 December 2010 a decision on the liquidation of the state-owned film institution is not made, or the state-owned film institution is not commercialised - the said institution shall be liquidated upon the initiative of the minister responsible for matters of culture and national heritage protection,
- 4) Article 19, Section 2, Article 20, Article 22 and Article 23 of this Act shall not apply,
- 5) as of the date on which a state-owned film institution is put into liquidation or declared bankrupt, the copyrights enjoyed by the said institution shall become the property of the National Film Archive free of charge.”;

17) Article 27 shall be replaced by the following:

“Article 27. A state-owned film institution, upon request of the Sejmik [law-making body] of the Voivodeship, may be transferred to be run by the Sejmik of the Voivodeship, pursuant to the rules stipulated in the agreement between the minister responsible for matters of culture and national heritage protection and the Voivodeship Board.”;

18) Article 27a shall be replaced by the following:

“Article 27a. 1. In relation to the state-owned film institutions the provisions on commercialisation and privatisation shall apply respectively, subject to the following reservation:

- 1) the commercialisation of a state-owned film institution may be performed upon the request of the minister responsible for matters of culture and national heritage protection or upon the consent of the said minister at the joint request of the director and the staff’s council of the state-owned film institution;
- 2) if a decision is made to privatise a state-owned film institution, the film resources gathered by this institution shall become the property of the National Film Archive free of charge and shall be transferred thereto;

- 3) the privatisation shall not apply to the copyrights to films produced before 31 December 1989 which are enjoyed by the state-owned film institution; if the institution is privatised, the said rights shall become the property of the Polish Film Institute free of charge;
 - 4) the proceeds from the privatisation of a State film institution shall constitute the revenue of the Polish Film Institute;
 - 5) the execution of a commercialisation document or a decision to privatise a state-owned film institution shall be notified to the Director of the Polish Film Institute, who shall be entitled to review the accounting and commercial books of the company created through the transformation of the state-owned film institution, and shall be entitled to present his comments and requests in respect of the matters of the said company - until the privatisation process is completed;
 - 6) as of the date of execution of the commercialisation document of a state-owned film institution, the said institution shall be deleted from the register of film institutions referred to under Article 22;
 - 7) upon a motion of the minister responsible for matters of culture and national heritage protection or the minister responsible for matters of the State Treasury, the Council of Ministers may, by way of a resolution, grant its consent for a non-public disposal of the shares or stocks of commercialised State film institutions by contributing them free of charge into the Polish Film Institute, which is obliged to dispose of them within 12 months of the date of the contribution.
2. The provisions of Section 1 above shall not be to the prejudice of the rights of the authors which transpire from the Act of 4 February 1994 on Copyrights and Neighbouring rights (Journal of Laws of 2000, No. 80, Item 904, as amended⁴), in particular in respect of new areas of exploitation.”;
- 19) in Article 28, Sections 2, 3 and 5 shall be deleted;
- 20) Article 33 shall be replaced by the following:
- “Article 33. The state-owned film institution shall conduct its activities based on a plan, which shall be determined by the director upon consultation with advisory and opinion-making bodies, and which shall be subsequently approved by the minister responsible for matters of culture and national heritage protection.”;
- 21) Article 34, Section 2 shall read:
- “2. In the cases referred to under Section 1, the minister responsible for matters of culture and national heritage protection shall provide the State film institution with funds necessary for the implementation of its tasks.”;
- 22) Article 45 shall be replaced by the following:
- “Article 45. 1. State-owned film institutions shall manage their finances independently and cover their costs and liabilities from the revenue earned.

⁴ Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2001, No. 128, Item 1402; of 2002, No. 126, Item 1068 and No. 197, Item 1662; of 2003, No. 166, Item 1610 and of 2004, No. 91, Item 869, No. 96, Item 959 and No. 172, Item 1804.

2. The basis for the financial management of state-owned film institutions shall be an annual financial plan, which shall be drafted by the director upon consultation with advisory and opinion-making bodies.

3. The annual financial plan shall specify in particular:

- 1) revenue, including subsidies broken down by type;
- 2) operating expenses, including the cost of wages and salaries and related premiums;
- 3) investment expenditure;
- 4) the balance of current assets as at the beginning and end of the financial year.

4. The financial year of state-owned film institutions shall be the calendar year.

5. State-owned film institutions shall maintain their accounts in accordance with the requirements of the accounting regulations.

6. State-owned film institutions' annual financial statements shall be audited by a certified auditor.

7. Annual financial statements of state-owned film institutions shall be subject to approval of the minister responsible for matters of culture and national heritage protection.”;

23) Article 45a and 45b shall be added after Article 45 and shall read as follows:

“Art. 45a. 1. State film institutions shall create:

- 1) the statutory fund;
- 2) the reserve fund;
- 3) other funds, if such requirement is stipulated under other regulations.

2. The statutory fund shall reflect the value of assets received by the state-owned film institution upon its establishment.

3. The statutory fund shall be increased by:

- 1) the value of assets received free-of-charge on the basis of decisions of competent authorities or on the basis of other regulations;
- 2) net profit, subject to Section 5.

4. The statutory fund shall be decreased by:

- 1) the value of assets transferred free-of-charge on the basis of decisions of competent authorities or the basis of other regulations;
- 2) the net loss which has not been covered from the reserve fund.

5. The reserve fund shall be created from the net profit. Write-offs to the reserve fund shall not be lower than 10% of the net profit. State-owned film institutions may decline make write-offs, if the balance of the reserve fund exceeds the equivalent of 2% of the operating costs of the said institution in a given financial year.

6. The reserve fund shall be used to offset the net loss.

- Article 45b. 1. State-owned film institutions shall pay the Polish Film Institute contributions of 50% of their revenue from copyrights to films produced before 31 December 1989.
2. The payments referred to under Section 1 above shall be transferred on a quarterly basis within 30 days of the end of the given quarter.
 3. In respect of the liabilities relating to the payments referred to under Section 1 above, the provisions of Chapter III of the Act of 29 August 1997 - the Tax Code (Journal of Laws of 2005, No. 8, Item 60, No. 85, Item 727, No. 86, Item 732) shall apply respectively, with the reservation that the powers of the tax authority shall be vested in the Director of the Polish Film Institute, and the powers of the appeal authority shall be vested in the minister responsible for matters of culture and national heritage protection.
 4. The payments referred to under Section 1 shall be revenue-earning costs within the meaning of the income tax regulations, as of the date on which they are incurred.
 5. In the case referred to under Section 1, Article 27a, Section 2 shall apply.”;
- 24) Chapter 5 shall be deleted;
 - 25) Chapter 6 shall be deleted.

Article 32.

In the Act on Organising and Conducting Cultural Activities of 25 October 1991 (Journal of Laws, No. 13, Item 123, as amended ⁵), Art. 2 shall read:

“Article 2. The available organisational forms for cultural activities shall include, in particular: theatres, operas, operettas, philharmonic orchestras, orchestras, film institutions, cinemas, museums, libraries, community centres, culture and arts centres, art galleries and centres of research and documentation in various areas of culture.”.

Article 33.

In the Act on Games of Chance and Mutual Bets of 29 July 1992 (Journal of Laws of 2004, No. 4, Item 27 and No. 273, Item 2703), in Article 47e, the following amendments shall be made:

a) in section 4, the initial sentence shall read:

“Disbursements from the Fund for the Promotion of Culture, subject to Section 4a, shall be exclusively earmarked for promoting or supporting.”,

b) Section 4a shall be added after section 4, and shall read as follows:

“4a. The manager of the Fund for the Promotion of Culture, each year, by 30 March of the following calendar year, shall transfer at least 5% of the revenue referred to under Section 3 to the Polish Film Institute for the implementation of the Institute’s responsibilities.”.

⁵ Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2002, No. 41, Item 364; of 2003, No. 96, Item 874, No. 162, Item 1568, No. 213, Item 2081; of 2004, No. 11, Item 96 and No. 261, Item 2598 and of 2005, No. 131, Item 1091.

Chapter 6. **Transitional and harmonising provisions**

Article 34.

As of the date on which this Act enters into force, the proceedings regarding determination of qualifications for film-making professions provided for by the Act referred to under Article 31 shall be discontinued.

Article 35.

1. The receivables of a state-owned film institution in relation to which liquidation or bankruptcy proceedings are pending, which are due for payment on the date on which this Act enters into force, shall as of that date, free-of-charge become the property of the Institute.
2. The receivables of the State Treasury from state-owned film institutions in respect of acquisition against consideration of the ownership title of buildings, other facilities and premises on 5 December 1990, which have not been fully or partly satisfied by the date on which this Act enters into force shall as of that date, free-of-charge become the property of the Institute.
3. The receivables of the State Treasury from local government film institutions in respect of acquisition against consideration of the ownership of buildings, other facilities and premises on 5 December 1990, which have not been fully or partly satisfied by the date on which this Act enters into force, shall free-of-charge, as of the date of the transformation of a given local government film institution into a local government cultural institution become the property of the said local government cultural institution.
4. Changes in entries in the land and mortgage registers concerning mortgages securing the receivables referred to under Sections 1 and 2 shall be made by the Director, and as regards the receivables referred to under Section 3, upon request of the competent executive body of the organiser of the local government cultural institution.

Article 36.

The regulation issued under Article 22, Section 5 of the Act referred to under Article 31 shall remain in force until the issue of the regulation stipulated under Article 22, Section 5 of the Act referred to in Art. 31, in the wording stipulated by this Act.

Article 37.

1. The first Director shall be appointed by the Minister for the period until the appointment of the Director pursuant with Article 14, Section 1, the said period being no longer, however, than 6 months of the date on which this Act enters into force.
2. The period of performing his function of the Director, as referred to under Section 1 above, shall not be included in the term of office referred to under Article 14, Sections 2 and 3.

Article 38.

As of the date on which this Act enters into force, the local government film institutions established under the Act on Cinematography of 16 July 1987 shall become local government cultural institutions within the meaning of the Act on Organising and Conducting Cultural Activities of 25 October 1991.

Article 39.

1. The Voivodeship Executive Board, which is the founding body of local government film institutions, upon this Act's entry into force, shall become an organiser within the meaning of the Act of 25 October 1991 on Organising and Conducting Cultural Activities.
2. The organiser referred to under Section 1 above, within 30 days of the Act's entry into force, shall confer upon the local government cultural institution referred to under Article 38 the Memorandum of Association.
3. The bodies of the local government film institution referred to under Section 1 above, shall perform their duties until the appointment of managing bodies of the local government cultural institution referred to under Article 38, not longer, however, than for 3 months from the Act's entry into force.
4. Employees of the local government film institution referred to under Section 1 above, as of the date of the Act's entry into force, shall become employees of the local government cultural institution referred to under Article 38.
5. The assets of the local government film institution referred to under Section 1 above, as of the date of the Act's entry into force, shall become the property of the local government cultural institution referred to under Article 38.
6. The local government cultural institution referred to under Section 38 above shall enter into all legal relations to which the local government film institution referred to under Section 1 above was a party, irrespective of the legal nature of the said relations.

Chapter 7. Final provision

Article 40.

The Act shall enter into force 30 days of the date of its publication, except Article 19 and Article 31 (23) in respect of Article 45b, which shall enter into force as of 1 January 2006.

REPERTORIUM NO. 23/2010

I, the undersigned ANETA TOMASZEWSKA, sworn translator of the English language at the Ministry of Justice in Warsaw, hereby certify that the above English text is a true and exact translation of the Polish text presented to me.

Warsaw, 26th February 2010