

List of attachments of supporting documentation to the Communication to the Aarhus Convention Compliance Committee

1. The Judgment of the Supreme Administrative Court of 12 March 2014 (citation II OSK 2477/12) – translation from Polish by the correspondent with the most relevant sections highlighted.
2. Chapter IV ‘The Forest Management Plan’ of the Forest Act of September 28th 1991 – translated from Polish by the correspondent (the most relevant provisions to the case).
3. Art. 3, 8 § 1 and 50 of the Law on Proceedings before Administrative Courts – translation form Polish by the correspondent.
4. Art. 127 of the Code of Administrative Procedure - translation form Polish by the correspondent.
5. The Forest Act of September 28th 1991 – translation from Polish by National State Forests up to date until 2009.

Attachment no 1 - Judgment of Supreme Administrative Court (II OSK 2477/12)

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Summary of Supreme Administrative Court Judgment of 12 March 2014 (II OSK 2477/12)

1. The judgment of the Supreme Administrative Court deals with the issue of the form of the assent of the Forest Management Plan by the Minister of the Environment. Settling this issue enables the Court to decide whether the act of the approval of the FMP may be appealed to administrative courts by a relevant party.
2. The Polish administrative system is divided into public administration entities and administrative courts. Public administration entities may act in two ways. Firstly, they may issue external acts, which are addressed to an individual party and establish an individual situation by granting certain rights or commanding certain obligations to an individual party. These acts are administrative decisions and must be based on a proper legal article enabling the issuance of a decision in a certain situation. Secondly, entities, which function in hierarchy, may issue internal acts, as they are dominant in relation to subordinated entities within the structure. The distinction is of paramount legal importance – solely external acts, i.e. decisions, may be appealed to the District Administrative Court, which acts as the court of first instance. The appealing party may subsequently lodge the cassation against that judgment to the Supreme Administrative Court. Therefore resolving the issue of the form of the assent of the FMP is directly linked to the availability of reviewing a certain act.
3. In the present case the Minister of the Environment issued the assent of the FMP. The Association filed a motion to revise that act. The Minister of the Environment ruled that the complaint is inadmissible. That act was appealed by the Association to the District Administrative Court in Warsaw, which ruled the inadmissibility of the motion of revision of the case. Finally, the Association lodged an application for cassation against the judgment of the court of first instance, i.e. the District Administrative Court. The Minister of the Environment petitioned to dismiss the cassation since the assent of the FMP cannot be an administrative decision as it is not a dominant act, which does not establish a situation of any external party's rights or obligations.
4. The Supreme Administrative Court reasoned that the assent of an FMP is not an external act of imperium addressed to an individual party outside the public administration structure in an individual situation. The Court reasoned that phrase 'confirms' used by the legislator regarding the assent of an FMP does not predestine the act's form. Therefore the Court stated that civil organizations are not equipped with the ability to lodge a complaint in such cases. Art. 33 of the Environmental Impact Assessment Act and Art. 50 section 1 of the Law on Proceedings before Administrative Courts (hereinafter LPAC), which regulate the participation of civil organizations in proceedings ending with an administrative decision and the ability to lodge a complaint are not applicable. The Court stated that the Code of Administrative Procedure is not applicable to proceedings in cases concerning relations of organizational subordination and supervision, i.e. internal acts. Therefore the main feature of an administrative decision is its external character, dominance and individuality of recipient and established situation. The Court reasoned that in this case, acts of the Minister of the

Environment are strictly internal and concern solely the property of the State Treasury. In such cases the Minister does not issue external, dominant decisions.

5. Simultaneously, the Court gave attention to the form of a simplified FMP, which is a type of FMP introduced for private-owned forests (not property of the State Treasury) of area smaller than 10 ha along with forests within State Agriculture Resources. A simplified FMP is approved by a district head, instead of the Minister of the Environment's assent of a regular FMP. The Court stated that the assent of simplified FMPs may be interpreted in accordance with Art. 3 § 2 point 4 LPAC, which enables a revision of such acts by administrative courts.
6. Nevertheless, this is not the case regarding a regular FMP, which is approved by the Minister of the Environment in a form of internal act. Therefore it cannot be appealed or revised in any available way by administrative courts.

Translation of Supreme Administrative Court Judgment of 12 March 2014 (II OSK 2477/12)

Sentence

On 12 March 2014 Supreme Administrative Court dismissed the cassation of Association [...] regarding the inadmissibility of lodging the motion to review the case and issued 300 zł to be paid to the Ministry of the Environment in legal costs.

Facts

On 14 June 2012 the District Administrative Court in Warsaw (citation IV SA/Wa 495/12) dismissed the appeal of Club [...] against the Minister of the Environment's decision issued in January 2012 nr [...] regarding the inadmissibility of lodging the motion to review the case.

The Association appealed the decision of the Minister of the Environment based on Art. 134 of the Code of Administrative Procedure which ruled that the motion to revise the case was inadmissible, which was resolved by Minister's decision in April 2011 regarding the assent of the Forest Management Plan (FMP) for Forest District [...]. The Minister of the Environment reasoned that the Association, on the grounds of its stated goals, applied to take part in the proceedings as a party and later in March 2011 was informed that it was going to take part in the proceedings in accordance with Art. 44 of the Act on Providing Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment, hereinafter Environmental Impact Assessment Act. It was shown that adopting an FMP is a two-stage procedure. The first stage (which lasts a few months) consists of drafting the plan and as part of that process a Strategic Assessment of Environmental Impact with society's participation is conducted as stated in Chapter IV of Environmental Impact Assessment Act (this stage consists of evaluation by specialized institutions). The second stage (which lasts circa one month) is an administrative procedure initiated by the General Director of The State Forests to approve the plan by an administrative decision of the Minister of the Environment. That decision lists in general its content and confirms the fulfilment of formal requirements. The plan is not a part of the decision, neither is its attachment. The Association did not take part in the administrative procedure as a party (which is granted by Art. 31 of the Code of Administrative Procedure), hence it was not entitled to lodge an appeal.

In the appeal lodged by the Association, it was stated that the Association was wrongfully not recognized as a party in the administrative procedure. The issue of the scope of the regulation of participation in Environmental Impact Assessment Act is irrelevant, since the Association did not precise that it is basing the petition to take part in the procedure on that Act. Hence the petition should be considered in accordance with Art. 31 of the Code of Administrative Procedure.

In response to the appeal the Minister of the Environment petitioned to dismiss the appeal, as the reasoning in the decision stands.

The District Administrative Court in Warsaw, which in the present case acted as the court of first instance, dismissed the appeal. The Court stated that regardless of the form of the decision

regarding the inadmissibility of lodging the appeal (the phrase ‘decision’ was used in the document, it consisted of the elements stated in Art 107 section 1 and Art 107 section 3 of the Code of Administrative Procedure), it cannot result in incorrect recognition of the document as a decision, which would make the appeal possible. **The Court stated that the demand of the assent of an FMP is declared in the Forest Act and that the legislator did not determine the form of that assent, which does not allow the presumption that it in fact is an administrative decision.** The Court stated that where the proceedings concerning the supervision of the State Forests by the state authorities take the form of administrative decisions, they are stated as such in the Forest Act expressis verbis. An example of this is the district head’s¹ decision concerning tasks of the State Forest, which is issued based on the Art. 19 section 3 of the Forest Act. **The assent of an FMP is not an act of imperium addressed to parties external to the public administration structure.** It concerns the approval of the document that states the rules of governing the property of the State by organizational units with no legal personality but which are granted legal capacity under the law (Art. 4 section 3, Art. 19 section 1 and Art. 32 section 1 of the Forest Act). **Given the rules of qualifying administrative organs’ proceedings, it cannot be extrapolated that the assent of the FMP, as stated in Art. 22 section 1 of the Forest Act is in fact a decision, since it is not an act of imperium addressed to parties outside the public administration structure. This is especially clear since the legislator did not implement it expressis verbis as a decision being an act of imperium.** The procedure implemented in this case (Strategic Environmental Impact Assessment) does not apply to individual cases concerning the usage of environmental commodities, which requires the assessment of a venture’s impact (as stated in Chapter V of the Environmental Impact Assessment Act). Supposing that the assent of the FMP would be an administrative decision, claiming that on that stage an assessment of a venture’s impact is not necessary and would be unjustified. It cannot be extrapolated from the Forest Act that the subject of the analysis of the Minister of the Environment, before the assent of the FMP, could solely mean meeting the formal criteria (submitting the appropriate documentation etc.). Given the scope of duties of the Minister of the Environment (especially Art. 4 section 4 of the Forest Act) and the legalism principle regarding administrative proceedings, the subject of consideration of that Minister may be various issues concerning compliance with legislation of the submitted documentation, along with the issues of environment protection, including valuable natural resources within rational forest governance (Art. 7 section 1 of the Forest Act). In case of an incorrect assumption that the assent of the FMP is an administrative decision following explanatory proceedings, double evaluation procedure of the environmental impact evaluation could not be ruled out – subsequently a strategic assessment concerning ventures, as stated in Art. 96 section 1 of the Environmental Impact Assessment Act, taking into consideration that the catalogue listed in Art. 96 section 2 of the aforementioned Act is not exhaustive, and that the Act obliges to specific procedure in case of plausible impact on the Natura 2000 sites. That interpretation, which would result in two separate impact assessment procedures concerning the same scope, is not rational according to the Court. **The Court stated that civil organizations are not equipped with the ability to lodge a complaint in such cases, as stated in Art. 50 section 1 of the Law on Proceedings before Administrative Courts, hereinafter LPAC, which constricted their ability strictly to the cases of taking part in administrative procedures – based on the Code of Administrative Procedure.** At the same time there are no regulations that extend their ability to cases of strategic environmental impact evaluations (as in Art. 50 section 2 of LPAC). Art. 44 of the Environmental Impact Assessment Act in particular is not applicable, since it regards participation in administrative procedures based on the Code of Administrative Procedure that concludes in the issuance of an administrative decision. The legitimacy of proceedings in that scope may be controlled exclusively by specialized state entities, in particular the prosecutors, according to Art. 50 section 1 of LPAC. Motions may be

¹ District head (pol. starosta) – an executive official leader of local government in Poland.

also submitted by civil organizations. In general, protection of the rule of law in public interest is the state prosecutors' task according to Art. 2 of the Prosecution Act. To sum up, the Court stated that since the assent of the FMP is not an administrative decision, the ruling of the inadmissibility of lodging appeals was proper, while the reasoning of the sentence was faulty, which is a violation of law on proceedings, which nevertheless had no impact on the case outcome as stated in Art. 145 section 1 point 1c of LPAC. Stating in the sentence that the appeals are inadmissible, while the proper sentence would state the inadmissibility of filing a motion to review the case in accordance with Art. 127 section 3 of the Code of Administrative Procedure, constitutes the violation with no impact on the final outcome.

The Association filed the application for cassation, stating that the law on proceedings was violated to the degree that the decision had influenced the final outcome as stated in Art. 174 section 2 of LPAC. The Association petitioned to overrule the judgment and to review the case. The Association invoked binding legislation and law on proceedings concerning the FMPs, and stated that in this case the proper outcome would be in form of an administrative decision. It stated that the word 'confirms' used in the regulations does not predestine the form of the act. Various phrases were used by the legislator to describe proceedings ending with an administrative decision. Moreover, the issue as to whether a certain act is an administrative decision is resolved by its character, not by its name. The Court violated the legislation concerning relation between State Forests and the Minister of the Environment regarding the assent of the FMP as a relation of subordination and supervision, and the act of confirming the FMP as an act of interior directorship. The Association's position in the administrative proceedings was assessed erroneously, since Art. 96 section 2 of the Polish Nature Protection Act is not applicable in this case, as it regards ventures, not FMPs.

The Minister of the Environment in response to the cassation petitioned to dismiss the motion, stating that the assent of the FMP cannot be an administrative decision, since it is not a dominant act that does not establish a situation of external party and stated the area, within which there may occur administrative dominance.

In the supplementary response, the Minister evoked the Supreme Administrative Court ruling (citation II OSK 1308/11), in which the Court found no legitimization of an association to participate in the proceedings since its statute did not foresee a possibility to initiate procedures, but only stated its goals in environmental protection. Hence, the Court did not examine petitioner's legitimization.

Supreme Administrative Court's Reasoning:

The Supreme Administrative Court under Art 183 § 1 LPAC hears the case within objections raised in the lodged cassation application with an exception of automatic consideration of procedural invalidity. The SAC controls the compliance of the judgment with substantive and procedural law within the objections set out in the cassation application. Therefore the party that lodged the cassation application consisting of certain objections determines the scope of the case.

The cassation should not be granted. In the cassation application there were objections raised concerning the breach of both procedural law, which had an impact on the outcome of the case, and the substantive law. The principle is that in the case of raising the objection of the breach of both substantive and procedural law in a cassation application, the first stage is verifying the breach of procedural law, as only after deciding that the relevant facts in the case identified by

the District Administrative Court are correct or were not successfully undermined, the Court may proceed to controlling applicable substantive law. However, in the present case, as a result of the form and the scope of raised objections, it is necessary to revise the alleged breach of substantive law in the first place, as the legitimacy of procedural law objections is directly linked to the breach of substantive law. In such circumstances the primary objections of the cassation are the wrongful interpretation of Art. 22 section 1 of the Forests Act, and the incorrect statement by the District Administrative Court that the assent of the FMP is not an administrative decision as it is not a dominant act addressed at entities outside the public administration structure. The main issue by far in this case is deciding what form the assent of the FMP takes. Before addressing that objection, it is worthwhile to summarise basic legislation in this area.

According to Art. 19 section 1 of the Forest Act, FMPs are drafted for state-owned forests, with exceptions listed in section 2, which establishes simplified FMPs for private-owned forests and forests within State Agriculture Resources², with exceptions stated in sections 3 and 4. The issue of the assent of an FMP is regulated in Art. 22 of the Forest Act. The article states that the Minister of the Environment approves FMPs in two aforementioned cases, and the relevant district head approves simplified FMPs³ after receiving an opinion issued by relevant forest inspector. In the present case the Minister approved the FMP by issuing the administrative decision. The District Administrative Court as the court of first instance questioned this form. The Court shares the stance of the court of first instance that the assent of an FMP by the Minister does not take a form of an administrative decision. It must be taken into consideration that an administrative decision is a unilateral act of public administration's entity, which takes a certain legal form and states certain consequences of application of legal article in an individual case addressed to an individual party, which is not in relation of subordination or supervision in organizational or official manner with that entity. Every administrative decision establishes a legal situation of a party that is not in a relation of subordination with a public administration's entity that issued the decision. This attribute of every administrative decision enables the exclusion of all acts issued by a public administration entity addressed to another entity on a lower level within the structure, issued by a superior addressed to a subordinate. Those acts are jointly named internal acts. The paradigm in cases of external relations in public administration is issuing an administrative decision, while in cases of internal relations the paradigm is issuing official orders. The distinction between individual external acts (administrative decisions) and individual internal acts (official orders) is of paramount legal importance, as according to art. 3 § 3 point 1 and 2 of the Code of Administrative Procedure, the Code is not applicable to proceedings in cases concerning relations of organizational subordination and supervision, i.e. internal acts. Therefore the main feature of an administrative decision is its external character, dominance and double individuality – individual recipient and individual situation, in which rights and obligations of that individual are established.

According to Art. 4 of the Forest Act, forests that are the property of the State Treasury are governed by the National Forest Holding, "The State Forests". The State Forests, which is an organizational unit with no legal personality, but which is granted legal capacity under the law, represents the State Treasury in terms of governed property (Art. 32 section 1 of the Forest Act). The head of The State Forests is General Director of The State Forests, who is constituted and recalled by the Minister of the Environment (Art. 33 section 1 point 1 of the Forest Act). The supervision of the forest governance of the state-owned forests is held by the Minister of the Environment (Art. 5 section 1 point 1 of the Forest Act). Aforementioned legislation shows the

² State Agriculture Resources (pol. Zasób Własności Rolnej Skarbu Państwa) – Polish office for state-owned agricultural land property.

³ Simplified Forest Management Plan – type of FMP introduced for private-owned forests (not property of the State Treasury) of smaller area than 10 ha and forests within State Agriculture Resources, which is approved by a district head, rather than the Minister of the Environment.

relations that occur between the Minister of the Environment, The State Forests and the General Director of The State Forests in terms of forest governance of state-owned forests. Acts of the Minister of the Environment concern property of the State Treasury, which is represented by The State Forests. Therefore any issued acts are not external, as there is no recipient, therefore the acts do not establish any right or obligations of a nonexistent recipient. Acts of the Minister of the Environment are strictly internal and concern property of the State Treasury. In such circumstances the Minister of the Environment, as a public administration entity, does not issue external, dominant acts that establish any legal rights or obligations of an individual recipient in an individual case. Therefore the court of first instance correctly assumed that the assent of an FMP by the Minister of the Environment does not take the form of an administrative decision. Simultaneously the District Administrative Court - the court of first instance - stated that the legitimacy of the assent of an FMP may be controlled by an administrative court, in compliance with rules set in Art. 3 § 2 point 4 LPAC, accordingly to art. 52 § 3 LPAC (the Court cited standpoint of District Administrative Court, citation IV SA/Wa 354/11). This means that civil organizations do not have the ability to lodge an appeal according to Art. 50 § 1 LPAC. The Court cannot fully concur on the general standpoint of the court of first instance that the assent of an FMP should be qualified in accordance with Art. 3 § 2 point 4 LPAC. First of all, the aforementioned judgment of the District Administrative Court concerned a case, in which the district head approved a simplified FMP, not the assent of the Minister of the Environment, as in the present case. This distinction is of paramount importance. As mentioned before, the simplified FMPs approved by a district head are issued for forests that are not property of the State Treasury. Assignments in the scope of forest governance are established by the district head's decision for forests of smaller area than 10 ha that are not a property of the State Treasury (Art. 19 section 2 and 3 of the Forest Act). Therefore the district head's assent of a simplified FMP or decision establishing assignments of forest governance as shown above, acts externally to third-party recipients, natural persons and legal entities being owners of a forest. It is worth pointing out that there is a special procedure of drafting a simplified FMP: a requirement that the simplified FMP draft is to be disclosed and made available to the public for 60 days in the borough⁴ office, that notifications in writing be addressed to forest owners, the owners having the capacity to file motions and objections within 30 days of the disclosure date, as well as the district head's ability to issue decisions recognizing motions or objections (Art. 21 sections 4 and 5 of the Forest Act). After receiving the relevant forest manager's opinion, the district head approves simplified FMP. The district head's assent establishes certain rights and obligations for a forest owner in terms of forest governance. In the case of non-compliance with tasks established in a simplified FMP (or issued decision according to Art. 19 section 3 of the Forest Act) by a forest owner, the district head commands the execution of certain obligations in a decision (Art. 24 of the Forest Act). The aforementioned regulations lead to a conclusion – the assent of the simplified FMP by the district head does not take the form of an administrative decision, since the legislator explicitly regulated cases, in which the district head may issue a decision (Art. 19 section 3, Art. 21 section 5, Art. 24 of the Forest Act). The Court concurrently acknowledges that the assent of the district head is an external act, since the recipients are certain forest owners, for whom determined rights and obligations are established. In the case of noncompliance with those established obligations, the district head may command the execution of them in a decision. The aforementioned circumstances justify the standpoint that the assent of simplified FMPs by district head shall be qualified in accordance with Art. 3 § 2 point 4 LPAC, as stated in District Administrative Courts' judgments (citation IV SA/Wa 354/11, IV SA/Wa 1298/09, IV SA/Wa 1890/08).

⁴ Borough (pol. gmina) – bottom level of local government in Poland

The preceding remarks on simplified FMPs, drafting guidelines, relations between district head and forest owners lead to a conclusion that the assent of a simplified FMP by the district head cannot be equated with the assent of an FMP by the Minister of the Environment. Hence the standpoint that the assent of a simplified FMP by district head should be qualified in accordance with Art. 3 § 2 point 4 LPAC is justified. Nevertheless this standpoint cannot be accepted in the case of the assent of an FMP by the Minister of the Environment.

First of all, it must be pointed out that the scope of Art. 3 § 2 point 4 LPAC concerns individual acts, addressed to individual recipients regarding certain obligations. Each administrative decision is an external act addressed to individual recipients, and each act other than a decision issued according to Art. 3 § 2 point 4 LPAC must be addressed to an external recipient. This condition is not fulfilled by the assent of a FMP by the Minister of the Environment, in which case the forest is property of the State Treasury, which is governed by the State Forests (an organizational unit with no legal personality but which is granted legal capacity under the law) representing the State Treasury in terms of governed property, which is supervised by the Minister of the Environment. The State Treasury is ex lege a state legal entity that represents state property in every case, when it is not represented by a different state entity. In this case the State Treasury acts as the owner within a dominium sphere. This position should be contrasted with the situation, in which the State acts within an imperium sphere by a certain public entities and acts in a dominant manner by commanding, banning, legislating, issuing administrative decisions and other legal acts, which are empowered by administrative sanctions. The assent of FMPs by the Minister of the Environment concerning state-owned forests is therefore an internal act issued vis-à-vis acting within a dominium sphere, rather than imperium sphere.

According to Art. 184 LPAC, the Supreme Administrative Court dismisses a cassation application when no reasonable objections occur or when the appealed judgment complies with law despite wrongful reasoning. It must be clarified that a judgment complies with law despite wrongful reasoning when the final decision stands once the errors in reasoning have been corrected. This is the case in this situation. The judgment of the court of first instance dismissing appeal complies with law, since the assent of the FMP by the Minister of the Environment is not an administrative decision, however SAC expresses contrasting legal interpretation of the assent of the FMP concerning state-owned forest by the Minister of the Environment.

In a case of the dismissal of a cassation application by the SAC, while expressing different legal interpretation than the court of first instance, the SAC reasoning is binding for public administration entities and District Administrative Courts according to Art. 153 and Art. 193 LPAC.

Given the aforementioned standpoint of SAC concerning the main objection of the cassation application, which was the breach of substantive law (Art. 22 section 1 of the Forest Act) by incorrect interpretation, and the statement by the court of first instance that the assent of an FMP is not an administrative decision, consideration by the Court of other objections is rendered purposeless.

Attachment no 2 - Chapter IV 'The Forest Management Plan' of the Forest Act of September 28th 1991

Chapter IV

The Forest Management Plan

Art. 18. 1. Subject to para. 2, a Forest Management Plan shall be drawn up for 10 years, with account being taken of:

- 1) natural and economic conditions for forest management;
- 2) the objectives and principles of forest management and the means by which these are to be attained, as determined for each stand and managed object, with regard also being had to protective forests.

2. Where the condition of forest so justifies, and most especially where damage or the impacts of natural disasters are present therein, a Forest Management Plan may be drawn up for a period shorter than 10 years.

3. A change in the period referred to in paras. 1 and 2 shall require the consent of the organ approving the Forest Management Plan.

4. A Forest Management Plan shall in particular contain:

- 1) a description of forests and of land designated for afforestation, including:
 - a) a listing of areas of forests, land designated for afforestation and protective forests,
 - b) a listing of areas of forest with forest vegetation (plantations) by species of tree in the stand, age class, stand quality class and forest function;
- 2) an analysis of forest management in the elapsed period;
 - 2a) a nature conservation programme;
- 3) a detailing of tasks, including in particular those concerning:
 - a) the amount of timber whose harvest is anticipated, as determined in relation to the volumes to be taken in the course of final and pre-final felling,
 - b) afforestation and restocking,
 - c) the tending and protection of forest, including protection against fire,
 - d) game management,

e) needs in respect of technological infrastructure.

Art. 19. 1. Subject to para. 2, a Forest Management Plan shall be drawn up for forests that constitute property of the Treasury.

2. Subject to paras. 3 and 4, a Simplified Forest Management Plan shall be drawn up for forests not constituting Treasury property, as well as for forests forming part of the Treasury Agricultural Property Resource.

3. In the case of fragmented forests with areas of up to 10 ha that do not constitute Treasury property, tasks as regards forest management are as set out in a Decision of the Starosta heading a given powiat, on the basis of inventorying of the condition of the said forest.

4. Where fragmented forests with areas of up to 10 ha come within the aforesaid Treasury Agricultural Property Resource, tasks in respect of forest management on the basis of the inventorying of the condition of forests are determined by a District Forest Manager.

5. Forest Management Plans and Simplified Forest Management Plans are drawn up by specialist units or other entities engaging in management.

Art. 19a. (deleted).

Art. 19b. (deleted).

Art. 19c. Forest Management Plans may be drawn up by an entrepreneur, including a servicer in the meaning of Art. 2 para. 1 point 2 letter b of the Act on Providing Services in the Republic of Poland of 4 March 2010 (Dziennik Ustaw, No. 47, item 278 with subsequent amendments), who possesses technical equipment and employs staff with adequate qualifications necessary for punctual and correct drawing up of Forest Management Plans.

Art. 20. 1. Local Physical Development Plans shall take account of the provisions of Forest Management Plans as regards the boundaries and areas of forests, including protective forests.

2. The registration of land and buildings shall take account of the provisions of Forest Management Plans and Simplified Forest Management Plans, as regards the boundaries and areas of forests.

Art. 21. 1. The Forest Management Plan or Simplified Forest Management Plan shall be drawn up for:

1) forests under State Forests administration – at the behest, and at the cost, of the State forests;

2) forests not constituting Treasury property, belonging to natural persons or land cooperatives – at the behest of the Starosta heading a given powiat;

3) remaining forests – at the behest and cost of the owner.

2. The inventorying of the condition of forests referred to in Art. 19, para. 3 shall be carried out at the behest of the Starosta heading a given powiat.

3. The inventorying of the condition of forests referred to in Art. 19, para. 4 shall be carried out at the cost of the Treasury Agricultural Property Agency.

4. The draft of a Simplified Forest Management Plan shall be made available for public viewing for a period of 60 days, at the Gmina Office. Forest owners shall be informed that the Simplified Forest Management Plan has been put on display, by the Wójt heading a gmina (town Mayor or city President), it further being made clear that the Simplified Forest Management Plan shall be the basis upon which forest tax is calculated.

5. Interested forest owners are to have submitted reservations or motions in respect of a Simplified Forest Management Plan within 30 days of the draft thereof being put on display. The Starosta heading a given powiat shall issue a Decision recognising or not recognising the said reservations and motions.

Art. 21a. 1. Work in respect of:

- 1) the periodic, large-scale inventorying of the condition of forests,
- 2) the updating of information on the condition of forest resources,
- 3) the running of a databank on forest resources and the condition of forests,
- 4) (going out of force),

- shall be conferred upon the state enterprise known as The Forest Management and Geodesy Bureau (Biuro Urządzania Lasu i Geodezji Leśnej).

2. The provisions of the Commercialisation and Privatisation Act of August 30th 1996 (Dziennik Ustaw of 2002, No. 171, item 1397, with subsequent amendments) shall not have application in respect of the aforesaid Forest Management and Geodesy Bureau with its seat at Warsaw.

Art. 22. 1. The Minister relevant in matters of the environment shall approve the Forest Management Plan in respect of forests constituting Treasury property, as well as the Simplified Forest Management Plan in respect of forests falling within the Treasury Agricultural Property Resource.

2. Having received the opinion of the relevant District Forest Manager, a Starosta heading a given powiat shall approve a Simplified Forest Management Plan.

3. Within 30 days of receiving the draft of a Simplified Forest Management Plan, the District Forest Manager shall be entitled to express reservations thereto. A District Forest Manager shall be deemed to have had no reservations when the said period has already elapsed.

4. The Minister relevant in matters of the environment shall supervise the effecting of Forest Management Plans in respect of forests constituting Treasury property, as well as the effecting

of Simplified Forest Management Plans where forests form part of the aforementioned Treasury Agricultural Property Resource.

5. The Starosta heading a given powiat shall supervise the effecting of approved Simplified Forest Management Plans in respect of forests that do not constitute Treasury property.

Art. 23. 1. Amendment of a Forest Management Plan or Simplified Forest Management Plan may be achieved by virtue of an Annex, subject to paras. 2 and 4, and in observance of the provisions of Art. 22.

2. An increase in the size of the timber harvest within a Forest District beyond that laid down in a Forest Management Plan may only take place in connection with damage or a natural disaster.

3. Where it is not proving possible to maintain the level of the prescribed cut foreseen in a Forest Management Plan, primarily for the reasons referred to in para. 2, amendments shall be made to the said Forest Management Plan in the manner set out in para. 1.

4. In forests not constituting Treasury property, a timber harvest not in accordance with the Simplified Forest Management Plan or the Decision referred to in Art. 19, para. 3 shall only be possible in chance circumstances; the Decision in this matter being issued by the Starosta heading a given powiat, at the request of a forest owner.

Art. 24. Where the owner of a forest not constituting Treasury property fails to meet the obligations laid down in Art. 13, or else fails to perform tasks set out in the Simplified Forest Management Plan or Decision referred to in Art. 19, para. 3, in particular as regards:

- 1) the reintroduction of forest vegetation (plantations),
- 2) stand restocking or conversion,
- 3) the tending and protection of forest, including:
 - a) the removal of trees infested with harmful organisms, as well as those that have been windthrown or wind-broken,
 - b) tending measures in respect of forest vegetation (plantations) up to 10 years old,
 - c) measures to protect against fires,

- the Starosta heading a given powiat shall, by virtue of a Decision, order compliance with the said obligations and performance of the said tasks.

Art. 25. The Minister relevant in matters of the environment shall, by virtue of a Regulation, lay down:

- 1) detailed conditions for, and means of, the drawing up of Forest Management Plans, Simplified Forest Management Plans and inventories of the condition of forest as referred to in Art. 19, para. 3,

2) detailed requirements concerning the conditions for the issuance of the permits referred to in Art. 19a, para. 2, in connection with the subject and scope of services provided, and in particular requirements in respect of an entity's experience with effecting Forest Management Plans, as well as the level of technological and human resources necessary for due and timely effecting of management work; account being taken of education, years in service and activities engaged in, as well as the detailed scope of data contained in the application seeking the said permit, the documentation upon which issuance of the said permit is conditional and the form of the application,

- having regard to the need for correctness of elaboration of management documentation and procedural transparency in respect of applicants' obtainment of permits.

Attachment no 3 - Article 3, 8 § 1 and 50 § 1 of the Law on Proceedings before Administrative Courts (LPAC)

Art. 3. § 1. Administrative courts are responsible for control of the activities of public administration and apply measures regulated in this act.

§ 2. The control of the activities of public administration by administrative courts involves ruling on complaints against:

- 1) administrative decisions;
- 2) rulings made in administrative proceedings, against which an interlocutory objection can be made or rulings that close the case, as well as rulings that settle a case in its essential aspect;
- 3) rulings made in administrative enforcement proceedings and proceedings to secure claims, against which an interlocutory objections can be made, with the exception of creditor's ruling on the inadmissibility of lodged claim and rulings concerning creditor's position on lodged claim;
- 4) other public administration acts or activities than listed in points 1-3 concerning rights or obligations stemming from the law, with the exception of acts or activities based on administrative proceedings regulated in the Code of Administrative Procedure of 14 June 1960 (Dziennik Ustaw 2013 item 267 with subsequent amendments) and proceedings regulated in Parts IV, V and VI of the Tax Ordinance Act of 29 August 1997 (Dziennik Ustaw No 137, item 926) and proceedings regulated in above-cited acts;
 - 4a) written interpretations of tax law provisions issued in individual cases;
- 5) acts of local government bodies and acts of local bodies of the government administration;
- 6) acts of local government bodies and their associations issued in cases of public administration scope, other than listed in point 5;
- 7) acts of supervision of activities of local governments bodies;
- 8) inactivity or lengthy proceedings in cases listed in points 1-4 or lengthy proceedings in case in point 4a;
- 9) inactivity or lengthy proceedings in cases concerning public administration acts or activities other than listed in points 1-3, concerning rights or obligations stemming from the law, issued in the course of administrative proceedings regulated in the Code of Administrative Procedure of 14 June 1960 and proceedings regulated in Parts IV, V and VI of the Tax Ordinance Act of 29 August 1997 and proceedings regulated in above-cited acts.

§ 3. Administrative courts also rule on cases based on particular regulations, which provide judicial control, and apply measures regulated in those particular regulations.

Art.8. § 1. A public prosecutor and the Ombudsman may participate in any proceedings already pending and may also lodge a complaint, a cassation appeal, an interlocutory appeal and a petition for the reopening of proceedings if, according to their view, the need to protect the rule of law or human and civil rights protection requires it. In such event they shall have the rights of a party.

Art. 50 § 1. Everyone who has a legal interest therein, a public prosecutor, the Ombudsman, the Ombudsman for Children and a social organisation, within the scope of its statutory activity and in matters affecting legal interests of other persons, provided that it has taken part in administrative proceedings, shall be entitled to lodge a complaint.

Attachment no 4 - Art. 127 of the Code of Administrative Procedure (CAP) - translation from Polish by the correspondent.

Article 127.

§ 1. A party may bring an appeal against a decision given at first instance only at one further instance.

§ 2. The proper body for dealing with an appeal is the public administration body at higher level, save where a different appeal body is provided for by law.

§ 3. No appeal may be brought against a decision given at first instance by a minister or the local government appeals board, however a dissatisfied party may ask the body to review the case again and the regulations regarding appeals against decisions shall apply in such a case.

§ 4. (deleted).

Dziennik Ustaw (Dz. U.) Official Journal of Laws 05.45.435

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|------------|-------------------------|----------------------------|----------|---------|
| 2005.09.19 | amended | <i>Dz.U.</i> 2005.157.1315 | Art. 1 | |
| 2005.10.02 | amended | <i>Dz.U.</i> 2005.167.1399 | Art. 55 | |
| 2006.01.01 | amended | <i>Dz.U.</i> 2005.175.1460 | Art. 1 | |
| | amended | <i>Dz.U.</i> 2005.175.1462 | Art. 7 | |
| 2006.12.26 | amended | <i>Dz.U.</i> 2006.227.1658 | Art. 40 | |
| 2007.01.12 | amended | <i>Dz.U.</i> 2006.245.1775 | Art. 4 | |
| 2007.04.05 | amendments arising from | <i>Dz.U.</i> 2007.59.405 | | general |
| 2007.04.11 | amended | <i>Dz.U.</i> 2007.64.427 | Art. 40 | |
| 2007.10.16 | amended | <i>Dz.U.</i> 2007.181.1286 | Art. 1 | |
| 2008.09.25 | amended | <i>Dz.U.</i> 2008.163.1011 | Art. 1 | |
| 2008.11.15 | amended | <i>Dz.U.</i> 2008.199.1227 | Art. 138 | |
| 2009.03.07 | amended | <i>Dz.U.</i> 2009.18.97 | Art. 7 | |
| 2009.04.17 | amended | <i>Dz.U.</i> 2009.42.340 | Art. 32 | |
| 2009.05.22 | amended | <i>Dz.U.</i> 2009.69.595 | Art. 4 | |
| 2009.08.01 | amended | <i>Dz.U.</i> 2009.92.753 | Art. 9 | |

THE ACT

on Forests

of September 28th 1991

(Consolidated text)

Chapter 1

General Provisions

Art. 1. This Act sets out principles for the retention, protection and augmentation of forest resources, as well as for the management of forests and other elements of the environment in reference to the national economy.

Art. 2. The provisions of this Act shall apply to forests, irrespective of their form of ownership.

Art. 3. For the purposes of this Act, a forest is land:

- 1) of contiguous area greater than or equal to 0.10 ha, covered with forest vegetation (or plantation forest) – trees and shrubs and ground cover, or else in part deprived thereof, that is:
 - a) designated for forest production, or
 - b) constituting a Nature Reserve or integral part of a National Park, or
 - c) entered on the Register of Monuments;
- 2) associated with forest management, but occupied in the name thereof by buildings or building sites, melioration installations and systems, forest division lines, forest

roads, land beneath power lines, forest nurseries and timber stores; or else put to use as forest car parks or tourist infrastructure.

Art. 4.1. Forests constituting Treasury property are under the administration and management of the *Lasy Państwowe* (State Forests) National Forest Holding, hereinafter referred to as “the State Forests”.

2. The provision in paragraph 1 shall not apply to forests:

- 1) under National Park management;
- 2) forming part of the Treasury Agricultural Property Resource (*Zasób Własności Rolnej Skarbu Państwa*);
- 3) in perpetual use by virtue of separate regulations.

3. Within the framework of the administration exercised thereby, the State Forests shall engage in forest management and the management of land and other real estate and assets associated therewith, as well as in the registration and inventorying of Treasury assets, and the determination of their value.

4. Supervision over the State Forests organisation shall be exercised by the Minister relevant in matters of the environment.

Art. 5. 1. Supervision over forest management shall be exercised by:

- 1) the Minister relevant in matters of the environment – where forests constitute Treasury property;
- 2) the *Starosta* heading a given *powiat* [county-level unit of administration] – where forests do not constitute Treasury property.

1a. (repealed).

2. In forests crossed by a *powiat* boundary, supervision over forest management shall be exercised by the *Starosta* in whose *powiat* the greater part of the area of forest is determined to lie.

3. By virtue of an agreement, the *Starosta* may in his/her name entrust the supervision referred to in para. 1, point 2, including the issue of first-instance administrative decisions, to a State Forests District Forest Manager, hereinafter referred to as “a District Forest Manager”.

3a. Where the conferment of tasks referred to in para. 1, point 2 takes place, the *Starosta* heading a given *powiat* shall remit means necessary to ensure task implementation.

4. A District Forest Manager shall pursue matters referred to in paras. 2 and 3 entrusted by the *Starosta* thereto, having first secured from the entrusting party the financial means required to achieve the given objective.

5. The tasks of the *Starosta* referred to in Art. 13, para. 3, point 2, Art. 16, para. 1a, Art. 22, para. 2 and Art. 38a, para. 2 are tasks within the remit of the governmental administration.

Art. 5a. By virtue of an agreement, the Director-General of the State Forests may entrust to the Director at a Regional Directorate of the State Forests the pursuit of tasks beyond the latter’s area of operations, in connection with the effecting of a plan of protective tasks or plan for the protection of a *Natura 2000* area.

Art. 6. 1. For the purposes of this Act, the following definitions shall apply:

- 1) "forest management" means activity in a forest in respect of the utilisation, protection and management thereof; the maintenance and augmentation of forest resources and plantations; game management; the acquisition – other than by purchase – of wood, resin, Christmas trees, stumpwood, bark, needles, game animals and products of the forest floor vegetation; as well as the sale of these products and the securing of the non-productive functions of forest;
- 1a) "sustainable forest management" means activity seeking to shape the structure of forests and make use of them in a manner and at a rate ensuring the permanent protection of their biological diversity, a high level of productivity and regeneration potential, vitality and a capacity to serve – now and in the future – all the important protective, economic and social functions at local, national and global levels, without harm being done to other ecosystems;
- 2) "stand quality class" means an indicator of the productive capabilities of a forest habitat and stand;
- 3) a "forest owner" means the natural or legal person who owns or is the perpetual user of a forest, as well as the natural person, legal person or organisational unit not enjoying legal personality that is the autonomous possessor, user, administrator or leaseholder of a forest;
- 4) a "threat to persistence" means such a condition of a forest induced by external factors or inappropriate forest management as shall necessitate combative and protective measures, as well as restocking;
- 5) (repealed);
- 6) a "Forest Management Plan" means the primary forest management document drawn up for a given area and containing a description and assessment of the condition the given forest is in, as well as the objectives, tasks and methods of forest management;
- 7) a "Simplified Forest Management Plan" means a plan drawn up for a forest covering at least 10 hectares that is a single contiguous forest complex, wherein an abbreviated description of forest and land designated for afforestation is provided, along with a listing of basic tasks in respect of forest management;
- 8) a "forest road" means a road located within forest that is not a public road for the purposes of the regulations concerning public roads;
- 9) the "prescribed cut" means the amount of wood to be harvested set out in a Forest Management Plan or Simplified Forest Management Plan, as this arises out of the need to renew, tend and protect forest, as well as the principles of forest sustainability and continuity of utilisation;
- 10) the "size of the timber harvest" means the amount (volume) of wood to be harvested, as provided for in the Management and Financial Plan;
- 11) a "*Nature Conservation Programme*" means the part of a Forest Management Plan devoted to the comprehensive description of the condition of nature, tasks to be carried out in respect of its protection and means of pursuing them at Forest District level.
 2. (repealed).
 3. In the forests referred to in Art. 4, para. 2, point 2 that are in perpetual use, the rights and obligations attributed to the Treasury Agricultural Property Agency (APA) (*Agencja Własności Rolnej Skarbu Państwa*) in the Act shall be exercised by the perpetual user.

Chapter 2

Forest management

Art. 7. 1. Sustainable forest management is engaged in pursuant to a Forest Management Plan or simplified Forest Management Plan, with account in particular being taken of the following objectives:

- 1) the preservation of forests and of their favourable influences on climate, air, water, soil and conditions for human life and health, as well as the natural balance;
- 2) the protection of forests, especially those that, with their associated ecosystems, constitute natural fragments of native nature, or else those particularly valuable in terms of:
 - a) the preservation of the diversity of nature,
 - b) the preservation of forest genetic resources,
 - c) valuable features of the landscape,
 - d) the needs of science;
- 3) the protection of soils and areas particularly vulnerable to pollution or damage, as well as of special social significance;
- 4) the protection of surface and underground waters, and drainage-basin retention, in particular in divide areas and areas of the alimentation of bodies of water by groundwater;
- 5) the production – on the basis of rational management – of wood, as well as raw materials and by-products of forest utilisation.

2. Forest management in forests constituting Nature Reserves or included within National Parks shall take account of the rules laid down in nature conservation regulations.

3. Forest management in forests included in the Register of Monuments, as well as those on land that supports archaeological monuments entered in the said Register, shall be pursued in agreement with the Conservator of Monuments in a given province (*Wojewódzki Konserwator Zabytków*), with account also being taken of the regulations on the protection and care of monuments.

Art. 8. Forest management is pursued in accordance with the principles of:

- 1) the universal protection of forests;
- 2) the persistent maintenance of forests;
- 3) continuity and the sustainable use of all forest functions;
- 4) ongoing augmentation of forest resources.

Art. 9. 1. With a view to the universal protection of forests being assured, forest owners are obliged to promote and develop balance in forest ecosystems, as well as to raise the level of natural resistance of stands, and in particular:

- 1) to pursue prophylactic and protective measures preventing fires from arising and then spreading;
- 2) to prevent, detect and combat the excessive emergence and spread of pest organisms;
- 3) to protect forest soils and waters.

2. Where the duties referred to in para. 1 are not discharged, the *Starosta* heading a given *powiat* shall lay down the tasks of forest owners where the said forests are not Treasury-owned.

3. The Minister relevant in matters of the environment shall, on the basis of an agreement reached with the Minister responsible for home affairs and by virtue of a Regulation, set out detailed rules for the safeguarding of forests against fire.

Art. 10. 1. Should pest organisms be present to a degree threatening the persistence of forests:

- 1) District Forest Managers shall, subject to point 2, pursue both combative and protective measures;
- 2) the *Starosta* heading a given *powiat* shall, *ex officio* or at the request of a District Forest Manager, organise the instigation of combative and protective measures in threatened forests that are not under Treasury ownership, at the cost of the given Forest District(s).

2. (repealed).

3. Should the need for combative or protective measures to be taken in an area encompassing two or more Forest Districts arise, the pursuit of the measures referred to in para. 1, point 1 shall be administered by the Director at a Regional Directorate of the State Forests.

Art. 11. The organisational unit, natural or legal person liable for damage arising in forests shall be obliged to put this right, in accordance with the provisions set out in the Civil Code.

Art. 12. 1. Where there is no possibility of determining the perpetrator of damage in forests arising out of the impact of industrial gases or particulate pollutants, or else in the case of fires or other natural disasters brought about by biotic or abiotic factors that pose a threat to the persistence of forests, the costs of management and protection associated with stand renewal or reconstruction shall be covered from the central budget.

2. The decision in regard to the allocation of funding to cover the costs referred to in para. 1 shall be taken by:

- 1) the Minister relevant in matters of the environment, at the behest of the Director-General of the State Forests, hereinafter referred to as "the Director-General" – in respect of forests under State Forests administration and the subject of perpetual use, or else those transferred for use by virtue of Art. 40;
- 2) the *Starosta* heading a given *powiat*, at the behest of the forest owner, and following the receipt of an opinion from the District Forest Manager – in respect of remaining forests, where tasks implemented fall within the remit of the governmental administration.

Art. 13. 1. Forest owners shall be obliged to ensure the permanent maintenance of forest cover, as well as continuity of utilisation, and in particular:

- 1) to preserve forest vegetation (plantations) in forests, as well as natural marshlands and peatlands;

- 2) to reintroduce forest vegetation (plantations) in forest areas within five years of a stand being cleared;
- 3) to tend and protect forest, including against fire;
- 4) to convert and rebuild stands, where these are not in a condition to ensure achievement of the objectives of forest management set out in the Forest Management Plan, Simplified Forest Management Plan or Decision referred to in Art. 19, para. 3;
- 5) to make rational use of forests in a manner permanently ensuring optimal discharge of all the functions thereof, by means of:
 - a) the harvesting of wood within limits not exceeding a forest's productive capabilities,
 - b) the harvesting of raw materials and by-products of forest use, in a manner providing for biological renewal, and also ensuring protection of forest-floor vegetation.

2. The conversion of forest into farmland shall be permissible in the case of a particularly justified need on the part of a forest owner.

3. In the matters referred to in para. 2:

- 1) in respect of Treasury-owned forests, the Decision shall be issued by the Director at a Regional Directorate of the State Forests, at the request of the District Forest Manager;
- 2) in respect of non-Treasury-owned forests, the Decision shall be issued by the *Starosta* heading a given *powiat*, at the request of the forest owner.

Art. 13a. 1. With a view to sustainable forest management being achieved, the State Forests shall in particular be obliged:

- 1) to initiate, coordinate and make periodic assessments of the condition of forests and forest resources, as well as to forecast potential changes in forest ecosystems;
- 2) to engage in the periodic, large-scale inventorying of the condition of forests, as well as update records as regards forest resources;
- 3) to run a data bank on forest resources and the condition of forests.

2. The tasks detailed in para. 1, points 2 and 3 are pursued irrespective of the form of ownership of forests.

Art. 13b. 1. To promote sustainable forest management and the protection of natural resources in forests, the Director-General may, by virtue of an Ordinance, establish Promotional Forest Complexes.

2. Promotional Forest Complexes shall comprise forests administered by the State Forests, as well as forests under other forms of ownership, should their inclusion be requested by their owners.

3. Promotional Forest Complexes shall be functional areas of ecological, educational and social importance, whose activity shall be set out in a single management and protection programme drawn up by the appropriate Director at a Regional Directorate of the State Forests.

4. The Director-General shall call into being a Scientific and Social Council for each Promotional Forest Complex, the tasks thereof including the initiation and assessment of actions taken within the Promotional Forest Complex.

Art. 14. 1. The augmentation of forest resources shall proceed through the afforestation of land and the raising of forest productivity in the manner provided for in a Forest Management Plan.

2. Wasteland areas may be designated for afforestation, as may farmland unsuited to agricultural production and farmland whereof agricultural use is not being made, as well as other land suitable for afforestation, and in particular:

- 1) land around the sources and springs giving rise to rivers and streams; divide areas; riverbanks and the shores of lakes and reservoirs;
- 2) areas of mobile sands and dunes;
- 3) steep slopes, areas affected by rockfalls, precipices and hollows;
- 4) spoil heaps and areas over which the exploitation of sand, gravel, peat or clay has ceased.

2a. The areas to be afforested and their distribution, and the means of achievement of afforestation, shall be as set out in the National Programme for the Augmentation of Forest Cover drawn up by the Minister relevant in matters of the environment, and subject to the approval of the Council of Ministers of the Republic of Poland.

3. The designation of land for afforestation shall be as provided for in a Local Physical Development Plan, or a Decision on Building Conditions and Site Management.

4. The obligation that land be afforested shall be borne by District Forest Managers, in respect of land administered by the State Forests, or by the owners or perpetual users of other land.

5. The owners or perpetual users of land may obtain grants from the central budget allocated with a view to covering in whole or in part the costs of afforesting land referred to in para. 3. The Decision in respect of the said allocation of means to cover the said costs shall be issued by the *Starosta* heading a given *powiat*, on his/her having been requested to do so by an owner or perpetual user, having first received the opinion of the *wójt* heading a *gmina* [unit of local government administration] (or the *burmistrz* (town Mayor) or city President), account also having been taken of the regulations on public aid.

6. (repealed).

7. The *Starosta* heading the *powiat* relevant as regards the location of land made subject to afforestation shall have an assessment made of the degree to which a plantation has taken, in the fourth or fifth year following afforestation of farmland, and shall *ex officio* qualify farmland for redesignation as forest, where the afforestation of land has been carried out by virtue of regulations on support for the development of rural areas from funds originating in the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, or else regulations on support for the development of rural areas involving means from the European Agricultural Fund for Rural Development.

8. By virtue of an agreement, a *Starosta* heading a given *powiat* may entrust the said task of assessing the performance of a plantation to a District Forest Manager.

Art. 14a. 1. Wood harvested in forests shall be subject to marking.

2. The obligation to mark wood shall fall upon forest owners, subject to para. 3.

3. Wood harvested in forests not constituting Treasury property is to be marked at the behest of the *Starosta*, who shall issue forest owners with a document attesting to legality of harvest.

4. By virtue of a Regulation, the Minister relevant in matters of the environment shall lay down detailed rules for the marking of wood, the designs of marking devices and rules for their use, and the pattern for the document confirming legality of a wood harvest.

Chapter 3

Protective Forests

Art. 15. The forests subject to special protection hereinafter referred to as "protective forests" may be recognised as such where:

- 1) they protect soil from washing away or leaching, or prevent landslides, rockfalls or avalanches;
- 2) they protect resources of surface or ground water and/or regulate hydrological relations in a drainage basin or on a divide;
- 3) they limit the emergence or spread of mobile sands;
- 4) they exist in areas sustaining permanent damage as a result of industrial activity;
- 5) stands serve as seed stands, refuges for animals or sites for plants subject to legal protection;
- 6) they are of particular natural or scientific significance, or else importance from the point of view of the defence and security of the Polish State;
- 7) they are located:
 - a) within the administrative limits of towns and cities or within 10 km of the limits of cities of more than 50,000 inhabitants,
 - b) in the protective zones of health resorts and health-resort protection areas in the meaning of the Act of July 28th 2005 on health-resort treatment, health resorts and health-resort protection areas, as well as on health-resort gminas (*Dz. U.* of 2005, No. 167, item 1399).
 - c) within the treeline zone.

Art. 16. 1. By virtue of a Decision, the Minister relevant in matters of the environment shall recognise a forest as protective, or deprive a forest of that status, at the behest of the Director-General and following receipt of an opinion from the Council in the given *gmina* – in respect of forests constituting Treasury property.

1a. By virtue of a Decision, the *Starosta* heading a given *powiat* shall, having reached an agreement with a forest owner and having sought and received the opinion of the relevant *Gmina* Council, recognise a forest as protective, or deprive a forest of that status – in respect of remaining forests.

2. A *Gmina* Council shall express the said opinion within two months of its receipt of a request therefor. Once this time has elapsed, the *Gmina* Council shall be deemed not to have voiced any reservations.

Art. 17. By virtue of a Regulation, the Minister relevant in matters of the environment shall lay down detailed rules and means by which forests are to be recognised as protective, as well as detailed principles for the pursuit of forest management therein.

Chapter 4

The Forest Management Plan

Art. 18. 1. Subject to para. 2, a Forest Management Plan shall be drawn up for 10 years, with account being taken of:

- 1) natural and economic conditions for forest management;
- 2) the objectives and principles of forest management and the means by which these are to be attained, as determined for each stand and managed object, with regard also being had to protective forests.

2. Where the condition of forest so justifies, and most especially where damage or the impacts of natural disasters are present therein, a Forest Management Plan may be drawn up for a period shorter than 10 years.

3. A change in the period referred to in paras. 1 and 2 shall require the consent of the organ approving the Forest Management Plan.

4. A Forest Management Plan shall in particular contain:

- 1) a description of forests and of land designated for afforestation, including:
 - a) a listing of areas of forests, land designated for afforestation and protective forests,
 - b) a listing of areas of forest with forest vegetation (plantations) by species of tree in the stand, age class, stand quality class and forest function;
- 2) an analysis of forest management in the elapsed period;
- 2a) a nature conservation programme;
- 3) a detailing of tasks, including in particular those concerning:
 - a) the amount of timber whose harvest is anticipated, as determined in relation to the volumes to be taken in the course of final and pre-final felling,
 - b) afforestation and restocking,
 - c) the tending and protection of forest, including protection against fire,
 - d) game management,
 - e) needs in respect of technological infrastructure.

Art. 19. 1. Subject to para. 2, a Forest Management Plan shall be drawn up for forests that constitute property of the Treasury.

2. Subject to paras. 3 and 4, a Simplified Forest Management Plan shall be drawn up for forests not constituting Treasury property, as well as for forests forming part of the Treasury Agricultural Property Resource.

3. In the case of fragmented forests with areas of up to 10 ha that do not constitute Treasury property, tasks as regards forest management are as set out in a Decision of the *Starosta* heading a given *powiat*, on the basis of inventorying of the condition of the said forest.

4. Where fragmented forests with areas of up to 10 ha come within the aforesaid Treasury Agricultural Property Resource, tasks in respect of forest management on the basis of the inventorying of the condition of forests are determined by a District Forest Manager.

5. Forest Management Plans and Simplified Forest Management Plans are drawn up by specialist units or other entities engaging in management.

Art. 19a. 1. Subject to Art. 21a, the pursuit of the Forest Management Plan referred to in Art. 19 shall require a permit for engaging in the relevant activity, hereinafter

referred to as "the permit". The decisions in respect of the issuance of the said permit, as well as refusals to issue, amendments to and withdrawal of permits, shall all be taken by the Minister relevant in matters of the environment.

2. An application seeking issuance of a permit shall contain:

- 1) the name and place of residence or name and seat of the applicant, as well the address of the applicant's institution as necessary;
- 2) the REGON and NIP numbers or other identification number;
- 3) an indication as to the location of the services to be rendered;
- 4) a description of the scope of the services to be rendered;
- 5) information as to numbers of employees;
- 6) a list of persons engaging in and supervising management work, along with information regarding their qualifications, years in service and scope of activities pursued;
- 7) a description of the technical equipment necessary for the proper and timely implementation of the Forest Management Plan, which the applicant has at its disposal.

3. A permit shall detail:

- 1) the name, surname and place of residence or name and seat and address of the recipient thereof;
- 2) the subject and area of services to be rendered;
- 3) the minimal level of employment and of provisioning with equipment;
- 4) the number of the permit and date of issue thereof.

4. A permit shall be issued for an unspecified period, though in particularly justified cases a validity date for the decision shall be determined.

5. The Minister relevant in matters of the environment shall be informed forthwith of any change of data indicated in the application referred to in para. 2.

6. A permit shall be withdrawn where the holder fails to meet the conditions laid down therein.

7. The issuance of a permit shall be chargeable at a level determined in regulations concerning stamp duty.

8. The Minister relevant in matters of the environment shall keep a register of permits, containing information on applications therefor and decisions in relation thereto. The data contained in the register shall be in the public domain.

Art. 19b. In the monitoring of an entity's economic activity referred to in Art. 19a, the provisions of the Freedom of Economic Activity Act of July 2nd 2004 (*Dziennik Ustaw* of 2007, No. 155, item 1095, with subsequent amendments) shall have application.

Art. 20. 1. Local Physical Development Plans shall take account of the provisions of Forest Management Plans as regards the boundaries and areas of forests, including protective forests.

2. The registration of land and buildings shall take account of the provisions of Forest Management Plans and Simplified Forest Management Plans, as regards the boundaries and areas of forests.

Art. 21. 1. The Forest Management Plan or Simplified Forest Management Plan shall be drawn up for:

- 1) forests under State Forests administration – at the behest, and at the cost, of the State Forests;
- 2) forests not constituting Treasury property, belonging to natural persons or land cooperatives – at the behest of the *Starosta* heading a given *powiat*;
- 3) remaining forests – at the behest and cost of the owner.

2. The inventorying of the condition of forests referred to in Art. 19, para. 3 shall be carried out at the behest of the *Starosta* heading a given *powiat*.

3. The inventorying of the condition of forests referred to in Art. 19, para. 4 shall be carried out at the cost of the Treasury Agricultural Property Agency.

4. The draft of a Simplified Forest Management Plan shall be made available for public viewing for a period of 60 days, at the *Gmina* Office. Forest owners shall be informed that the Simplified Forest Management Plan has been put on display, by the *Wójt* heading a *gmina* (town Mayor or city President), it further being made clear that the Simplified Forest Management Plan shall be the basis upon which forest tax is calculated.

5. Interested forest owners are to have submitted reservations or motions in respect of a Simplified Forest Management Plan within 30 days of the draft thereof being put on display. The *Starosta* heading a given *powiat* shall issue a Decision recognising or not recognising the said reservations and motions.

Art. 21a. 1. Work in respect of:

- 1) the periodic, large-scale inventorying of the condition of forests,
- 2) the updating of information on the condition of forest resources,
- 3) the running of a databank on forest resources and the condition of forests,
- 4) (going out of force),

- shall be conferred upon the state enterprise known as The Forest Management and Geodesy Bureau (*Biuro Urządzania Lasu i Geodezji Leśnej*).

2. The provisions of the Commercialisation and Privatisation Act of August 30th 1996 (*Dziennik Ustaw* of 2002, No. 171, item 1397, with subsequent amendments) shall not have application in respect of the aforesaid Forest Management and Geodesy Bureau with its seat at Warsaw.

Art. 22. 1. The Minister relevant in matters of the environment shall approve the Forest Management Plan in respect of forests constituting Treasury property, as well as the Simplified Forest Management Plan in respect of forests falling within the Treasury Agricultural Property Resource.

2. Having received the opinion of the relevant District Forest Manager, a *Starosta* heading a given *powiat* shall approve a Simplified Forest Management Plan.

3. Within 30 days of receiving the draft of a Simplified Forest Management Plan, the District Forest Manager shall be entitled to express reservations thereto. A District Forest Manager shall be deemed to have had no reservations when the said period has already elapsed.

4. The Minister relevant in matters of the environment shall supervise the effecting of Forest Management Plans in respect of forests constituting Treasury property, as well

as the effecting of Simplified Forest Management Plans where forests form part of the aforementioned Treasury Agricultural Property Resource.

5. The *Starosta* heading a given *powiat* shall supervise the effecting of approved Simplified Forest Management Plans in respect of forests that do not constitute Treasury property.

Art. 23. 1. Amendment of a Forest Management Plan or Simplified Forest Management Plan may be achieved by virtue of an Annex, subject to paras. 2 and 4, and in observance of the provisions of Art. 22.

2. An increase in the size of the timber harvest within a Forest District beyond that laid down in a Forest Management Plan may only take place in connection with damage or a natural disaster.

3. Where it is not proving possible to maintain the level of the prescribed cut foreseen in a Forest Management Plan, primarily for the reasons referred to in para. 2, amendments shall be made to the said Forest Management Plan in the manner set out in para. 1.

4. In forests not constituting Treasury property, a timber harvest not in accordance with the Simplified Forest Management Plan or the Decision referred to in Art. 19, para. 3 shall only be possible in chance circumstances; the Decision in this matter being issued by the *Starosta* heading a given *powiat*, at the request of a forest owner.

Art. 24. Where the owner of a forest not constituting Treasury property fails to meet the obligations laid down in Art. 13, or else fails to perform tasks set out in the Simplified Forest Management Plan or Decision referred to in Art. 19, para. 3, in particular as regards:

- 1) the reintroduction of forest vegetation (plantations),
 - 2) stand restocking or conversion,
 - 3) the tending and protection of forest, including:
 - a) the removal of trees infested with harmful organisms, as well as those that have been windthrown or wind-broken,
 - b) tending measures in respect of forest vegetation (plantations) up to 10 years old,
 - c) measures to protect against fires,
- the *Starosta* heading a given *powiat* shall, by virtue of a Decision, order compliance with the said obligations and performance of the said tasks.

Art. 25. The Minister relevant in matters of the environment shall, by virtue of a Regulation, lay down:

- 1) detailed conditions for, and means of, the drawing up of Forest Management Plans, Simplified Forest Management Plans and inventories of the condition of forest as referred to in Art. 19, para. 3,
- 2) detailed requirements concerning the conditions for the issuance of the permits referred to in Art. 19a, para. 2, in connection with the subject and scope of services provided, and in particular requirements in respect of an entity's experience with effecting Forest Management Plans, as well as the level of technological and human resources necessary for due and timely effecting of management work; account being taken of education, years in service and activities engaged in, as well as the detailed scope of data contained in the application seeking the said permit, the

documentation upon which issuance of the said permit is conditional and the form of the application,
- having regard to the need for correctness of elaboration of management documentation and procedural transparency in respect of applicants' obtainment of permits.

Chapter 5

Principles under which forests are to be made accessible

Art. 26. 1. Subject to paras. 2 and 3, the forests constituting Treasury property shall be accessible to the populace.

2. Permanent proscriptions on access shall apply to forests that are:

- 1) plantations up to 4 m in height;
- 2) experimental areas or designated seed stands;
- 3) refuges for animals;
- 4) source areas for rivers and streams;
- 5) in areas threatened by erosion.

3. District Forest Managers shall enjoy the right to introduce temporary bans on entry into forests constituting Treasury Property, where:

- 1) destruction has taken place or there is more marked damage to forest stands, or degradation of forest-floor vegetation;
- 2) a major fire risk has arisen;
- 3) management measures are in progress, in connection with silviculture, forest protection or timber harvesting.

4. Save in cases provided for in para. 2, point 1, forests made subject to permanent or temporary bans on entry shall be marked as such by means of boards inscribed with the words *zakaz wstępu* ("Ban on Entry"), as well as an indication of the causes and duration of the said ban in force. The obligation to put up and maintain the said signs shall be that of the District Forest Manager, where forests are administered by the State Forests; or else of the forest owner in respect of remaining forests.

5. By virtue of a Regulation, the Minister relevant in matters of the environment shall lay down the pattern for the *zakaz wstępu* sign for forests, as well as principles in respect of its posting.

Art. 27. 1. Subject to the prohibitions provided for in Arts. 26 and 30, forests constituting Treasury property shall be made available for the gathering and picking of forest-floor produce:

- 1) to meet persons' own needs;
- 2) for industrial purposes, subject to paras. 2 and 3.

2. The gathering and picking of forest-floor produce for industrial purposes shall require the concluding of an agreement with the given Forest District.

3. District Forest Managers shall decline to conclude an agreement of the said kind where gathering from the forest floor poses a threat to the forest environment.

4. The setting up of apiaries in forests constituting Treasury property shall not be chargeable.

5. By virtue of a Regulation, the Minister relevant in matters of the environment shall lay down detailed rules for the protection of forest-floor vegetation and the gathering and picking of produce therefrom, as well as rules in respect of the siting of apiaries in forest areas.

Art. 28. An owner of a forest not constituting Treasury property may prohibit entry into a forest, marking such a forest with a board with the appropriate inscription.

Art. 29. 1. Traffic comprising motor or animal-drawn vehicles shall only be permitted in forests on public roads. On forest roads such traffic shall only be permitted where the said roads are indicated by signs allowing for traffic. This shall not apply to disabled people whose mobility depends on vehicles adapted to their needs.

1a. Horse riding in a forest is only permitted via forest roads designated for the purpose by a District Forest Manager.

2. On forest roads, stopping by the vehicles referred to in para. 1 is only permitted at marked places.

3. The provisions of para. 1, of Art. 26, paras. 2 and 3, and of Art. 28 shall not apply in cases of the pursuit of service or management-related tasks by:

- 1) employees of a Forest District;
- 2) persons supervising forest management or checking upon organisational units of the State Forests;
- 3) persons engaged in firefighting or efforts to save human life and protect human health;
- 4) personnel of the Border Guard defending the state border, and personnel of other bodies responsible for security and public order;
- 5) persons engaged in activity relating to game management, as well as the owners of apiaries located within forest areas;
- 6) forest owners in their own forests;
- 7) persons making use of farmland located within forests;
- 8) employees of forest scientific, research-and-development and experimental units, in connection with their pursuit of scientific research and experimentation as regards forestry and nature conservation;
- 9) a Conservator of Nature in a given province (*Wojewódzki konserwator przyrody*) or employees of the Landscape Park Services;
- 10) persons drawing up Forest Management Plans or Simplified Forest Management Plans, or else the inventories of the condition of forest referred to in Art. 19, para. 3.

4. The organising of sporting events or other large-scale events in forests shall require the consent of the forest owner.

Art. 30. 1. In forests, it shall be forbidden:

- 1) to pollute soils and waters;
- 2) to leave litter;
- 3) to dig up ground;
- 4) to destroy fungi or fungal mycelia;
- 5) to destroy or damage trees, shrubs or other plants;
- 6) to destroy installations and other elements associated with management and tourism, as well as technical installations, signs and boards;

- 7) to gather and pick the produce of the forest floor, where this activity is marked as prohibited;
- 8) to disturb or collect leaf litter;
- 9) to graze livestock;
- 10) to bivouac away from places designated therefor by a forest owner or District Forest Manager;
- 11) to collect eggs or nestlings of birds or destroy their breeding grounds or nests, or to destroy the holes, dens, lairs and setts of animals, as well as anthills;
- 12) to scare, chase, catch, trap and/or kill wild animals;
- 13) to let dogs off the leash;
- 14) to make noise or use sound signals, save in cases where there is a need for the alarm to be raised.

2. The provisions of para. 1, points 3 and 5 shall not apply to activity relating to forest management, while points 12-14 shall not apply in respect of hunting.

3. Forests, areas of land within forests and areas up to 100 m from the forest edge shall be subject to proscriptions on activities capable of giving rise to danger, and in particular:

- 1) the starting of fires away from places designated for that purpose by a forest owner or District Forest Manager;
- 2) the use of a naked flame;
- 3) the burning of surface soil layers or remnants of vegetation.

4. The provisions of para. 3 shall not apply to activities associated with forest management, provided that the said activities do not pose a fire threat.

Art. 31. Where forest is the subject of perpetual use by virtue of separate regulations, or included within the Treasury Agricultural Property Resource, the tasks and competences set out in Art. 10, para. 1, point 1; Art. 13, para. 3, point 1, Art. 26, paras. 3 and 4 and Art. 30, para. 1, point 10 and para. 3, point 1 shall reside respectively with the perpetual user or the Treasury Agricultural Property Agency. Where these provisions refer to:

- 1) a Forest District – this is to be construed as an organisational unit of a perpetual user or the Treasury Agricultural Property Agency called into being to engage in forest management;
- 2) a District Forest Manager – this is to be construed as the head of the organisational unit referred to in point 1.

Chapter 6

The State Forests National Forest Holding

Art. 32. 1. As a state organisational unit not enjoying legal personality, *Las Państwowe* (the State Forests) represents the Treasury of the Republic of Poland as regards assets administered.

2. The State Forests shall be deemed to comprise the following organisational units:

- 1) the Directorate-General of the State Forests;
- 2) the Regional Directorates of the State Forests;
- 3) the Forest Districts;

4) other organisational units not enjoying legal personality.

3. The organisational units:

1) referred to in para. 2, point 2 shall be created, merged, divided, abolished and defined as regards their territorial extent by virtue of a Regulation from the Minister relevant in matters of the environment, at the request of the Director-General;

2) referred to in para. 2, point 3 shall be created, merged, divided, abolished and defined as regards their territorial extent by the Director-General, at the request of the Director at a Regional Directorate of the State Forests.

4. (repealed).

Art. 33. 1. The State Forests shall be run by a Director-General, with the assistance of the Directors at the Regional Directorates of the State Forests.

2. The Director-General is appointed and dismissed by the Minister relevant in matters of the environment.

3. The Director-General shall in particular:

1) represent the Treasury in respect of relationships in civil law, to the extent that his/her remit allows;

1a) initiate, coordinate and supervise the activity of the Directors at Regional Directorates of the State Forests, as well as the heads of other organisational units of the State Forests of nationwide reach;

1b) administer land and other real estate acquired or taken out from under the direct management of a Forest District to meet the needs of the Directorate-General of the State Forests or the joint undertakings of State Forests organisational units;

2) create, merge, divide and abolish the organisational units of nationwide reach referred to in Art. 32, para. 2, point 4;

3) initiate, organise and coordinate undertakings in the name of forest protection, national forest management and the development of forestry;

4) organise management planning in forests and forecasting in forestry;

5) supervise and coordinate tasks as regards staff training in forestry, as well as the popularisation of knowledge concerning forests;

6) initiate, support and finance research as regards forestry, and supervise the use made of the results thereof;

7) make good financial shortfalls in the Forest Districts and Regional Directorates of the State Forests, as these arise out of disparate conditions for forest management;

8) organise the joint undertakings of organisational units of the State Forests;

9) appoint and dismiss:

a) deputy Directors-General, in agreement with the Minister relevant in matters of the environment,

b) the Chief Inspector of the Forest Guard,

c) the Directors at Regional Directorates of the State Forests,

d) the heads of organisational units referred to in point 1.

Art. 34. The Directors at the Regional Directorates of the State Forests shall in particular:

1) represent the Treasury in respect of relationships in civil law, to the extent provided for by their remit;

- 2) with the consent of the Director-General, create, and also merge, divide and abolish, the organisational units of regional reach referred to in Art. 32, para. 2, point 4;
- 2a) administer land and other real estate acquired or taken out from under the direct management of a Forest District, to meet the needs of a Regional Directorate of the State Forests;
- 2b) appoint and dismiss:
 - a) Deputy Directors at Regional Directorates of the State Forest, in agreement with the Director-General,
 - b) District Forest Managers,
 - c) the heads of organisational units referred to in point 2;
- 2c) initiate, coordinate and supervise activity on the part of District Forest Managers and heads of organisational units of regional reach;
- 3) organise the joint supervised undertakings of organisational units as regards forest protection and national forest management;
- 4) have at their disposal the financial resources allocated with a view to making good shortfalls arising in given Forest Districts as a consequence of disparate conditions for forest management;
- 5) offer training and professional advisory services in forestry;
- 6) (repealed);
- 7) engage in service activity as regards forestry, to the benefit of supervised units and other entrepreneurs;
- 8) represent the Treasury in matters arising out of the regulatory proceedings provided for in the Acts on Church-State Relations and State Relations with Other Faiths in the Republic of Poland.

Art. 35. 1. District Forest Managers pursue autonomous forest management in a Forest District on the basis of a Forest Management Plan, and are responsible for the condition of forest. In particular, a District Forest Manager shall:

- 1) represent the Treasury in relationships in civil law, to the extent provided for by his/her remit;
- 2) head the Forest District, as the fundamental organisational unit of the State Forests;
- 2a) engage in the direct administration of forests, land and other Treasury-owned real estate that is under the management of the State Forests;
- 2b) appoint and dismiss:
 - a) a Deputy District Forest Manager, in agreement with the Director at the relevant Regional Directorate of the State Forests,
 - b) the Chief Accountant of the Forest District,
 - c) the Supervising Engineer,
 - d) Sub-District Forest Managers;
- 2c) initiate, coordinate and supervise the activity of Forest District employees;
- 3) determine the manner in which the Forest District is organised, including by means of such a division into Sub-Districts as shall provide for the proper discharge of management duties by Sub-District Forest Managers, as well as hire or dismiss Forest District employees;
- 4) organise the protection of assets and combat activities harmful to forest.

2. District Forest Managers shall provide assistance to the owners of non-Treasury-owned forests, at the request thereof, by means of:

- 1) advisory services in respect of afforestation and forest management;
- 2) (repealed);
- 3) the paid provisioning of the said owners with seedlings or saplings of forest trees and shrubs, as well as specialist equipment.

3. In particularly justified cases, at the request of the owner of a forest not constituting Treasury property, as supported by an opinion from the *Wójt* heading the relevant *gmina* (or town Mayor or city President), a District Forest Manager may make sapling trees and shrubs available for the reintroduction of forest vegetation (forest plantations) – in accordance with a Simplified Forest Management Plan or the Decision referred to in Art. 19, para. 3.

4. By virtue of an agreement with a forest owner, a District Forest Manager may organise the implementation of management tasks in a forest, together with the sale of wood.

5. Where called upon to do so by the owner of land designated for afforestation, a District Forest Manager shall draw up an afforestation plan and shall confirm completion of the afforestation process where the said afforestation is the subject of regulations on support for the development of rural areas involving means from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund or else regulations on support for the development of rural areas involving means from the European Agricultural Fund for Rural Development.

Art. 35a. 1. Employees of the State Forests shall be entitled to wear a forester's uniform.

2. The entitlement to wear a forester's uniform shall also extend to:

- 1) employees of the *Ministry of Environmental Protection, Natural Resources and Forestry* dealing with supervision over forest management;
- 2) employees of the office of the *Starosta* heading a given *powiat*, where the said employees are directly involved in supervising the management of forests not constituting Treasury property;
- 3) the heads, teachers and pupils of vocational schools of forestry;
- 4) employees of departments in higher education institutions providing forest education, as well as the employees of research-and-development units whose statutory activity is pursued in the interests of forestry.

3. The persons referred to in paras. 1 and 2 shall bear the costs of their uniforms, subject to Art. 46, para. 1, point 1.

4. The Minister relevant in matters of the environment shall determine, by virtue of a Regulation, the models of the forester's uniform and of insignia for those authorised to bear them.

Art. 36. 1. Treasury-owned land designated for afforestation in accordance with Local Physical Development Plans or Decisions on Building Conditions and Site Management shall come under the administration of the State Forests (Forest Districts).

2. The Decision in the matter referred to in para. 1 shall be issued by the *Starosta* heading a given *powiat*.

Chapter 6a

The management of Treasury assets administered by the State Forests

Art. 37. 1. The head of an organisational unit of the State Forests, other than the head of the organisational unit referred to in Art. 32, para. 2, point 4, shall, with the approval of the Director-General, purchase forests and land designated for afforestation that is under the ownership of natural or legal persons, along with other land and real estate, should this prove justified in terms of the needs of forest management, and should this not be at odds with the Treasury's interests.

2. The Minister relevant in matters of the environment shall lay down, by virtue of a Regulation, the detailed rules by which the head of a State Forests organisational unit may acquire forests, land designated for afforestation or other real estate in the possession of natural and legal persons.

Art. 38. 1. Subject to Art. 40a, the sale of forests, land and other real estate of the Treasury that has been under State Forests administration may take place in cases:

- 1) in which there is a disposing of shares in forests constituting Treasury property in co-ownership;
- 2) of the regulation of the field-forest boundary;
- 3) where the District Forest Manager reports unsuitableness of land, buildings or building sites where the needs of forest management are concerned;
- 4) of designations being changed in respect of non-forest and non-agricultural objectives;
- 5) dictated by important economic or social considerations, to the extent that this does not infringe Treasury interests.

2. The sale referred to in para. 1, points 1-4 requires the approval of the Director-General, subject to para. 3, while the sale referred to in para. 1, point 5 may occur at the request of the Director-General, with the approval of the Minister relevant in matters of the environment.

3. District Forest Managers may of their own volition sell forest or non-forest land of areas up to 1 ha, if these represent enclaves within areas of land under other forms of ownership.

4. The sale of forests, land and other real estate administered by the State Forests shall take place by means of public tendering. Where two tendering procedures end in failure, the seller may dispense with the items in question by means of price negotiations.

5. Should forests, land or other real estate referred to in para. 4 located within the administrative limits of towns or cities be put up for sale, then the right of first refusal in respect of their purchase shall be enjoyed by the local authority in an urban *gmina*.

6. By virtue of a Regulation, the Minister relevant in matters of the environment shall determine the detailed conditions under which, and manner in which, public tendering is to be engaged in, as well as the manner in which, and conditions under which, price negotiations are to be pursued, in respect of sales of forests, land and other real estate under State Forests administration, with full account being taken of the transparency and efficiency of the procedures applied.

Art. 38a. 1. Real estate designated for the construction of National Roads that is under Treasury ownership and the administration of the State Forests shall lawfully and

without charge become the subject of permanent administration determined in favour of the General Directorate for National Roads and Motorways (*Generalna Dyrekcja Dróg Krajowych i Autostrad*), on the day on which a Decision establishing the location of a National Road becomes final.

2. The determination of permanent administration shall be confirmed by the *Starosta* heading a given *powiat*, by virtue of a Decision thereof.

3. The decision referred to in para. 2 shall constitute a basis for entry in a land and mortgage register.

4. The provisions of paras. 1-3 shall respectively apply to real estate encompassed by a Decision on issuance of a permit for the development of public-use airports, for the purposes of the provisions of the Act of February 12th 2009 on detailed rules for the preparation and implementation of investment as regards airports in public use (*Dz. U.* of 2009, No. 42, item 340), as issued to the entity referred to in Art. 28, para. 1 of the Act, albeit with permanent administration being confirmed by the *Wojewoda* [Provincial Governor heading a given *województwo* or voivodship], by virtue of a Decision.

Art. 38b. By virtue of an agreement concluded between the Director-General and the Head of the Treasury Agricultural Property Agency, the State Forests may without charge transfer to the said Agency such forests and land as are incapable of supporting rational forest management, in particular where these constitute enclaves or semi-enclaves within areas of land falling within the Treasury Agricultural Property Resource.

Art. 38c. 1. Where there is a change in the designation of forest or agricultural land under the administration of the State Forests to non-forest-related or non-agricultural purposes, as achieved by means of provisions concerning the protection of agricultural and forest land and in connection with the needs of another organisational unit not enjoying legal personality, the transfer of the said land shall take place free of charge, by means of an agreement on the transfer of administration entered into between the head of the organisational unit and:

- 1) the District Forest Manager – in the case of land originating within a single Forest District;
- 2) the Director heading a Regional Directorate of the State Forests – in the case of land originating within more than one Forest District.

2. Para. 1 shall apply respectively to the bringing under State Forests administration of forests, land and other real estate constituting Treasury property and being under the management of other organisational units not enjoying legal personality, or else to the State Forests' transfer of such real estate, without change of designation, under other organisational units not enjoying legal personality and administering Treasury assets.

Art. 38d. 1. At the request of a *Starosta* heading a given *powiat* and discharging tasks as regards the governmental administration, the land referred to in Art. 38c, para. 1, as well as buildings and sites not suited to meeting the needs of forest management, together with the land necessary for their use, may be handed over for the perpetual use of a legal person by the State Forests, or else for the use of another organisational unit not enjoying legal personality.

2. (repealed).

Art. 38e. 1. The forests, land and other Treasury real estate under the administration of the State Forests may be the subjects of exchanges for forests, land and other real estate, in cases justified by the needs and objectives of forest management, following their valuation by persons in possession of relevant entitlements as regards the valuation of real estate.

2. An exchange engaged in:

- 1) by a District Forest Manager, shall require the consent of the Director heading the relevant Regional Directorate of the State Forests;
- 2) by the Director heading the relevant Regional Directorate of the State Forests, shall require the consent of the Director-General.

Art. 39. Where there is consent for this on the part of the Director heading a Regional Directorate of the State Forests, the forests referred to in Art. 3, point 1, letter (a), as well as point 2, that are under the administration of the State Forests, may be leased out by a District Forest Manager, in accordance with forest management objectives and tasks set out in the relevant Forest Management Plan. The other real estate referred to in Art. 4, para. 3, under the administration of the State Forests, may be leased out or rented by a District Forest Manager with the consent of the Director heading the relevant Regional Directorate of the State Forests.

Art. 40. 1. At the request of an interested minister or executive body of a unit of territorial administration, the Director-General may transfer into the use of an organisational unit indicated by the applicant, forests, land or other real estate, with no change being made to previous designations, if such a transfer is shown to be in the interests of:

- 1) the defence or security of the state or the protection of the national border;
- 2) science or didactics;
- 3) nature conservation;
- 4) the protection of water intakes;
- 5) the combating of flood risk;
- 6) the protection of the coast;
- 7) medical treatment;
- 8) care for ancient monuments;
- 9) rest and recreation by the populace;
- 10) agriculture.

2. The said transfer into the use of an indicated organisational unit is made by the Director-General, by virtue of an agreement that lays down the period and conditions of use, as well as the unit exercising supervision over forest management.

3. Should the need justifying the giving over for use of forest, land or other real estate detailed in para. 1 cease to apply, or should use thereof be made in a manner that does not accord with the original objectives of the said transfer, or should forest management be pursued in a manner not complying with the Forest Management Plan, then the Director-General may, at the request of the Director heading a Regional Directorate of the State Forests, deprive the said unit of the right of utilisation.

4. Where the defensive needs of the state justify this, the Director-General may, at the request of the Minister of National Defence and with the approval of the Minister relevant in matters of the environment, exclude forests from under State Forests

administration and transfer them under the administration of an organisational unit reporting to the Minister of National Defence.

Art. 40a. 1. The State Forests may sell real estate in the form of residential buildings and free-standing residential premises, hereinafter called “premises”, as well as residential buildings that are under construction, where these are not suitable for State Forests use.

2. The determination of the price of real estate for sale referred to in para. 1 shall proceed on bases laid down in regulations concerning real-estate management.

3. Land shall be sold together with premises, along with the appurtenances necessary if those premises are to be used. Land under buildings or associated therewith that is put up for sale is to be deemed land excluded from agricultural or forestry production for the purposes of the protection of agricultural and forest land. This land shall *ex officio* be revealed as built-on land in the Local Physical Development Plan, and in a register of land and buildings.

4. Employees and former employees of the State Forests employed therewith for at least three years – save those with whom the employment relationship was dissolved without prior notice through the fault of the employee – shall enjoy the right of first refusal in purchasing premises which they are renting and in which they are resident. The sale price of the said premises shall be lowered by 6% for each year of employment with organisational units of the State Forests, and by 3% for each year over which the premises have been rented, though by no more than 95%, the payment of the amount due also being spread across 60 monthly instalments, albeit with the interest charged annually not being permitted to exceed the annual reference rate describing the minimum primary charging of interest on basic operations of the open market, as maintained by the National Bank of Poland, as increased by 2 percentage points. If an entitled person is a pensioner, the purchase price for the premises shall be set at 5% of their value.

5. The provision in para. 4 shall also apply to persons close to an employee who outlived him/her and were resident with him/her on the day of the latter’s death. The said “close persons” are deemed to be spouses, as well as ascendants or descendants, as well as persons adopted. Where there are coincident entitlements to the lowering of sums due on account of persons running a joint household, the periods of employment of these persons shall be summed, albeit with the overall reduction not exceeding 95% of the sale price of the given premises. Such entitlements shall only apply to the purchase of a single premises.

5a. The entitlements referred to in para. 5 shall also be enjoyed by “close persons” in respect of premises whereof the right of lease was obtained by the said persons in exchange for premises previously occupied on the day of the death of a State Forests employee or former employee. These entitlements shall only be enjoyed by a single “close person”, and only in respect of the purchase of a single premises.

5b. The State Forests shall demand the return of a sum equal to the discount granted, following the valorisation thereof, in cases in which the purchaser of premises referred to in paras. 4, 5 and 5a disposes of, or else reassigns to purposes other than residential, the said premises, within 5 years of the date of purchase. This shall not concern disposal to the benefit of a “close person”.

5c. The valorisation referred to in para. 5b shall be carried out in accordance with rules set out in regulations on real-estate management.

6. The provisions in arts. 4-5b shall apply respectively to those who are or were employed at forest schools, surgeries at plants, and other organisational units.

7. Lessees who do not enjoy the entitlements referred to in paras. 4, 5 and 6 shall be in a position to purchase premises designated for sale that they have occupied for at least three years on the basis of a leasing agreement concluded for an indefinite period, at a price lowered by 3% for each year of leasing, albeit not reduced by more than 45%. The requirement to have occupied premises for at least three years shall not apply to lessees that are non-governmental organisations, have gained the status of "organisation of public benefit" (*organizacja pożytku publicznego*) and engage in economic activity in accordance with the Act of April 24th 2003 on activity of public benefit and on volunteering (*Dz. U.* of 2003, No. 96, item 873, with subsequent amendments).

8. Lists of premises and land with residential buildings under construction as designated for sale shall be drawn up by the Directors heading Regional Directorates of the State Forests. The lists shall be opined upon by trades unions. Sale may take place following approval of a list by the Director-General, as well as the publication thereof in the Information Bulletin of the State Forests and the general press. Occupied premises shall not be listed in the press. The lessees referred to in paras. 4-5a, 6 and 7 shall be informed of the designation for sale of premises, as well as of the deadline by which they may or may not avail themselves of the right of first refusal.

9. Employees and former employees of the State Forests who are not renters of premises designated for sale and under the administration of the State Forests have priority when it comes to the purchase of empty premises or land with residential buildings under construction, on the basis of the conditions set out in para. 4.

10. Where the persons referred to in paras. 4-7 do not exercise their right to purchase premises on which they are living, there may – within 6 months of the date of announcement of the sale of the said premises in the manner provided for in para. 8 – be a transfer of the said premises, free of charge, to a *Gmina* Office, together with the land and appurtenances essential if use is to be made of the said premises, on bases set out in provisions concerning the handover of state-enterprise-owned residential buildings.

11. If an offer for the purchase of empty premises or land with a residential building under construction is submitted by more than one person, the sale will proceed by means of limited tendering, in which the sole participants may be persons authorised by virtue of para. 9. In respect of the payment of the price established by way of the limited tendering, para. 4 shall have application as and where relevant.

12. By virtue of a Regulation, the Minister relevant in matters of the environment shall lay down the detailed rules for, and means of, selling premises and land with residential buildings under construction, as well as the criteria for the qualification thereof as non-useful to the State Forests, and the means by which to engage in limited tendering.

Art. 41. 1. The Director-General, a Director heading a Regional Directorate of the State Forests or a District Forest Manager may, in the name of the Treasury, take out bank credit or a loan from the National Fund for Environmental Protection and Water

Management, or else the Provincial (Voivodship) Funds for Environmental Protection and Water Management.

2. The total amount of credit taken out during a given year by the Director-General, the Directors heading Regional Directorates of the State Forests or District Forest Managers may not exceed a sum equivalent to 30% of the values of sales made by the State Forests in the previous year.

Art. 42. 1. In the name of the Treasury, the Director-General may establish single-person Treasury companies, or else join limited liability or joint-stock companies.

2. Forests constituting the property of the Treasury and being under the administration of the State Forests may not be the subject of the non-monetary input into companies referred to in para. 1.

3. The Director-General shall exercise entitlements arising out of Treasury property rights in respect of the shares in companies and enterprises that are in the possession of the State Forests.

Art. 43. The Directorate-General of the State Forests, Regional Directorates of the State Forests and Forest Districts shall use a circular stamp with a likeness of the eagle established for the arms of the Republic of Poland, as well as the name *LASY PAŃSTWOWE* (the State Forests) and that of the organisational unit within the rim.

Art. 44. By virtue of an Ordinance, the Minister relevant in matters of the environment shall confer a Statute upon the State Forests, in particular setting out therein the principles by which and manner in which the State Forests are to act, and the internal bodies thereof, regard being had to the establishment of organisational conditions optimal for the due discharge of tasks by the State Forests.

Chapter 7

The Forest Service

Art. 45. 1. A Forest Service is created within the State Forests. The Forest Service shall include employees involved in:

- 1) matters of the management of forests administered by the State Forests;
- 2) the pursuit of forest management and the protection of forests;
- 3) the combating of crimes and offences in respect of activities harmful to forests and nature conservation, as well as the pursuit of other tasks concerning the protection of assets;
- 4) matters of supervision referred to in Art. 5, should such a supervisory role be conferred.

2. An employee of the Forest Service shall be a person who:

- 1) has Polish citizenship;
- 2) is aged 21 or over;
- 3) enjoys full civil rights;
- 4) has the appropriate professional qualifications;
- 5) enjoys an impeccable reputation;
- 6) is employed full-time;

- 7) enjoys an appropriate state of health;
- 8) has not been punished by a court for crimes for profit or other low motives.

Art. 46. 1. In pursuing their service activity, employees of the Forest Service shall enjoy the protection foreseen by provisions of the Penal Code in respect of public servants, as well as the rights:

- 1) to receive a uniform and insignia free of charge, albeit under an obligation to wear these while discharging obligations relating to work;
- 2) to a dwelling free of charge, where the post held and nature of the work carried out necessitate residence in the place where this work is done;
- 3) to paid leave for the purpose of recuperation (albeit this not to exceed six months at a time), where a person worked full time with the State Forests for a period of not less than three years;
- 4) (repealed);
- 5) to one-off compensation at the time of retirement in relation to old age or disability, at a level three times as high, or (after 20 years' work with the State Forests) six times as high as the remuneration obtained for the last month in employment.

2. (repealed).

3. In the event of there being a lack of State Forests-administered dwellings to meet the requirements referred to in para. 1, point 2, an employee shall be entitled to the monetary equivalent thereto.

4. By virtue of a Regulation, the Minister relevant in matters of the environment shall determine the Forest Service posts entitling those employed to a dwelling free of charge or monetary equivalent, as these are referred to in para. 3, as well as the manner in which these dwellings are to be allocated and vacated and the determination of the monetary equivalent, regard being had to the proper discharge of tasks ascribed to employees of the Forest Service.

Art. 46a. Employees of the Forest Service, including Forest Guards, who use their own vehicles for work purposes on local journeys may be granted the right to have the costs associated with the use of these vehicles reimbursed – up to the level of a monthly lump sum or a level not exceeding the product of the rate per kilometre travelled by a vehicle laid down in separate regulations issued by a relevant Minister, where the journeys travelled by the said vehicle are documented in a register kept by the employee in cases in which the lump sum shall not apply.

Art. 47. 1. A Forest Guard within the State Forests is established. The tasks referred to in Art. 45, para. 1, point 3 shall be discharged by Forest Guards included within the Forest Service.

1a. The Forest Guard shall be headed by a Chief Inspector thereof, reporting to the Director-General.

1b. The units of the Forest Guard in the State Forests shall constitute:

- 1) Forest Guard posts in given Forest Districts reporting to the District Forest Manager;
- 2) intervention groups at given Regional Directorates of the State Forests reporting to the Directors thereof.

1c. The Director-General shall lay down:

- 1) the organisation and scope of activity of the Forest Guard posts and intervention groups referred to in para. 1b;
- 2) detailed rules for the training of Forest Guards.

2. In discharging the tasks detailed in para. 1, Forests Guards shall be authorised:

- 1) to check the identities of persons suspected of having committed a crime or offence, as well as witnesses;
- 2) to impose and collect fines by virtue of penalty tickets issued, in matters and within the scope laid down by separate regulations;
- 3) to stop and check means of transport in or directly adjacent to forest areas, with a view to the loads and/or baggage therein being identified, where there is a justified suspicion that a punishable act may have been perpetrated;
- 4) to search premises and other places, in cases of a justified suspicion that a crime has been committed, on the basis of rules laid down in the Republic of Poland's Code of Criminal Proceedings;
- 5) to apprehend the perpetrator of a crime or offence caught red-handed, or else in the course of chase given immediately following the perpetration of a crime, as well as to hand the said person over to the Police;
- 6) following issuance of a receipt, to confiscate items deriving from a crime or offence, as well as instruments or other means serving in the perpetration thereof;
- 7) to pursue investigations, and to lodge and pursue bills of indictment by virtue of simplified proceedings, where the object of criminal activity is wood originating from forests under Treasury ownership, in the manner and on the grounds provided for in the Code of Criminal Proceedings;
- 8) to pursue proceedings in cases concerning minor offences, as well as to participate in hearings before a *Kolegium do spraw wykroczeń* [misdemeanour court] in the role of prosecuting attorney, and to seek remedies at law in district courts following *Kolegium* decisions in matters of the fight against many offences involving activities harmful to forests;
- 9) to bear firearms both long and short, as well as gas weapons and manual gas throwers;
- 10) to call upon state institutions for assistance, and furthermore to seek *ad hoc* assistance from businesses, social organisations and also – in extreme cases – from each individual citizen, on the basis of principles set out in the Police Act.

2a. The confiscated items, instruments and means referred to in para. 2, point 6 are to be kept under lock and key in a manner safeguarding them from loss or damage.

2b. Forest Guards shall be authorised to carry out checks on businesses engaging in the trade and processing of timber and other forest products, with a view to the legality of origin of raw wood and other forest products being determined.

3. Against persons preventing his/her engagement in activity provided for in the Act, a Forest Guard shall be entitled to apply direct means of coercion or constraint, through resort to the use of:

- 1) physical force, by way of restraining locks and holds or similar means of defence or attack;
- 2) a rubber truncheon;
- 3) chemical means of restraint in the form of a manual gas thrower or gas weapon;
- 4) handcuffs;
- 5) a service dog.

3a. The action referred to in para. 3 shall be engaged in in such a way as to impinge to the most limited possible extent upon the inviolability of the person against whom the said action is being taken.

3b. The means by which the actions referred to in para. 3 are pursued shall as necessary be the subject of cases brought before the Prosecutor.

4. The application by a Forest Guard of direct means of constraint and coercion shall meet the needs of the given situation and shall seek to subdue those to whom orders have been issued.

5. Where the direct means of constraint or coercion referred to in para. 3 prove inadequate, a Forest Guard shall be entitled to resort to a firearm:

- 1) to resist a direct attempt on his/her own life or that of another person;
- 2) against a person ordered to lay down his/her weapon or other dangerous instrument who does not comply, and behaves in such a way as to indicate a direct intention to make use thereof against the said Forest Guard or another person;
- 3) against a person seeking to take away the said weapon by resorting to force.

6. The use of a firearm should take place in such a way as to cause the least possible harm to the person at whom the weapon is directed, and may not be intended to deprive the said person of his/her life, or give rise to a situation in which other persons are threatened with loss of life or health.

7. Provisions of the Police Act shall have respective application in regard to the pursuit by a Forest Guard of activities referred to in para. 2, points 1 and 3, as well as in respect of the use of force thereby, as referred to in paras. 4-6.

8. Forest Guards in the performance of their service duties and on land constituting the property of the Treasury and administered by the State Forests shall enjoy entitlements set out in separate regulations concerning:

- 1) The State Hunting Guard (*Państwowa Straż Łowiecka*) – in respect of the fight against poaching;
- 2) The Nature Conservation Guard (*Straż Ochrony Przyrody*) – in respect of compliance with regulations on nature conservation;
- 3) The State Fishing Guard (*Państwowa Straż Rybacka*) – in respect of checks on the legality of catches.

Art. 48. The entitlements of a Forest Guard as regards the fight against the activities harmful to forest referred to in Art. 47, para. 2, points 1-8 and 10, as well as in para. 8, shall also apply to District Forest Managers, Deputy District Forest Managers and Supervising Engineers, as well as to Sub-District Forest Managers and Junior Forest Managers.

Art. 48a. The Director-General of the State Forests, Directors heading Regional Directorates of the State Forests, District Forest Managers and the Chief Inspector of the Forest Guard shall work together with the Head of the National Criminal Information Centre (*Krajowe Centrum Informacji Kryminalnych*), to the extent necessary for the implementation of statutory tasks.

Art. 49. 1. By virtue of a Regulation, the Minister relevant in matters of the environment shall detail:

- 1) posts and requirements as regards qualifications, detailed rules in respect of remuneration and ranks within the Forest Service, and details of the manner in which ranks are to be conferred, lowered or removed, with account being taken of proper proportionality between requirements as regards qualifications, posts, and the components of remuneration corresponding with them that allow for appropriate employment in the State Forests;
- 2) (repealed).
 2. (repealed).
 3. By virtue of a Regulation, the Minister relevant in matters of the environment shall, in agreement with the Minister relevant in matters of internal affairs, lay down detailed rules for:
 - 1) joint action on the part of the State Forests and the Police;
 - 2) the allocation to, and the registration and storage by, Regional Directorates of the State Forests and Forest Districts of arms and ammunition, as well as manual gas throwers and means of direct coercion and constraint in the form of handcuffs and rubber truncheons.

Chapter 8

Financial management in the State Forests

Art. 50. The State Forests shall engage in activity on the basis of financial self-sufficiency, thereby covering the costs of activity from own revenue.

Art. 51. The accounting year in the State Forests shall be the calendar year.

Art. 52. 1. The State Forests shall draw up an annual report on the condition of forests, as well as financial management reports on State Forests activity.

2. The Council of Ministers shall lay information on the condition of forests and on the state of implementation of the National Programme for the Augmentation of Forest Cover before the Sejm [Lower House of Parliament] of the Republic of Poland.

Art. 53. 1. The costs of the upkeep of the Directorate-General of the State Forests and the Regional Directorates of the State Forests shall be met from payments burdening Forest Districts' operating costs.

2. The Minister relevant in matters of the environment shall determine the level of the financial burdening referred to in para. 1, by means of a decision.

Art. 54. The State Forests shall be in receipt of a targeted grant from the central budget allocated to tasks commissioned by the governmental administration itself, and in particular to:

- 1) the purchase of forests and land for afforestation, or else the reclamation thereof, as well as the purchase of other land with a view to its natural character being retained;
- 2) the implementation of the National Programme for the Augmentation of Forest Cover referred to in Art. 14, para. 2a, as well as the tending and protection of the plantations and young stands arising within the framework thereof;
- 3) the management and protection of forests in the case of a threat to the persistence thereof as referred to Art. 12, para. 1;

- 4) the carrying out of periodic large-scale inventories of the condition of forests, the updating of information on the condition of forest resources and the running of the databank on forest resources and forest condition referred to in Art. 13a, para. 1, points 2 and 3;
- 5) the devising of protection plans for Nature Reserves under the administration of the State Forests, the implementation of the said plans, the species protection of plants and animals, and supervision over areas coming within the *Natura 2000* network;
- 6) the funding of society's forest-related education, in particular via the creation and running of Promotional Forest Complexes and the laying out of nature and forest trails;
- 7) the devising of the afforestation plans referred to in Art. 35, para. 5;
- 8) the discharge of tasks associated with the implementation of programmes co-financed from foreign sources.

Art. 55. The Director-General, the Directors heading Regional Directorates of the State Forests and District Forest Managers shall have at their disposal means from the budget in the form of the targeted grants for commissioned tasks referred to in Art. 54, in accordance with the provisions of Budgetary Law.

Art. 56. 1. In the State Forests there shall be established a Forest Fund constituting a form by which to utilise means for purposes indicated in the Act.

2. Means from the Forest Fund shall be under the management of the Director-General.

Art. 57. 1. Means from the Forest Fund shall constitute:

- 1) a primary charge calculated on the value of sold wood, and adding to the cost of a Forest District's activity;
- 2) due sums, and sums accruing from fines and fees, in relation to the excluding of forest land from production;
- 3) due sums arising out of:
 - a) damages provided for in civil law as a reflection of damage inflicted by the impact of industrial gases and particulates, or in other respects,
 - b) the premature felling of stands by virtue of the provisions of the Act on the Protection of Agricultural and Forest Land,
 - c) damages reflecting the effects of fires, or mining and geological work;
- 4) income reflecting participation in, or the sale of shares in, the companies referred to in Art. 42;
- 5) grants from the central budget, save those targeted grants referred to in Art. 54;
- 6) other income obtained for the said Fund.

2. The means referred to in para. 1, point 2 and point 3, letter (b), associated with the exclusion from production of forests not constituting Treasury property, as well as forests under the administration of the National Parks, shall be gathered on a separate bank account of the Directorate-General.

3. Means from the Forest Fund not utilised in a given calendar year shall constitute income of the Fund in the following calendar year.

4. At the behest of the Director-General and by virtue of a Decision, the Minister relevant in matters of the environment shall establish annually for the State Forests the

size of the charge referred to in para. 1, point 1. The Director-General may establish the level of the charge for the different Regional Directorates, and Directors heading Regional Directorates the levels for different Forest Districts.

Art. 58. 1. Means from the Forest Fund shall be designated to Forest Districts with a view to making good shortfalls arising as forest management tasks are pursued.

2. Means from the Forest Fund may also be designated for:

- 1) the joint undertakings of organisational units of the State Forests, in particular as regards forest management;
- 2) scientific research;
- 3) the establishment of infrastructure essential to the pursuit of forest management;
- 4) the drawing up of Forest Management Plans;
- 5) work associated with the assessment and forecasting of the condition of forest and forest resources;
- 6) other tasks as regards management in forests.

3. The means from the Forest Fund referred to in Art. 57, paras. 1 and 2 shall be designated for the afforestation of land not constituting Treasury property, the pursuit of afforestation work on the said land and other work associated with making good the effects of natural disasters, and the pursuit of management work in non-state-owned forests; as well as for the purposes set out in para. 2, points 2 and 6, in forests under the administration of the National Parks; and those set out in Art. 13a, para. 1.

4. The Director-General may establish a stabilisation fund on the basis of a designated part of the means of the Forest Fund, this being assigned to the elimination of extraordinary threats to forest within the framework of a forest's long-term production cycle.

5. A Forest District shall seek the opinion of relevant local government bodies in respect of annual plans for the afforestation of land not constituting Treasury property.

Art. 59. By virtue of a Regulation, the Council of Ministers shall lay down detailed rules and principles for financial management within the State Forests.

Chapter 9

(repealed).

Chapter 10

Amendments to binding provisions, as well as transitional and final provisions

Art. 67. In the Act of 31st January 1980 on Environmental Protection and Management (*Dz. U.* of 1980, No. 3, item 6; of 1983, No. 44, item 201; of 1987, No. 33, item 180; of 1989, No. 26, item 139 and No. 35, item 192; of 1990, No. 34, item 198 and No. 39, item 222; and of 1991, No. 77, item 335) the following amendments are introduced: (amendments omitted).

Art. 68. In the Act of 25th September 1981 on State Enterprises (*Dz. U.* of 1991, No. 18, item 80 and No. 75, item 329), point 2 in Art. 4, para. 2 is deleted.

Art. 69. To the Act of 26th March 1982 on the Protection of Agricultural and Forest Land (*Dz. U.* of 1982, No. 11, item 79; of 1984, No. 35, item 185; of 1988, No. 24, item 169 and of 1990, No. 34, item 198), there shall be introduced the following changes: (changes omitted).

Art. 70. To the Act of January 31st 1989 on income tax from legal persons (*Dziennik Ustaw* of 1991, No. 49, item 216 and No. 80, item 350) and specifically Art. 9, para. 1 thereof, there shall be added in point 13 the wording:

"13) incomes from forest management in the meaning of the provisions of the Act on Forests."

Art. 71. To the Act of December 20th 1989 on the establishment of the office of Minister of Environmental Protection, Natural Resources and Forestry (*Dz. U.* of 1989, No. 73, item 433), there shall be introduced the following changes: (changes omitted).

Art. 72. To the Act of January 12th 1991 on local fees and taxes (*Dz. U.* of 1991, No. 9, item 31), there shall be introduced the following changes: (changes omitted).

Art. 73. To the Act of June 17th 1959 on the breeding and protecting of game animals and on hunting law (*Dz. U.* of 1973, No. 33, item 197 and of 1990, No. 34, item 198), there shall be introduced the following changes: (changes omitted).

Art. 74. 1. State-owned forests constitute Treasury property other than that administered by the State Forests, *i.e.* those

- 1) remaining under the management of other Ministers by virtue of their not having been transferred from the State Forest Holding in the manner provided for in Art. 14, para. 1 of the Act of 20th December 1949 on the State Forest Holding (*Dz. U.* of 1949, No. 63, item 494, with subsequent amendments¹⁾),
- 2) excluded from the State Forest Holding in the manner provided for in Art. 14, para. 1 of the Act referred to in point 1, and transferred under the management of other Ministers, shall, subject to para. 2, be transferred under State Forests administration within one year of the entry into force of the Act.

2. The forests referred to in para. 1 may be utilised by the organisational units engaging in management hitherto, by virtue of an agreement concluded in accordance with the rules set out in Art. 40, para. 1.

3. Forests, and land designated for afforestation, that fall within the resources of the State Land Fund, shall be transferred under the administration of the State Forests.

Art. 75. 1. Regional Boards for state-owned forests established by virtue of Art. 6, para. 2, letter (a) of the Act of 20th December 1949 on the State Forest Holding shall become Regional Directorates of the State Forests, while Forest Districts shall become Forest Districts, in the meaning of the Act.

2. The assets of the Regional Boards for state-owned forests shall respectively become assets administered by the Regional Directorates of the State Forests and Forest Districts.

3. The Service and Production Departments of the Regional Boards for state-owned forests shall become the other organisational units of the State Forests mentioned in Art. 32, para. 4.

Art. 76. The rights and obligations enjoyed on the basis of previous regulations by the management organisation bringing together enterprises dealing with state-owned forests and known as the State Forests shall become respectively the rights and obligations of the organisational units of the State Forests referred to in Art. 32, para. 2.

Art. 77. Forests categorised as protective by virtue of provisions concerning agricultural and forest land shall become protective forests for the purposes of the Act.

Art. 78. Where cases have been launched, but have not been in receipt of a decision on the day of entry into force of the Act, the provisions in force hitherto shall have application.

Art. 79. 1. Within five years of the date of entry into force of this Act, the Directors heading Regional Directorates of the State Forests shall be obliged to devise anew or augment Forest Management Plans for forests administered by the State Forests, in accordance with the requirements laid down in the Act.

2. The obligation set out in para. 1 shall also fall upon:

- 1) provincial governors – in regard to forests that are the property of natural persons;
- 2) legal persons – in regard to forests belonging thereto.

3. In the case of forests not yet made subject to Forest Management Plans, in the period prior to their elaboration, tasks as regards the felling of trees, replanting, stand reconstruction, tending and forest protection (including protection against fire) shall be determined and supervised in their implementation by:

- 1) the Director-General of the State Forests – in respect of forests constituting Treasury property,
- 2) *the manager of a district office* – in respect of the owners of forests.

Art. 80. (repealed).

Art. 81. Going out of force:

- 1) the Decree of 5th July 1946 on the Forest Guard (*Dz. U.* of 1946, No. 41, item 238; as well as of 1949, No. 18, item 110);
- 2) the Act of December 20th 1949 on the State Forest Holding (*Dz. U.* of 1949, No. 63, item 494; of 1950, No. 49, item 448; of 1971, No. 27, item 249; of 1974, No. 24, item 142; of 1982, No. 7, item 54 and of 1989, No. 35, item 192);
- 3) the Act of November 22nd 1973 on the Management of Forests not constituting State Property (*Dz. U.* of 1973, No. 48, item 283; of 1982, No. 11, item 79 and of 1990, No. 34, item 198 and No. 55, item 321).

Art. 82. This Act shall enter into force on January 1st 1992.

- 1) The amendments to the aforesaid Act were announced in *Dz. U.* of 1950, No. 49, item 448; of 1971, No. 27, item 249; of 1974, No. 24, item 142; of 1982, No. 7, item 54; and of 1989, No. 35, item 192.

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