

**Text of the act as finally adopted after taking into consideration amendments proposed by the Senate**

**ACT**

**of 30 June 2005**

**on Cinematography**

**Chapter 1**

**General provisions**

**Art. 1.**

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

**Art. 2.**

The Act does not apply to:

1) audio-visual registration:

- a) the performance of oral, oral-musical, musical and stage works;
- b) events from political, social, cultural, religious, economic and sporting life;
- c) works prepared for the needs of learning, teaching, technical subjects, advertising, promotions, information and instruction;
- d) works compiled for the internal use of churches and other denominational associations;
- e) events from private lives;

2) the production and dissemination of films by organisational units subordinate to the Minister of National Defence and the minister dealing with internal affairs, or films commissioned by such units, designated to perform tasks connected with the defence or security of the state or public order, and also the production and dissemination of films by organisational units designated to perform tasks in the area of instruction or protective and re-socialisation activities.

**Art. 3.**

1. The State extends its patronage to activities in the field of cinematography, which is part of the national culture, and which consists of, in particular, supporting the production and promotion of films, disseminating film culture, and protecting the cultural heritage in the area of film.

2. Cinematography encompasses film creativity, film production, film services, and film distribution and dissemination, including the activities of cinemas, the dissemination of film culture, the promotion of Polish film production and the accumulation, protection and dissemination of film art resources.

**Art. 4.**

1. A film is a work of unspecified length, including a documentary or animated work, comprising a series of successive pictures with sound or without, made permanent on any medium enabling multiple reproduction, producing the impression of movement and together forming an original whole expressing action (content) in an individual form, and moreover, with the exception of documentary and animated compositions, intended for screening in the cinema as the first field of exploitation as understood by the regulations concerning copyright and related laws.

2. A film is deemed to be a Polish film if its producer or co-producer is an entity with headquarters on the territory of the Republic of Poland, and moreover, at least one of the following conditions is fulfilled:

1) the author of the screenplay or adapted literary work, the director or executor of one of the leading roles are Polish citizens, the share of financial resources of the producer, whose headquarters is on Polish territory, constitutes 100% of film production costs, and in addition to this, these resources, of up to a level of 80% of the film production costs, have to be spent on Polish territory, and moreover, the master copy is produced in the Polish language;

2) the author of the screenplay or adapted literary work or director or performer of one of the leading roles are Polish citizens, the share of financial resources of the co-producer, with its headquarters on Polish territory, constitutes at least 20% of film production costs in respect of a film which is a bilateral co-production, and at least 10% in respect of a film which is a multilateral co-production; in addition these resources, up to a level of 80% of the film production costs, have to be spent on Polish territory, and moreover the chief language version is performed in Polish.

#### **Art. 5.**

The terms and descriptions used in the act are defined as follows:

1) film distribution – the acquisition of rights to exploit the film, including the right to make copies of the film and adapt the film for exploitation in a language version other than the one in which it was produced, and transferring this right to other entities for the purpose of dissemination of the film;

2) low-budget film – a film whose production cost is lower than twice the amount of the maximum financial subsidy in a given year as set by the Council of the Polish Film Institute;

3) cinema – the site as well as the complex of technical installations used to publicly screen films;

4) master copy – copy of film constituting the standard in production of release prints;

5) co-producer of film – entity which together with the producer organises, conducts and holds responsibility for the production of the film, or which co-finances the production of the film and acquires a share in the authors' copyright;

6) film producer – a physical person, legal entity, or organisational unit, as referred to in Art. 33<sup>1</sup> § 1 of the Civil Code, who/which undertakes initiatives, actually organises, conducts and holds responsibility for the creative, organisational and financial process of film production;

7) film production – a complex of creative, organisational, economic, legal, and technical activities leading to the production of a film in the form of a master copy;

8) dissemination of film – making the film publicly available in any way whatsoever, excepting its broadcasting on television;

9) popularising film culture – activities consisting of organising film reviews, festivals, days of film culture, symposia, and other similar cultural and educational activities and also publishing periodicals and learned and cultural publications dedicated to film art;

10) film services – services rendered in the framework of economic activities performed by entrepreneurs on behalf of producers for the purposes of film production, encompassing in particular activities carried out with the help of their own workers; making available photographic studios and premises, and film equipment without service staff; and the performance of specialist transport services.

#### **Art. 6.**

1. The tasks of the organs of government administration in the field of cinematography that are appropriate to cultural affairs and the protection of national heritage are pursued by the Minister (hereinafter referred to as “Minister”).

2. The scope of ministerial activities includes in particular:

1) drawing up the direction for implementation of the state's cultural policy in respect of cinematography;

- 2) ensuring the common access of society to Polish, European and world heritage in film art;
- 3) creating conditions for development of all varieties and types of film creativity;
- 4) supporting the artistic development of young creative filmmakers;
- 5) supporting the education and professional perfection and protection of film-related professions;
- 6) supporting the dissemination of film culture and acting to the benefit of the development of a social film movement and film-related writing.

## **Chapter 2**

### **Polish Film Institute**

#### **Art. 7.**

1. In order to support the development of cinematography, the Polish Film Institute is being set up, hereinafter referred to as the “Institute”, which is a state-owned legal entity.
2. The headquarters of the Institute are in Warsaw.

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

1. The Institute implements its tasks in the field of state policy in respect of cinematography, in particular through:
  - 1) creating conditions for the development of Polish film productions and co-productions;
  - 2) inspiring and supporting the development of all types of Polish film creativity, and in particular artistic films, including the preparation of film projects, film productions and dissemination of films;
  - 3) supporting activities aimed at creating conditions of common access to the heritage of Polish, European and world film art;
  - 4) supporting film debuts and the artistic development of young filmmakers;
  - 5) the promotion of Polish film creativity;
  - 6) financial subsidising of enterprises in the field of preparing film projects, film productions, distribution and dissemination of films, promotion of Polish filmmaking and dissemination of film culture, including production of films undertaken by Polish expatriate centres;
  - 7) providing expert services to organs of public administration;
  - 8) supporting the upkeep of film archives;
  - 9) supporting the development of the potential of the independent Polish cinematographic industry, in particular small and medium-sized entrepreneurs operating in the cinematographic sector.
2. Within the scope of pursuing its tasks as referred to in § 1, the Institute cooperates with government administration organs and local government units.

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

1. The Institute manages its assets independently, in the framework of the resources it owns, being guided by the principle of using them effectively.
2. The Institute cannot undertake economic activities.

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

1. The Institute’s activities are overseen by the Minister.
2. The Minister, within 30 days, reviews the resolutions adopted by the Institute’s Council which are forwarded to the Minister without delay from the point of view of their compliance with the law, and may declare a resolution invalid in whole or in part if it infringes the law or threatens to produce a negative financial result.

3. The Minister endorses the annual plan of action and the annual financial plan of the Institute.
5. The Minister appoints a registered auditor to audit the annual financial statements.

**Art. 11.**

1. The Institute operates on the basis of the Act and its Statute.
2. The Minister, by way of a decree, endows the Institute with a Memorandum of Association in which he defines in particular:
  - 1) the detailed scope of the Institute's activities;
  - 2) the internal organisation of the Institute;
  - 3) the detailed tasks of the Institute's organs and the way in which they should work, taking into account the creation of appropriate conditions for the proper implementation of the Institute's tasks.
3. The decree referred to in § 2 is published in "Monitor Polski" (the official journal of the Polish Republic).

**Art. 12.**

The Institute's organs are:

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

**Art. 13.**

1. The Director manages the Institute's work and represents it externally.
2. The Director's tasks entail in particular:
  - 1) establishing the annual activity plan and the annual financial plan of the Institute, as well as approaching the minister with resolutions regarding the level of subsidy for implementing the Institute's tasks;
  - 2) compiling a Director's Report on the Institute's activities and the Institute's annual financial statements;
  - 3) providing co-financing for enterprises in the field of preparing film projects, film productions, the distribution and dissemination of film culture, upon obtaining the opinions of experts indicated by the Minister from among the film industry's milieus;
  - 4) managing the Institute's assets;
  - 5) running the Institute's financial management.
3. the Director can set up grants and awards from the Institute's resources.

**Art. 14.**

1. The Director shall be appointed by competition. The competition commission shall be appointed by the Minister, specifically from among the candidates proposed by film milieus, including the authors and producers of films and labour unions operating in the cinematographic industry.
2. The Director's term of office is five years.
3. The Director may remain in office for no more than two terms.
4. The Deputy Director shall be appointed and dismissed by the Minister at the request of the Director.
5. The Director and his/her Deputy shall be employed on the basis of an appointment; however, art. 70 § 1 of the Labour Code shall not apply to the Director.
6. The Minister may dismiss the Director, after consulting the Council, before the end of the term of office if:
  - 1) the Director acts in violation of the law;

- 2) renounces his/her function;
- 3) suffers from an illness which prevents him/her from discharging his/her duties;
- 4) is convicted by a final judgment of an intentional crime or offence, or an intentional tax crime;
- 5) the annual financial statements of the Institute are not approved;
- 6) the Council expresses a negative opinion in the scope referred to in art. 17(1)(3).
7. In the cases referred to in paragraph 6, the Minister may also dismiss the Director at the request of the Council.
8. In the period of managing the Institute, the Director cannot engage in any other activities related to cinematography, and specifically shall not be employed in cultural institutions or in entities which engage in business in the area of film production and distribution, and shall not own shares in such entities or be a member of their organs.
9. The Minister shall determine, by way of a Decree, the method of publishing, organising and establishing the procedures for conducting the competition, and the composition, method of appointing and tasks of the competition commission, taking into consideration specifically the need to conduct the competition efficiently and to assess the qualifications of the candidates thoroughly.

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

1. The Council shall consist of 11 members appointed by the Minister for a period of three years.
2. The Minister shall appoint the following members of the Council:
  - 1) three members proposed by film authors;
  - 2) one member proposed by film producers;
  - 3) one member proposed by the labour unions operating in the cinematographic industry;
  - 4) five members proposed by entities referred to in art. 19 (1)-(5)
  - 5) one member representing the Minister.
3. A Chairman appointed by the Council from among the Council members, in a ballot by an ordinary majority of votes in the presence of at least six of its members, shall be responsible for managing the work of the Council. During the term of office, the Council may change the Chairman according to the same procedures.
4. A member of the Council can hold more than two consecutive terms of office.
5. No remuneration is payable to members of the Council for performing their functions.

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

1. The Minister may dismiss a member of the Council before the end of the term of office if:
  - 1) the member renounces his/her function;
  - 2) the member suffers from an illness preventing him/her from holding the function;
  - 3) the member is convicted by a final judgment for an intentional crime or offence, or an intentional tax crime.
2. If the member of the Council is dismissed before the end of the term of office, the Minister shall appoint a new member of the Council for the period until the end of the term of office.

**Art. 17.**

1. The tasks of the Council shall in particular include the following:

- 1) establishing the direction for the Institute's operations;
- 2) expressing opinions on the annual activity plan and annual financial plan of the Institute;
- 3) expressing opinions on the annual Directors' Report and annual financial statements of the Institute;
- 4) expressing opinions on amendments to the Memorandum of Association.

2. The Council may present its standpoints, opinions and conclusions on all issues relating to the Institute and to cinematography to the Minister, to other public administration authorities, and to the Director.

**Art. 18.**

1. The following shall constitute the Institute's revenues:

- 1) subsidies granted to specific entities from the state budget by the Minister from the budget funds which he is authorized to administer;
- 2) revenues from the exploitation of films where the respective copyrights are owned by the Institute;
- 3) donations, inheritances and legacies;
- 4) proceeds from the Institute's assets;
- 5) funds awarded by the Minister from the Fund for the Promotion of Culture referred to in art. 47e of the Act of 29 July 1992 on gambling and mutual bets (Journal of Laws of 2004, No. 4, item 27 and No. 273, item 2703);
- 6) payments referred to in art. 19 (1)-(5), (6) and (7);
- 7) revenues referred to in art. 27a (4) and 45b of the Act of 16 July 1987 on state-owned film institutions (Journal of Laws of 2003 No. 58, item 513 and of 2005 No 132, item 1111).

2. The Institute may receive specific subsidies from the State budget for completing its investment projects.

3. The costs of the Institute's operations shall be covered by the revenues referred to in paragraph 1, subparagraph 1, 3 and 4.

**Art. 19.**

1. Entities that manage cinemas shall make payments of 1.5% of the revenue earned on screening films and advertisements in the cinema, before sharing it with the distributing entity, on behalf of the Institute.

2. Distributing entities shall make payments of 1.5% of the revenue earned on the sale and rental of carriers with film recordings and on agreements authorising other entities to make such sales or rentals on behalf of the Institute.

3. Television broadcasters shall make payments of 1.5% of the higher of the revenue earned on broadcasting advertising, telesales and sponsored programmes, and the revenue from payments collected directly from subscribers for access to the broadcast programmes in a given settlement period, on behalf of the Institute.

4. Operators of digital platforms shall make payments of 1.5% of the revenue earned on fees for access to television programmes broadcast or re-aired on the digital platform on behalf of the Institute.

5. Operators of cable television shall make payments of 1.5% of the revenue earned on fees for re-aired television programmes and providing re-airing services on behalf of the Institute.

6. Entities controlled within a Group within the meaning of the Act of 15 December 2000 on competition and consumer protection (Journal of Laws of 2003 No. 86, item 804 with

subsequent amendments<sup>1</sup>) by an entity referred to in paragraphs 1-5, shall make payments of 1.5% of the revenue earned on the issues referred to in paragraphs 1-5 on behalf of the Institute. In such event, the controlling entity may deduct from the amount due to the Institute in respect of the issues referred to in paragraph 1-5, in the given settlement period, amounts actually paid on behalf of the Institute in this respect in the same settlement period by the controlled Group entity.

7. Public television broadcasters are required to earmark at least 1.5% of their annual proceeds from subscriptions from television owners for film production purposes. The broadcaster shall submit to the Director an annual report on discharging this duty by the end of the first quarter of the calendar year. If the amount referred to in the first sentence is not fully expensed on film production, the broadcaster shall transfer to the Institute the difference resulting from the settlement within one month of the end of the first quarter of a calendar year.

8. The payments referred to in paragraphs 1-5 and 6 shall be transferred in quarterly periods, 30 days after the end of the quarter.

9. Regulations of Section III of the Act of 29 August 1997 – the Tax Law (Journal of Laws of 2005 No. 8, item 60) – shall apply respectively to amounts due in respect of the payments referred to in paragraphs 1-5, 6 and 7, in recognition of the fact that the rights of the tax authority are vested in the Director and the rights of the appellation authority are vested in the Minister.

10. The payments referred to in paragraphs 1-5, 6 and 7 constitute tax-deductible costs within the meaning of the income tax regulations, as at the date they are incurred.

#### **Art. 20.**

1. The financial administration of the Institute is based on an annual financial plan.

2. The annual financial plan comprises in particular:

- 1) revenues, including subsidies, broken down by type;
- 2) operating expenses, including the costs of wages and salaries, and the related contributions;
- 3) capital expenditures;
- 4) the balance of current assets as at the beginning and as at the end of the financial year.

3. The Institute's financial year is the calendar year.

4. The Institute maintains its accounts in accordance with the requirements of the accounting regulations.

5. The Institute's annual financial statements are audited by a registered auditor.

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

1. The Institute shall set up:

- 1) the statutory fund;
- 2) the reserve fund;
- 3) other funds, if the obligation to set them up follows from other regulations.

2. The statutory fund reflects the value of assets received by the Institute upon its establishment.

3. The statutory fund is increased by:

- 1) specific subsidies granted for the purpose of realising the Institute's tasks;
- 2) the value of assets received free of charge on the basis of decisions of competent authorities or on the basis of other regulations;
- 3) net profit, in consideration of paragraph 5.

4. The statutory fund is decreased by:

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<sup>1</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2003, No. 170, item 1652 and of 2004, No. 93, item 891 and No.96, item 959.

- 1) the value of assets transferred free of charge on the basis of decisions of competent authorities or on the basis of other regulations;
- 2) the net loss not covered by the reserve fund.
5. The reserve fund is set up from net profit. Appropriations to the reserve fund cannot be lower than 10% of the net profit. The Institute may abandon the appropriation if the balance of the reserve fund exceeds the equivalent of 2% of the Institute's operating expenses in a financial year.
6. The reserve fund is used to offset the net loss.

### **Chapter 3**

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

##### **Art. 22.**

1. Subject to paragraph 2, any entity engaged in the cinema business, both Polish and from another Member State of the European Union or the European Free Trade Association (EFTA), i.e. parties to the European Economic Area, irrespective of its organisational or legal status and ownership structure, may apply for matching funds in the area of preparing film projects, film production, distribution and dissemination of films, promotion of Polish film-making and dissemination of film culture, hereinafter referred to as "project co-financing".
2. The Institute cannot provide project co-financing to:
  - 1) physical persons convicted by a final judgment for crimes or offences of giving false evidence, bribery, offences against the reliability of documents, in respect of property, economic relations, trading in cash and securities, the banking system, tax offences or other offences related to engaging in business activities or crimes perpetrated to achieve pecuniary gains;
  - 2) legal entities or organisational entities without legal personality, in which a member of its authorities or shareholder was convicted by a final judgment for crimes or offences referred to in paragraph 1;
  - 3) entities which:
    - a) have overdue tax liabilities, or
    - b) are under receivership or are undergoing liquidation, bankruptcy or restructuring proceedings, or
    - c) within three years before applying for project co-financing have materially violated an agreement concluded with the Institute.
3. Project co-financing shall be granted based on the following criteria:
  - 1) artistic, cognitive and ethical values;
  - 2) importance for the national heritage and reinforcing the Polish tradition and language;
  - 3) enriching the European cultural diversity;
  - 4) expected effects of the planned project;
  - 5) business and financial terms of completion of the project.

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

1. Project co-financing shall take the form of subsidies, and in respect of preparing film projects and film production, also the form of loans or warranties.
2. Project co-financing cannot exceed 50% of a film's budget, with the exception of films whose content and form are artistically ambitious and are of limited commercial value, or constitute directors' debuts (difficult films) and low-budget films. In each case the amount of project co-financing cannot exceed 90% of the project's budget.

3. The Institute shall grant project co-financing in the form of a civil law agreement concluded on its behalf by the Director, after having consulted experts.
4. The Institute, as the authority granting project co-financing, has to control the clearing of the income and expenses of the project which was granted additional financing. The course and the method of completion of the project, as well as the correctness of the use of the additional funds received from the Institute are also subject to control.
5. If a project earns profits, the entities which have received project co-financing have to return the amounts of project co-financing on the terms and conditions specified in the regulations on public finance.
6. The Minister shall determine by way of a Decree:
  - 1) detailed terms and procedures for granting project co-financing and the significant elements of an application for granting project co-financing;
  - 2) significant elements of the civil law agreements referred to in paragraph 3 – taking into consideration the need to achieve the goals specified in art. 3 (1), effective use of the project financing and ensuring the clarity for its being granted.

**Art. 24.**

1. The experts referred to in art. 23 (3) shall be appointed for a period of 12 months by the Minister, in a number of not less than 7, from among representatives of film milieus and opinion-forming circles.
2. Expert opinions shall be prepared in writing and shall include a detailed analysis of the project in terms of the criteria referred to in art. 22 (3).
3. No expert preparing an opinion may in any way be connected with the completion of the analysed project.

**Art. 25.**

An entity which is granted project co-financing shall use the funds obtained in accordance with the purpose for which they were granted and in accordance with the agreement for the project co-financing.

This relates also to bank interest on the funds obtained under the project co-financing.

**Art. 26.**

1. As part of the control referred to in art. 23 (4), authorised employees of the Institute may audit documents and other data carriers which are or may be important in assessing the correctness of the use of the project co-financing, and may demand oral or written information relating to the completion of the project covered by additional financing.
2. The Minister shall determine, by way of a Decree, the detailed procedures and methods of conducting the control inspections referred to in art. 23 (4), taking into consideration the need to achieve the goals specified in art. 3 (1) and the effective use of the project co-financing.

**Art. 27.**

1. The Institute may withdraw from the agreement for granting project co-financing if the additional financing is not used in accordance with its purpose, is used in an untimely manner or in violation of the agreement, including in particular reducing the scope of the project covered by the additional financing as determined on the basis of the control results and an assessment of the execution of post-control conclusions and recommendations.
2. In withdrawing from the agreement, the Institute shall determine the amount which was not used in accordance with its purpose and the respective statutory interest accrued as of the date of transferring the funds, the deadline for repayment and the name and number of the account to which the payment is to be made.

## **Chapter 4**

### **Gathering, protecting and propagating film art resources**

#### **Art. 28.**

1. Activities related to protecting national heritage in the area of cinematography shall be conducted by the National Film Archive and regional film archives.

2. The National Film Archive shall be responsible in particular for:

1) gathering and safeguarding:

a) materials in respect of negatives, master copies and other archival film copies of Polish films;

b) archival copies of films other than Polish films, if such films are important to Polish culture, education or social life;

2) developing a methodology for archiving Polish films and Polish historical film documentation;

3) gathering and archiving documentation relating to film production and dissemination;

4) propagating film culture, including making available film art resources;

5) gathering library collections and items relating to the history of film and cinematography;

6) maintaining a catalogue of film works;

7) cooperating with Polish and foreign entities;

8) cultural and educational activities, and publishing activities.

3. The National Film Archives shall make available to the Institute the film materials gathered, including preliminary and promotional materials, to be used in its operations specified in the Act or the Memorandum of Association. The amount payable for making the materials available shall be determined by the Minister by way of an Order.

4. Local authorities may establish regional film archives in the form of self-government cultural institutions within the meaning of the Act of 25 October 1991 on organising and running cultural activities (Journal of Laws of 2001, No. 13, item 123, with subsequent amendments<sup>2</sup>). The scope of operation of regional film archives is specified in paragraph 2, with specific emphasis placed on the cultural heritage of cinematography in the region.

5. The Act of 14 July 1983 on the national archive resources and archives (Journal of Laws of 2002, No.171, item 1396, with subsequent amendments<sup>3</sup>) shall apply to the operations of the National Film Archives and the regional archives in respect of the state archival resources as specified in paragraph 2, subparagraphs 1-3.

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<sup>2</sup> Amendments to the text of the consolidated Act were published in the Journal of Laws of 2002, No. 41, item 364, of 2003, No. 96, item 874, No. 162, item 1568, No. 213, item 2081 and of 2004, No. 11, item 96 and No.261, item 2598.

<sup>3</sup> Amendments to the text of the consolidated Act were published in the Journal of Laws of 2002, No.241, item 207, of 2003, No. 137, item 1302, of 2004, No. 173, item 1808, No. 202, item 2065 and No. 273, item 2703 and of 2005, No. 10, item 69 and No. 64, item 565.

**Art. 29.**

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

**Art. 30.**

Film producers shall transfer one unexploited copy of each film produced and the respective documentation materials related to the production of the film, and specifically the script, the edit decision list and the dialogue list, the photos, posters, credits and advertising materials free of charge to the National Film Archives within 30 days of completion of the production; however, no later than on the date of commencing the distribution of the film.

**Chapter 5****Amendments to the provisions in force****Art. 31.**

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

1) the title of the Act shall read:

“on State-owned film-making institutions”;

2) Art. 2 shall be replaced by the following:

“Art. 1. The Act shall apply to State-owned film institutions established prior to 1 January 2006 and to the film-making teams which operate therein.”;

3) Art. 2-4 shall be deleted;

4) Chapter 2 shall be deleted;

5) the title of Chapter 3 shall read:

“State-owned film-making institutions”;

6) Art. 14 and 15 shall be deleted;

7) Art. 2 shall be replaced by the following:

“Art. 16. The founding body for the State-owned organisational units in cinematography shall be the Minister competent for cultural affairs and protection of national heritage.”;

8) in Art. 17, section 2 and designation of section 1 shall be deleted;

9) Art. 18-19 shall be deleted;

10) the words “film-making institution” used in Art. 20 (1), Art. 21 (1)-(4) and (8), Art. 22 (1), (4) and (5), Art. 23 (2) and (3), Art. 24 (3), Art. 28 (1), Art. 29 in the initial sentence, Art. 30 (3), Art. 31 (1) and (2) in the initial sentence, Art. 32 (1) and (2), Art. 34 (1) in the initial sentence, art. 35 (1) in the initial sentence and in (2), in Art. 37 (1), in Art. 38 (1)(2), Art. 39, Art. 40 (1), Art. (41) (1) and (2) in any number or declension shall be replaced with the words “State-owned film-making institution” in the relevant number and declension;

11) Art. 20 (2) shall have the following wording:

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

12) section 7 in Art. 21 shall be deleted;

13) Art. 23a shall be deleted;

14) Art. 25 shall be replaced by the following:

“Art. 25. 1. The Minister competent for cultural affairs and protection of the national heritage, by way of a decree, can combine State-owned film-making institutions established prior to 1 January 2005.

2. In respect of the combination of State-owned film-making institutions, the provisions of Art. 18 (2) and Art. 19 (1)-(3) and (4) the first sentence of the Act dated 25 October 1991 on organising and conducting cultural activities (Journal of Laws of 2001 No. 13, item 123, of 2002 No. 41, item 364, of 2003 No. 96, item 874, No. 162, item 1568, No. 213, item 2081 and of 2004 No. 11, item 96 and No. 261, item 2598) shall apply respectively.

3. As of the date of recording the newly created State-owned film-making institution, the Minister competent for cultural affairs and protection of the national heritage shall delete from the register the State-owned institutions which were combined.”;

15) Art. 26 shall be deleted;

16) Art. 26a shall be replaced by the following:

“Art. 26a. In respect of the liquidation and bankruptcy of a State-owned film-making institution, the Act of 25 September 1981 on State-owned enterprises (Journal of Laws of 2002 No. 112, item 981 and No. 240, item 2055, and of 2004 No. 273, item 2703) shall apply, respectively, with the following reservations:

1) the liquidation of a State-owned film-making institution shall involve distributing the tangible and intangible assets of said institution to the Polish Film Institute, subject to point 5, and deleting the State-owned film-making institution from the register of film-making institutions referred to in Art. 22, as soon as the creditors have been satisfied or secured. If the State Treasury is the creditor of the liquidated State-owned film-making institution, the said liabilities shall be forgiven on the date of the decision on the liquidation being made;

2) the liquidation of a State-owned film-making institution, subject to point 3, can be carried out at the joint request of the director and the staff's council of the said State-owned film-making institution. The decision on the liquidation shall be made by the Minister competent for cultural affairs and protection of the national heritage,

3) if premises are stipulated in Art. 19 (1) of the aforesaid Act or the State-owned film-making institution does not fulfil the tasks defined in its Memorandum of Association (*statut*) or if by 31 December 2010 a decision on the liquidation of the State-owned film-making institution has not been made, or the State-owned film-making institution has not been commercialised, said institution shall be liquidated on the initiative of the Minister competent for cultural affairs and protection of the national heritage,

4) Art. 19 (2), Art. 20, Art. 22 and Art. 23 of the aforesaid Act shall not apply,

5) as of the date of the State-owned filmmaking institution's going into liquidation or being declared bankrupt, the copyrights due to the said institution shall become the property of the National Film Archive free of charge.”;

17) Art. 27 shall be replaced by the following:

“Art. 27. The State-owned film-making institution, at the request of the Sejmik of the Voivodeship, can be transferred to be run by the Sejmik of the Voivodeship pursuant to the rules stipulated in the agreement of the minister competent for cultural affairs and protection of the national heritage and the Voivodeship Board.”;

18) Art. 27a shall be replaced by the following:

“Art. 27a. 1. In respect of the State-owned film-making institutions, the provisions on commercialisation and privatisation shall apply respectively, with the following reservations:

1) the commercialisation of a State-owned film-making institution may be performed at the request of the Minister competent for cultural affairs and protection of the national heritage or upon the consent of said Minister at the joint request of the director and the staff's council of the State-owned film-making institution;

2) if a decision is made on the privatisation of a State-owned film-making institution, the film resources gathered in this institution shall become the property of the National Film Archive free of charge and shall be transferred thereto;

3) the privatisation shall not apply to the copyrights in films produced before 31 December 1989 which are due to the State-owned film-making institution; if the institution is privatised, said rights shall become the property of the Polish Film Institute free of charge;

4) the proceeds from the privatisation of a State-owned film-making institution shall constitute revenue for the Polish Film Institute;

5) notification of the execution of the act of commercialisation or a decision on the privatisation of a State-owned film-making institution shall be conveyed to the Director of the Polish Film Institute, who shall be entitled to review the accounting and commercial books of the company created through the transformation of the State-owned film-making institution and shall be entitled to present his comments and requests in respect of the rights of the said company, until it is privatised;

6) as of the date of the act of commercialisation of a State-owned film-making institution, said institution shall be deleted from the register of film-making institutions referred to in Art. 22;

7) at the request of the Minister competent for cultural affairs and protection of the national heritage, or the Minister competent for the State Treasury, the Council of Ministers can, by way of resolution, grant its consent for a non-public disposal of the shares or stock of commercialised State-owned film-making institutions by contributing them free of charge to the Polish Film Institute, which is obliged to dispose of them within 12 months of the date of the contribution.

2. The provisions of section 1 shall not prejudice the rights of the authors as set forth in the Act of 4 February 1994 on copyrights and neighbouring rights (Journal of Laws of 2000 No. 80, item 904 as amended<sup>4</sup>), in particular in respect of the new areas of exploitation.”;

19) in Art. 28, sections 2, 3 and 5 shall be deleted;

20) Art. 33 shall be replaced by the following:

“Art. 33. The State-owned film-making institution shall conduct its activities based on a plan which shall be determined by the Director following consultation with the advisory and opinion-making bodies, and which shall be subsequently approved by the Minister competent for cultural affairs and protection of the national heritage.”;

21) Art. 34 (2) shall have the following wording:

“2. In the cases referred to in section 1, the Minister competent for cultural affairs and protection of the national heritage shall ensure necessary financing to the State-owned film-making institution required to accomplish the tasks assigned.”;

22) Art. 45 shall be replaced by the following:

“Art. 45. 1. The State-owned film-making institution shall manage its finances independently, and shall cover its costs and liabilities from the revenue gained.

2. The basis for the financial management of the State-owned film-making institution shall be the annual financial plan which shall be determined by the Director upon consulting the advisory and opinion-making bodies.

3. The annual financial plan shall specify in particular:

1) revenue, including subsidies broken down by type;

2) operating expenses, including the cost of wages and salaries and related contributions;

3) capital expenditures;

4) the balance of current assets as at the beginning and end of the financial year.

4. The financial year of the State-owned film-making institution shall be the calendar year.

5. The State-owned film-making institution shall maintain its accounts in accordance with the requirements of the accounting regulations.

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<sup>4</sup> Amendments to the consolidated text of the aforesaid Act were promulgated in the Journal of Laws of 2001 No. 128, item 1402, of 2002 No. 126, item 1068 and No. 197, item 1662, of 2003 No. 166, item 1610 and of 2004 No. 96, item 959 and No. 172, item 1804.

6. The annual financial statements of the State-owned film-making institution shall be audited by a registered auditor.

7. The annual financial statements of the State-owned film-making institution shall be approved by the minister competent for cultural affairs and protection of the national heritage.”;

23) Art. 45a and 45b shall be added after Art. 45, with the following wording:

“Art. 45a. 1. The State-owned film-making institution shall create:

1) the statutory fund;

2) the reserve fund;

3) other funds stipulated in other regulations.

2. The statutory fund shall reflect the value of the assets received by the State-owned film-making institution upon its established.

3. The statutory fund shall be increased by:

1) the value of assets received free of charge on the basis of decisions of the competent authorities or on the basis of other regulations;

2) the net profit, in consideration of paragraph 5.

4. The statutory fund shall be decreased by:

1) the value of the assets transferred free of charge on the basis of decisions of competent authorities or the basis of other regulations;

2) the net loss that has not been covered from the reserve fund.

5. The reserve fund shall be created from the net profit. Charges to the reserve fund shall not be lower than 10% of the net profit. The State-owned film-making institution can forego the charges, if the balance of the reserve fund exceeds the equivalent of 2% of the operating costs of said institution in a given financial year.

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

Art. 45b. 1. The State-owned filmmaking institutions shall pay to the Polish Film Institute contributions of 50% of their revenue from copyrights in films produced before 31 December 1989.

2. The payments referred to in section 1 above shall be transferred on a quarterly basis within 30 days of the end of a given quarter.

3. In respect of the liabilities relating to the payments referred to in section 1, the provisions of Chapter III of the Act dated 29 August 1997 – the Tax Code (Journal of Laws of 2005 No. 8, item 60) – shall apply, with the reservation that the powers of the tax authority shall be vested in the Director of the Polish Film Institute, and the powers of the appellate authority shall be vested in the Minister competent for cultural affairs and protection of the national heritage.

4. The payments referred to in section 1 shall be tax deductible within the meaning of the income tax regulations, at the date of being borne.

5. In the case referred to in section 1, Art. 27a (2) shall apply.”;

24) Chapter 5 shall be deleted;

25) Chapter 6 shall be deleted.

### **Art. 32.**

In the Act dated 25 October 1991, on organising and conducting cultural activities (Journal of Laws No. 13, item 123, as amended<sup>5</sup>) Art. 2 shall have the following wording:

“Art. 2. The available organisational forms of cultural activities shall be in particular: theatres, operas, operettas, philharmonic orchestras, orchestras, film-making institutions, cinemas,

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<sup>5</sup> Amendments to the consolidated text of the aforesaid Act were promulgated in the Journal of Laws of 2002 No. 41, item 364, of 2003 No. 96, item 874, No. 162, item 1568, No. 213, item 2081 and of 2004 No. 11, item 96 and No. 261, item 2598.

museums, community centres, art centres, art galleries and resources for research and documentation in various areas of culture.”.

**Art. 33.**

In the Act of 29 July 1992 on games of chance and mutual wagers (Journal of Laws of 2004 No. 4, item 27 and No. 273, item 2703), in Art. 47e, the following amendments shall be made:

a) in section 4, the initial sentence shall have the following wording:

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

b) section 4a shall be added after section 4, with the following wording:

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

**Chapter 6.**

**Transitional and harmonising provisions**

**Art. 34.**

As of the date of the Act’s coming into force, the proceedings in respect of determining the qualifications for film-making professions introduced under the Act referred to in Art. 31 shall be discontinued.

**Art. 35.**

1. The receivables of a State-owned film-making institution for which liquidation or bankruptcy proceedings are pending, which are due for payment on the date of the Act’s coming into force, as of that date shall become the property of the Institute free of charge.

2. The receivables of the State Treasury from State-owned film-making institutions – in respect of chargeable acquisition of the ownership of buildings, other facilities and premises on 5 December 1990, which have not been fully or partly satisfied by the date of the Act’s coming into force – as of that date shall become the property of the Institute free-of-charge.

3. The receivables of the State Treasury from self-governing film-making institutions – in respect of chargeable acquisition of the ownership buildings, other facilities and premises on 5 December 1990, which have not been fully or partly satisfied by the date of the Act’s coming into force – as of the date of the transformation of a given self-government film-making institution into a self-governing cultural institution shall become the property of the said self-governing cultural institution free-of-charge.

4. Changes in the entries in the land and mortgage registers in respect of mortgage pledges for the receivables referred to in section 1 and 2 shall be made by the Director, and in respect of receivables referred to in section 3, at request of the competent management authority of the organiser of the self-governing cultural institution.

**Art. 36.**

The Decree issued under Art. 22 (5) of the Act referred to in Art. 31 shall remain valid until the issuance of the Decree based on Art. 22 (5) of the Act referred to in Art. 31, in the wording stipulated by this Act.

**Art. 37.**

1. The first Director shall be appointed by the Minister for the period until the appointment of the Director pursuant to Art. 14 (1), not exceeding six months from the date of the new Act's coming into force.
2. The period of the Director performing his functions as referred to in section 1 above shall not be included in the term of office referred to in Art. 14 (2) and (3).

**Art. 38.**

As of the Act's coming into effect, the self-governing film-making institutions established under the Act of 16 July 1987 on cinematography shall become self-governing cultural institutions within the meaning of the Act dated 25 October 1991 on organising and conducting cultural activities.

**Art. 39.**

1. The Voivodeship Board which is the founding body for self-governing filmmaking institutions, upon the Act coming into force, shall become an organiser within the meaning of the Act of 25 October 1991 on organising and conducting cultural activities.
2. The organiser of the self-governing film-making institution referred to in section 1 above, within 30 days of the Act's coming into force, shall provide the Memorandum of Association (*statut*) to the self-governing cultural institution referred to in Art. 38.
3. The managing bodies of the self-governing film-making institution referred to in section 1 above, shall perform their duties until the managing bodies of the self-governing cultural institution referred to in Art. 38 are appointed, but not longer than for three months from the Act's coming into force.
4. The employees of the self-governing film-making institution referred to in section 1 above, as of the date of the Act's coming into force, shall become employees of the self-governing cultural institution referred to in Art. 38.
5. The assets of the self-governing film-making institution referred to in section 1 above, as of the date of the Act's coming into force, shall become the property of the self-governing cultural institution referred to in Art. 38.
6. The self-governing cultural institution referred to in section 38 above shall assume all legal relations to which the self-governing film-making institution referred to in section 1 above was a party, irrespective of the legal nature of the said relations.

**Chapter 7.****Final provision****Art. 40.**

The Act shall come into force 30 days after the date of being promulgated, except Art. 19 and Art. 31 (23) in respect of Art. 45b, which shall come into force as of 1 January 2006.