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The original Polish text published in the Journal of Laws is binding in all respects.**

**A C T  
of 22 May 2003**

**on Insurance and Pension Funds Supervision and on Insurance  
Ombudsman<sup>1</sup>**

**Developed on the basis of: Dz.U. of 2003 No 124, item 1153, No 170, item 1651, of 2004 No 93, item 891, No 96, item 959, of 2005 No 48, item 447, No 83, item 719, No 143, item 1204, No 163, item 1362, of 2006 No 157, item 1119, No 170, item 1217, No 249, item 1832, of 2007 No 82, item 557, No 171, item 1206, of 2008 No 228, item 1507, of 2009 No 42, item 341, of 2011 No 75, item 398.**

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<sup>1</sup> Within the scope of its regulation, this Act shall implement the following directives of the European Communities:

- 1) Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) (OJ EC L 228 of 11.8.1992),
- 2) Directive 98/78/EC of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group (OJ EC L 230 of 5.12.1998),
- 3) Directive 2002/83/EC of 5 November 2002 concerning life assurance OJ EC L 345 of 19.12.2002).

The data relating to the promulgation of the European Union legislation, included in this Act - from the date of accession of the Republic of Poland to the European Union - apply to the promulgation of those acts in the Official Journal of the European Union – special edition.

### **Article 1.**

This act shall set forth the organisation of Insurance and Pension Supervision and shall establish rules for actions of Insurance Ombudsman.

### **Article 2.**

1. Under Insurance and Pension Supervision, hereinafter referred to as ‘the supervision’, shall be the activity:

- 1) of insurance and reinsurance within the meaning as referred to in the provisions on insurance and reinsurance activity;
- 2) within the scope of insurance mediation, as referred to in the provisions on insurance mediation;
- 3) within the scope of pension funds as referred to in the provisions on organisation and operation of pension funds;
- 4) within the scope of occupational pension programs as referred to in the provisions on occupational pension programs.

2. Under supervision there shall be entities engaged in the activity within the scope referred to in (1) and in particular insurance undertakings, reinsurance undertakings, insurance intermediaries, pension funds and pension fund companies, hereinafter referred to as ‘supervised entities’.

3. The supervisory authority is the Financial Supervision Authority, as referred to in the act of 21 July 2006 on Financial Market Supervision (Dz. U. No 157, item 1119), hereinafter referred to as ‘the Authority’.

### **Article 3.**

The purpose of the supervision shall be the protection of interest of insuring persons, insureds, beneficiaries and entitled from insurance contracts, members of pension funds and members of occupational pension programs, persons receiving savings-pension or persons endowed by them.

### **Article 4.**

1. In order to attain its statutory goals the Authority co-operates in particular with the Chairman of the Office for Competition and Consumer Protection and supervisory authorities of other states.

2. The Authority shall co-operate with The Chief Officer of National Criminal Information Centre within the scope necessary for performing its statutory duties.

### **Article 5.**

1. The Insurance Ombudsman shall represent interests of insuring persons, insureds, beneficiaries and entitled from insurance contracts, members of pension funds and members of occupational pension programs, persons receiving savings-pension or persons endowed by them.

2. In order to attain its statutory goals Insurance Ombudsman shall co-operate in particular with national and foreign consumers’ organisations and the Ombudsman for Civil Rights Protection.

### **Article 6.**

1. Insurance Ombudsman shall be the legal entity.

2. The headquarters of the Insurance Ombudsman is Warsaw.

**Article 7.**

(repealed – Dz.U. of 2006 No 157, item 1119 – article 54).

**Article 8.**

1. The duties of the Authority shall be:

- 1) to undertake, in cases foreseen by other acts, actions aimed to maintain the conformity of supervised entities' actions with stipulations of law;
- 2) to inspect the activities and the financial standing of supervised entities;
- 3) to undertake other statutory duties provided for.

2. The scope of the supervision and detailed duties of the Authority shall be stipulated in other laws.

**Article 9.-13.**

(repealed – Dz.U. of 2006 No 157, item 1119 – article 54).

**Article 9.**

(repealed - as a result of the repeal of all the successive paragraphs)

**Article 14.**

1. The cost of supervision are covered by:

- 1) insurance undertakings and reinsurance undertakings up to 0,14% of gross premium paid;
- 2) open pension fund companies at an amount which is the product of the average annual value of open pension fund assets managed by a given open pension fund company and a rate not exceeding 0,016%; an average annual value of open pension fund assets is calculated on the basis of the open pension fund assets determined on the last working day of each month of the calendar year.

2. The dues mentioned in (1) are subject to execution under provision on administrative execution procedures law.

3. The President of the Council of Ministers shall stipulate, on the way of ordinance, time of payment, due amounts and the way of calculation of payment mentioned in (1), taking into consideration securing the effectiveness of performed supervision.

4. Should the term of payments established under stipulations of (3) be failed, there are accrued statutory interest for payment delay.

**Article 15.**

(repealed – Dz.U. of 2006 No 157, item 1119 – article 54).

**Article 16.**

(repealed – Dz.U. of 2006 No 157, item 1119 – article 54).

**Article 17.**

1. The Authority may enter into agreements of co-operation within the scope of supervision with foreign insurance and pension supervision authorities.

2. The Authority may render information held in connection with the performance of statutory duties to authorities supervising the activity of financial institutions in other countries, providing that:

- 1) this information shall be exclusively used for the purposes of performing the tasks of supervision;

- 2) transfer of the information outside of these supervisory authorities shall be exclusively effected upon previous consent of the Authority.
- 2a. The Authority may request the access to information needed to perform the tasks of supervision from authorities supervising the activities of financial institutions of the European Union Member States.
- 2b. As regards information obtained in the procedure as referred to in the (2a), the Authority may:
- 1) use exclusively for the purposes of performing the tasks of supervision;
  - 2) transfer outside the Authority exclusively upon previous consent of the authority which provided the information and within the scope of the given consent.
3. The Authority shall provide information to the competent authorities of Member States of the European Union and may request information from these bodies in matters of insurance mediation, in particular with regard the removal of an insurance agent or insurance broker from the register of insurance intermediaries.
4. In the case of supervisory authorities of non-European Union Member States the provision of information, under conditions as laid down in (2), shall be made exclusively on the basis of reciprocity.
5. The Authority may provide foreign authorities of the Member States of the European Union with information held in connection with the exercise of supervision over the activities of insurance and reinsurance undertakings within the scope associated with the exercise of supplementary supervision, as referred to in the Act of 15 April 2005 on the supplementary supervision over credit institutions, insurance and reinsurance undertakings and investment firms comprising a financial conglomerate (Dz. U. No 83, item 719, of 2006 No 157, item 1119 and of 2009 No 42, item 341).
6. The Authority may pass information held in connection with the exercise of statutory tasks to central banks or other institutions of the Member States of the European Union performing the tasks of monetary policy and other public authorities performing the tasks of supervision over payment systems, if this information will be used exclusively for exercising the tasks of this bodies. Transfer of information outside these bodies shall be made exclusively upon previous consent of the Authority.

**Article 18.**

(repealed – Dz.U. of 2006 No 157, item 1119 – article 54).

**CHAPTER 3**

**The Insurance Ombudsman**

**Article 19.**

1. The Insurance Ombudsman, hereinafter referred to as “the Ombudsman”, shall be appointed for the four year term by the President of the Council of Ministers upon joint application of the minister competent for the financial institutions and the minister competent for the social security.
2. The Insurance Ombudsman shall be exclusively a person:
  - 1) excelling in professional knowledge and experience in insurance and organisation and activities of pension funds;
  - 2) possessing an academic degree.
3. The term of the Ombudsman shall commence with the day of his appointment.
4. The same person shall not be appointed for a post of the Ombudsman for more that two consecutive terms.

5. The President of the Council of the Ministers, upon application of the minister competent for the financial institutions and the minister competent for social security, after seeking an opinion of the Council of the Insureds, mentioned in Article 25, may dismiss the Insurance Ombudsman before an expiry of his term.
6. The Ombudsman may be dismissed before the expiry his term exclusively because of the following reasons:
  - 1) his resignation;
  - 2) not performing the duties because of a prolonged disease lasting at least 6 months and certified with a medical doctor's diagnose;
  - 3) a flagrant violation of to the interests of the insuring persons, insureds, beneficiaries or entitled from the insurance contracts, members of pension funds or occupational pension programs members, persons receiving savings-pension or persons endowed by them;
  - 4) a flagrant violation of the Constitution of the Republic of Poland or laws;
  - 5) a lawful conviction in the case of wilful crime.
7. The term of the Ombudsman expires with his death.

#### **Article 20.**

The duty of the Ombudsman shall be to undertake actions aimed at protection for persons he is to represent, and in particular:

- 1) to consider complaints addressed to his office by individual persons;
- 2) to issue opinions on drafts of legal acts pertaining to the organisation and functioning of insurance, pension funds, occupational pension programs and savings-pensions;
- 3) to apply to competent bodies with requests to undertake a legislative motion or to issue or to amend other legal acts concerning organisation and functioning of the insurance, pension funds, occupational pension programs and savings-pensions;
- 4) to inform the competent supervisory and control authorities and the Polish Chamber of Insurance and economic organisations of open pension fund companies on observed irregularities in actions of insurance undertakings, pension funds, pension fund companies and occupational pension plans and other insurance market institutions;
- 5) to create the opportunities for amicable and conciliatory settlements of disputes between:
  - a) insuring persons, insureds, beneficiaries or entitled from insurance contracts and insurance undertakings,
  - b) insuring persons, insureds, beneficiaries or entitled from insurance contracts and insurance agents,
  - c) insuring persons, insureds, beneficiaries or entitled from insurance contracts and insurance brokers,
  - d) pension fund companies and their members and arising from participation in occupational pension programs, in particular by organising conciliatory courts for resolution of such disputes;
- 6) initiation and organisation of educational and information actions on the protection of insuring persons, insureds, beneficiaries and entitled from insurance contracts, members of pension funds, members of occupational pension programs, persons receiving savings-pension or endowed persons.

#### **Article 21.**

1. The Ombudsman shall perform his duties with the Ombudsman Office, he shall be the head of which.
2. The President of the Council of Ministers, after seeking of an opinion of the Ombudsman, confer, on the way of ordinance, statutes settling organisation of the Ombudsman Office.

#### **Article 22.**

1. The operating costs of the Ombudsman and his Office shall be borne by:
  - 1) insurance undertakings up to the 0,01% of gross premium collected;
  - 2) open pension fund companies at an amount which is the product of the average annual value of open pension fund assets managed by a given open pension fund company and a rate not exceeding 0,0015%; an average annual value of open pension fund assets is calculated on the basis of the open pension fund assets determined on the last working day of each month of the calendar year.
2. The dues mentioned in (1) are subject to execution under provisions of administrative execution procedures law.
3. The minister competent for financial institutions shall stipulate, on the way of a ordinance, the time of payment, due amounts and the way of calculation of payment mentioned in (1), taking into consideration securing of effectiveness of actions of the Ombudsman and his Office.
4. Should the time of payments established under stipulations of (3) is failed, there are accrued statutory interest for payment delay.

#### **Article 22a.**

The basis for financial management of the Ombudsman Office is the annual financial plan, which is prepared and submitted by the Ombudsman - with the Insurance Board's opinion - to the Minister competent for public finances, in the procedure specified in the provisions for work on the draft budget act.

#### **Article 23.**

The Ombudsman Office employees shall be under provision of civil service act, applied accordingly.

#### **Article 24.**

The Ombudsman himself and employees of his Office shall not:

- 1) be stockholders (or shareholders) or members of the executive bodies of insurance undertakings and shall not perform any activities pertaining to insurance activity or insurance mediation as well as to take an employment with the insurance undertaking under the employment contract, contract of mandate, contract of specific work, or under any other contract of similar nature;
- 2) be stockholders and to perform duties of member of the executive board or supervisory board of the pension fund company, as well to take an employment with such a pension fund company under the employment contract, contract of mandate, contract of specific work, or any other contract of similar nature;
- 3) to take an employment with the pension fund under the employment contract, contract of mandate, contract of specific work or any other contract of similar nature;
- 4) to perform any other actions which may be in contradiction with their duties or which may lead to suspicion of partiality or self-interest.

#### **Article 25.**

1. The Council of Insureds shall be an consultative and advisory body of the Ombudsman.
2. The Council of Insureds shall be appointed, upon application of the Ombudsman, by the minister competent for financial institutions in consultation with minister competent for the social security – for a term of the Ombudsman, from list of candidates submitted by the entities listed in (3).
3. The Council of Insureds shall consist of representatives of:

- 1) local government representatives in The Joint Commission of the Government and Local Government – two members;
  - 2) national consumers’ organisations - two members;
  - 3) national employers organisations - two members;
  - 4) The Ombudsman for Civil Rights Protection - two members;
  - 5) each of the trade unions mentioned in Article 6 (2) of the act of 6<sup>th</sup> July 2001, on Tripartite Commission for Social and Economic Affairs and voivodships’ commissions for social dialogue (Dz.U. No 100, item 1080 and No. 154, item 1793 and 1800 and of 2002 r. No. 10, item 89 and No. 240, item 2056) - two members each;
  - 6) the most numerous pensioners’ organisation - one member.
4. Minister competent for the financial institutions, consulting the minister competent for social security, may dismiss a member of the Council of Insureds, after consultations with entity which designated such a member to the Council of Insureds.
5. Dismissal of the member of the Council of Insureds before expiry of the term of the Ombudsman shall take place exclusively because of the following reasons:
- 1) his resignation;
  - 2) not performing the service because of prolonged disease lasting at least 6 months and certified with medical doctor’s diagnose;
  - 3) a flagrant violation of to the interests of the insuring persons, insureds, beneficiaries or entitled from the insurance contracts, members of pension funds or occupational pension programs members, persons receiving savings-pension or persons endowed by them;
  - 4) a flagrant violation of the Constitution of the Republic of Poland or laws;
  - 5) a lawful conviction in the case of wilful crime.
6. The Council of Insureds acts under the regulation adopted by itself and approved by the Ombudsman.
7. Members of the Council of Insureds shall not be entitled to any remuneration for participation in its meetings.

#### **Article 26.**

1. Taking up of the action shall be either ex officio or upon application of:
  - 1) persons who submitted a complaint or have asked for an intervention;
  - 2) competent authorities of supervision, control or other public authority bodies.
2. The Ombudsman, after examination of the submitted application, may:
  - 1) take action;
  - 2) indicate applicant’s rights and means of action;
  - 3) pass the matter over to competent body;
  - 4) do no motion informing, with justification, the applicant and interested person.
3. The Insurance Ombudsman taking up an action shall examine, whether any action or desistance of an action on the side of an insurance undertaking, pension fund company or pension fund there were not infringement of law or rights of persons listed in Article 5 (1).
4. The Ombudsman or an employee of the Ombudsman Office authorised by him may:
  - 1) apply to insurance undertakings, pension funds, pension fund companies, the Social Insurance Institution, the Insurance Guaranty Fund and the Polish Motor Insurers’ Bureau for information or explanations, for making files and documents available, in particular:
    - a) in individual cases, with reservation of stipulations of (5),
    - b) in cases of general terms of insurance which are deemed by the Ombudsman as unfavourable for insuring persons, insureds, beneficiaries and entitled from insurance contracts,
    - c) in cases pertaining to the internal regulations of these institutions, which are deemed by the Ombudsman as unfavourable for persons listed in Article 5 (1),

- d) on improper service of persons listed in Article 5 (1), as rendered by these institutions;
  - 2) apply to the minister competent for the financial institutions in cases pertaining to compulsory insurances and request an amendment of provisions of law regulating these insurances;
  - 3) examine or order examination of the research on the situation on the insurance and pension market;
  - 4) apply to parties for submitting the cases for resolution by the conciliatory court.
- 4a. The Ombudsman may bring a lawsuit on behalf of consumers in matters of unfair market practice in insurance business, as well as participate in the ongoing proceedings with the plaintiff's consent. In this case, the provisions on the prosecutor shall apply mutatis mutandis.
5. The motion for information or explanation in private cases shall be effected exclusively upon application of the persons affected in the case.
6. Upon examination of the case the Insurance Ombudsman may:
- 1) explain to the applicant that he found no law or interest infringement of persons listed in Article 5 (1);
  - 2) apply to the entity in which actions he found an infringement of law or interests of persons listed in Article 5 (1), to review again the case;
  - 3) apply for examination of the case to competent bodies and in particular to the Authority, public attorney or the state inspection services, both professional or social ones.
7. The provisions of article 63 of the Act of 17 November 1964 - the Code of Civil Procedure (Dz.U. No. 43, item 296, as amended<sup>2</sup>) - shall apply mutatis mutandis to the Insurance Ombudsman.

#### **Article 27.**

The insurance undertaking shall submit to the Ombudsman insurance agreement forms and insurance applications, texts of general terms of insurance and other documentation and forms used by the insurance undertaking in concluding an insurance agreement, in 14 days term from the day of introduction of these to turnover, and upon request of the Ombudsman also tariffs of insurance premiums.

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<sup>2</sup> Amendments to the mentioned Act was promulgated in Dz. U. of 1965 No 15, item 113, of 1974 No 27, item 157 and No 39, item 231, of 1975 No 45, item 234, of 1982 No 11, item 82 and No 30, item 210, of 1983 No 5, item 33, of 1984 No 45, item 241 and 242, of 1985 No 20, item 86, of 1987 No 21, item 123, of 1988 No 41, item 324, of 1989 No 4, item 21 and No 33, item 175, of 1990 No 14, item 88, No 34, item 198, No 53, item 306, No 55, item 318 and No 79, item 464, of 1991 No 7, item 24, No 22, item 92 and No 115, item 496, of 1993 No 12, item 53, of 1994 No 105, item 509, of 1995 No 83, item 417, of 1996 No 24, item 110, No 43, item 189, No 73, item 350 and No 149, item 703, of 1997 No 43, item 270, No 54, item 348, No 75, item 471, No 102, item 643, No 117, item 752, No 121, item 769 and 770, No 133, item 882, No 139, item 934, No 140, item 940 and No 141, item 944, of 1998 No 106, item 668 and No 117, item 757, of 1999 No 52, item 532, of 2000 No 22, item 269 and 271, No 48, item 552 and 554, No 55, item 665, No 73, item 852, No 94, item 1037, No 114, item 1191 and 1193 and No 122, item 1314, 1319 and 1322, of 2001 No 4, item 27, No 49, item 508, No 63, item 635, No 98, item 1069, 1070 and 1071, No 123, item 1353, No 125, item 1368 and No 138, item 1546, of 2002 No 25, item 253, No 26, item 265, No 74, item 676, No 84, item 764, No 126, item 1069 and 1070, No 129, item 1102, No 153, item 1271, No 219, item 1849 and No 240, item 2058, of 2003 No 41, item 360, No 42, item 363, No 60, item 535, No 109, item 1035, No 119, item 1121, No 130, item 1188, No 139, item 1323, No 199, item 1939 and No 228, item 2255, of 2004 No 9, item 75, No 11, item 101, No 68, item 623, No 91, item 871, No 93, item 891, No 121, item 1264, No 162, item 1691, No 169, item 1783, No 172, item 1804, No 204, item 2091, No 210, item 2135, No 236, item 2356 and No 237, item 2384, of 2005 No 13, item 98, No 22, item 185, No 86, item 732, No 122, item 1024, No 143, item 1199, No 150, item 1239, No 167, item 1398, No 169, item 1413 and 1417, No 172, item 1438, No 178, item 1478, No 183, item 1538, No 264, item 2205 and No 267, item 2258, of 2006 No 12, item 66, No 66, item 466, No 104, item 708 and 711, No 186, item 1379, No 208, item 1537 and 1540, No 226, item 1656 and No 235, item 1699 and of 2007 No 7, item 58, No 47, item 319, No 50, item 331, No 99, item 662, No 106, item 731, No 112, item 766 and 769, No 115, item 794, No 121, item 831 and No 123, item 849.

**Article 28.**  
(repealed)

**Article 29.**

1. The entity which received the Insurance Ombudsman application in cases under his competences, shall be obliged to take an action immediately, not later though than within 30 days term of receipt of application, to inform the Ombudsman on taken actions or adopted position.
2. Provision of (1) shall not exclude the powers of authorities and institutions which may arise from separate stipulations of law.

**Article 30.**

The Ombudsman shall submit to the President of the Council of Ministers annually, in 60 days term from the end of calendar year, a report on its activity and remarks on the state of compliance with law and protection of interest of persons listed in Article 5 (1). This annual report shall be open to the public.

**Article 31.**

In the act of 28<sup>th</sup> August 1997 on organisation and operation of pension funds (Dz.U. No. 139, item 934, of 1998 No. 98, item 610, No. 106, item 668 and No. 162, item 1118, of 1999 No. 110, item 1256, of 2000 r. No. 60, item 702, of 2001 r. No. 8, item 64 and No. 110, item 1189 and of 2002 r. No. 25, item 253, No. 153, item 1271 and No. 241, item 2674) there are introduced the following amendments:

- 1) in Article 200:
  - a) the (1) shall be deleted,
  - b) (2) initial sentence shall have the following wording:  
"The duty of the supervision authority is:";
- 2) Article 200a shall be deleted;
- 3) In Article 202:
  - a) the (2) shall have the following wording:  
"2. To the decisions of supervision authority there is applied Article 127 (3) of the Code of administrative procedures.",
  - b) next to (3) there shall be (3a) added with the following wording:  
"3a. The supervision authority may confer to the administrative decision the rigour of immediate execution, also in cases where such a motion is required because of interests of pension funds members or members of occupational pension programs.";
- 4) Article 203 shall be deleted;
- 5) After Article 207 there shall be added the Article 207a with the following wording:  
"Article 207a. The supervision authority may be a participating party in registering procedure for pension fund company or pension fund.";
- 6) Article 208 shall be deleted.

**Article 32.**

In the act of 6<sup>th</sup> July 2001 on collection, transformation and transfer of criminal offences information (Dz.U. No. 110, item 1189 and No. 154, item 1800 and of 2002 r. No. 81, item 731 and No. 89, item 804) in Article 20:

- 1) point 7 shall have the following wording:  
"7) The Commission of Insurance and Pension Supervision,";
- 2) point (8) shall be deleted.

**Article 33.**

In the act of 30<sup>th</sup> August 2002 - Provision for implementation the act – The law on organisation of administrative courts and the act – The law of administrative courts procedures (Dz.U. No. 153, item 1271 and No. 240, item 2052), in Article 51 point 2 shall be deleted.

**Article 34.**

1. The Chairman of the Authority appointed before entering into force of this act shall continue his service until the end of his term as specified in the act of 28<sup>th</sup> July 1990 on Insurance activity (Dz.U. of 1996 No. 11, item 62, of 1997 No. 43, item 272, No. 88, item 554, No. 107, item 685, No. 121, item 769 and 770 and No. 139, item 934, of 1998 No. 155, item 1015, of 1999 No. 49, item 483, No. 101, item 1178 and No. 110, item 1255, of 2000 No. 43, item 483, No. 48, item 552, No. 70, item 819, No. 114, item 1193 and No. 116, item 1216, of 2001 No. 37, item 424, No. 88, item 961, No. 100, item 1084 and No. 110, item 1189, of 2002 No. 25, item 253, No. 41, item 365 and No. 153, item 1271 and of 2003 No 50, item 424 and No 60, item 535).

2. An appointment of the Chairman of the Authority shall be made in accordance to the stipulations of this act after expiry of the term mentioned in (1).

**Article 35.**

1. The Ombudsman appointed before entering into force of this act shall continue his service until expiry of his term as stipulated in the act mentioned in Article 34 (1).

2. An appointment of the Ombudsman under provisions of this act shall be made after expiry of his term as mentioned in (1).

**Article 36.**

The act shall enter in the force on the day of 1<sup>st</sup> January 2004.