

ACT
of 20 April 2004
ON EMPLOYMENT PROMOTION AND LABOUR
MARKET INSTITUTIONS

(Dziennik Ustaw 2004, No. 99, item 1001, No. 273, item 2703; 2005, No. 64, item 565, No. 94, item 788, No. 164, item 1366, No. 175, item 1462, No. 267, item 2257)

(Excerpts)

Chapter 1. General Provisions

Article 1. 1. This Act shall define the tasks of the State regarding employment promotion, alleviation of the effects of unemployment and occupational activation.

2. Tasks of the State regarding employment promotion, alleviation of the effects of unemployment and occupational activation shall be implemented by labour market institutions acting in order to ensure:

- 1) full and productive employment;
- 2) human resources development;
- 3) achievement of a high quality of work;
- 4) strengthening social integration and solidarity.

3. This Act shall apply to:

1) Polish citizens who seek and start employment or other paid work within the territory of the Republic of Poland or employment or other paid work abroad for foreign employers;

2) foreign persons who seek and start employment or other paid work within the territory of the Republic of Poland and who:

- a) are citizens of European Union Member States;
- b) are citizens of the states with which the European Union has concluded agreements on the freedom of movement of persons;
- c) have refugee status in the Republic of Poland;
- d) have a permit to settle or a long-term resident of the European Communities' stay permit in the Republic of Poland;
- e) have a permit to reside for a specified period of time granted in connection with the circumstance referred to in Article 53, paragraph 1, subparagraph 13 of the Act of 13 June 2003 on Foreign Persons (Dziennik Ustaw 2003, No. 128, item 1175, as amended);
- f) have a permit to reside for a specified period of time in the Republic of Poland as a member of a family of a foreign person referred to in Article 53, paragraph 1, subparagraph 13 or Article 54 of the Act of 13 June 2003 on Foreign Persons;
- g) have consent for a tolerated stay in the Republic of Poland or enjoying temporary protection in the Republic of Poland;
- h) applying to obtain a status of refugee in the Republic of Poland, said foreign persons not having been handed with a decision in the first instance and the extension of proceedings being not their fault;

3) foreign persons being members of the families of the foreign persons referred to in subparagraph 2, letters a and b;

4) foreign persons being members of the families of Polish citizens and who have obtained a permit to reside for a specified period within the territory of the Republic of Poland;

5) foreign persons who have been granted a permit for work within the territory of the Republic of Poland.

4. Under the rules specified in this Act, both the persons referred to in paragraph 3, subparagraphs 1 and 2, letters a to e and g, and foreign persons being members of families of Polish citizens shall be entitled to receive benefits and other allowances due to unemployment.

Article 2. 1. Wherever in this Act there is mention of:

1) student career office – this shall mean an entity acting for the benefit of occupational activation of students and higher education school graduates, operated by a higher education establishment or student organization, whose tasks include, in particular:

a) providing students and higher education school graduates with information about the labour market and opportunities for occupational qualifications improvement;

b) gathering, classifying and making available work offers, internships and practical occupational training courses;

c) keeping a database of students and high school graduates interested in finding a job;

d) assisting employers in finding proper candidates for job vacancies and internships;

e) assisting in active job seeking;

2) unemployed – this shall mean the person referred to in Article 1, paragraph 3, subparagraph 1 and subparagraph 2, letters a to e and letter g or a foreign person being a member of the family of a Polish citizen, neither employed nor performing other paid work but capable of and ready to start full-time employment applicable in a given profession or service or other paid work, or, in the case of a disabled person capable of and ready to start employment at least on a half-time basis, not learning in school, except for persons learning in schools for adults and taking external examinations covering the curricula of such schools or learning in evening, part-time or external higher education schools, registered in a *poviat* employment office competent for his or her permanent or temporary place of residence and seeking employment or other paid work, provided that such person:

3) unemployed under 25 – this shall mean an unemployed person who was less than 25 years old at the time when the labour market services or instruments were applied to him or her;

4) unemployed over 50 – this shall mean an unemployed person who was at least 50 years old at the time when the labour market services or instruments were applied to him or her;

5) long-time unemployed – this shall mean an unemployed person who, within the last 2 years, was entered in the register kept by the *poviat* employment office for more than 12 months altogether, except for the periods of internship and on-site occupational preparation;

6) unemployed with no occupational qualifications – this shall mean an unemployed person having no qualifications to practise any profession confirmed by a diploma, attestation or certificate of a training institution or another document entitling to practise a profession;

7) foreign person – this shall mean a person having no Polish citizenship;

8) family member – this shall mean:

a) a person married to a Polish citizen or the foreign person referred to in Article 1, paragraph 3, subparagraph 2, such marriage being recognized by the law of the Republic of Poland,

b) a descendant, a Polish citizen or foreign person aged less than 21 or maintained thereby;

9) additional activation allowance – this shall mean an amount paid to an unemployed person entitled to receive benefits who started employment or other paid work either individually or after being delegated by a *poviat* employment office;

10) additional training allowance – this shall mean an amount paid to an unemployed person attending a training course;

10a) individual action plan – this shall mean an action plan covering basic labour market services supported by labour market instruments aimed at employing an unemployed person or a job-seeker;

11) other paid work – this shall mean the performance of work or provision of services under a contract of agency, of mandate or of specific work or within a period of membership in an agricultural production, farmers' circles or agricultural services cooperative;

12) training course cost – this shall mean:

a) previously agreed due amount a training institution is entitled to receive;

b) cost of accident insurance;

c) costs of travels, accommodation and alimentation if the training course takes place in a location other than the place of permanent or temporary residence;

d) costs of medical and psychological examinations required under separate provisions;

e) costs of examinations enabling the obtaining of attestations, diplomas or certificates, specified occupational rights or titles, and costs of acquiring a licence indispensable to practice a given profession;

13) illegal employment or illegal other paid work – this shall mean:

a) employment of a person by an employer without having confirmed in writing, within the required time period, the type and conditions of the contract concluded;

b) failure to register a person employed or performing other paid work for social insurance purposes;

c) the commencement by an unemployed person of employment, other paid work or activity without having notified the competent *poviat* employment office thereof;

d) employing or entrusting an unemployed person with the performance of other paid work without having notified the competent *poviat* employment office thereof;

e) entrusting the performance of work to a foreign person having no work permit issued by the competent authority, except for foreign persons released under Article 87 from the duty to possess such permit, or entrusting such a person with the performance of work at a post or under conditions other than those specified in the work permit;

f) performance by a foreign person of work without a work permit issued by the competent authority, except for foreign persons released under Article 87 from the duty to possess such permit, or performance of work at a post or under conditions other than those specified in the work permit;

14) illegal performance of work by a foreign person – this shall mean the performance by a foreign person of work without a work permit, except for foreign persons released

under Article 87 from the duty to possess such permit, or performance of work at a post or under conditions other than those specified in the work permit, contrary to the declared purpose of stay and without having concluded the required employment contracts or civil law contracts;

15) repealed;

16) adequate work – this shall mean employment or other paid work with respect to which a duty of paying social insurance arises, for the performance of which occupational qualifications and experience of an unemployed person are satisfactory or which may be performed by him or her after a training course, taking into account his or her health condition, and with the stipulation that the total time for travelling to and from such workplace by means of public transport does not exceed 3 hours;

17) employment authorities – this shall mean the minister competent for labour, *voivodes*, marshals of *voivodeships* and *starostes*;

18) non-governmental organization – this shall mean legal persons or units having no legal personality, neither being public finance sector entities within the meaning of provisions on public finance, nor acting for profit-making purposes and established under provisions of legislative acts, including foundations and associations, except for political parties and foundations established thereby;

19) person bringing up children on his or her own – this shall mean a person bringing up on his or her own at least one child, within the meaning of the provisions on natural persons' income tax;

20) cooperating person – this shall mean a person cooperating with persons carrying on non-agricultural economic activity and mandataries, within the meaning of the provisions on social insurance system;

21) dependent – this shall mean a person who, owing to his or her health condition or age, requires permanent care, is linked by family relationship or affinity to the person covered by labour market services or instruments, or stays in the common household therewith;

22) job-seeker – this shall mean the non-employed person referred to in Article 1, paragraph 3, subparagraphs 1 and 2, or a foreign person being a family member of a Polish citizen or a foreign person being a family member of the citizen referred to in Article 1, paragraph 3, subparagraph 2, letters a and b seeking employment or other paid work, and an employed person declaring the intent and readiness to start other paid work or employment on an increased work time basis, as well as additional or other employment or other paid work; such person being registered in a *poviat* employment office;

23) non-agricultural activity – this shall mean a non-agricultural activity, within the meaning of the provisions on social insurance system;

23a) socially useful works – this shall mean works performed by the unemployed having no right to a benefit after their being appointed by the *staroste* thereto; such works being organized by a *gmina* in welfare organizational units, organizations or institutions dealing with charity help under their statutes or performed for the benefit of a local community;

24) revenues – this shall mean revenues earned from a source other than employment, other paid work, benefit or another allowance paid from the Labour Fund and taxable under the provisions on natural persons' income tax;

25) employer – this shall mean an organizational unit, including units having no legal personality, as well as a natural person, employing at least one employee;

26) intervention works – this shall mean employment of an unemployed person by an employer which results from a contract signed with the *staroste* and is aimed at supporting the persons with a particular labour market status, said persons being referred to in Article 49;

27) training loan – this shall mean a loan granted to an unemployed person for financing the costs of a training course underwent by him or her without being delegated by a *powiat* employment office thereto;

28) average remuneration – this shall mean an average monthly remuneration in the previous three months, from the first day of the month immediately following its promulgation by the President of the Central Statistical Office in the official gazette *Dziennik Urzędowy Rzeczypospolitej Polskiej “Monitor Polski”*, under Article 20, subparagraph 2 of the Act of 17 December 1998 on Retirement and Other Pensions from the Social Insurance Fund (*Dziennik Ustaw* 2004, No. 39, item 353, as amended);

29) reasons related to an employing establishment – this shall mean:

a) termination of an employment or service relationship for reasons not related to employees, in accordance with the provisions on particular rules for termination of employment relationships with employees for reasons not related to employees or in accordance with provisions of the Act of 26 June 1974 – the Labour Code (*Dziennik Ustaw* 1998, No. 21, item 94, as amended), where an employment or service relationship is terminated for such reasons by an employer employing less than 20 employees;

b) termination of an employment or service relationship due to a declaration of bankruptcy or liquidation of the employer, or liquidation of the working post for economic, organizational or technological reasons, or reasons related to manufacturing;

d) expiry of employment or service relationship in the case of the death of the employer or where such expiry of employment or service relationship is provided for in separate provisions as a result of devolution of the employing establishment or a part thereof to another employer and the latter employer fails to propose new conditions of work and pay;

30) promise – this shall mean a promise to issue a work permit to a foreign person provided that he or she obtains an appropriate visa, a permit to reside for a specified period or the permit referred to in the provisions on rules and conditions of entry and stay of citizens of European Union Member States and members of their families in the territory of the Republic of Poland;

31) on-site occupational preparation – this shall mean the acquisition of new occupational qualifications or skills by the practical performance of professional tasks at a working post, according to a fixed programme agreed by the *staroste*, employer and the unemployed person;

32) public works – this shall mean the employment of an unemployed person for no longer than 12 months in order for him or her to perform works aimed at the professional and social reintegration within the meaning of provisions on welfare employment; such works being organized by *gminas*, non-governmental organizations whose activity as stated under their statutes includes: environmental protection, culture, education, sports and tourism, health care, unemployment and social aid as well as water companies and associations thereof, provided that they are financed or subsidized with funds of the territorial self-government, State budget, earmarked funds, non-governmental organizations, water companies and associations thereof;

33) the EURES network – this shall mean a network of European employment services;

34) internship – this shall mean the acquisition by an unemployed person of practical skills to perform work by carrying out tasks at a workplace without establishing an employment relationship with an employer;

35) scholarship – this shall mean an amount paid from the Labour Fund to an unemployed person in the course of on-site occupational preparation or training course, internship provided by the employer or to a person studying in a post-primary, post-junior-high or higher education school on evening or part-time basis;

36) *staroste* – this shall mean the *staroste* of a *powiat* or president of a city enjoying the rights of *powiat* exercising supreme power over the *powiat* employment office;

37) training courses – this shall mean extramural educational classes aimed at acquiring, supplementing or upgrading occupational skills and qualifications, as well as general qualifications needed for the performance of work, including job-seeking skills;

38) social insurance premiums – this shall mean retirement pension, other pension and occupational accident premiums financed through financial means owned by the remitter thereof;

39) EURES services – this shall mean the labour market services provided by public employment services, trade unions and employers' organizations and consisting, in particular, of job brokerage and mobility guidance on the labour market of both the Republic of Poland and the states referred to in Article 1, paragraph 3, subparagraph 2, letters a and b;

40) the performance of work by a foreign person – this shall mean the employment, performance of other paid work or carrying out duties in management boards of legal persons entered into the register of entrepreneurs under the provisions on the National Court Register or being companies in organization;

41) a benefit – this shall mean the unemployment benefit;

42) activation classes – this shall mean classes for the unemployed and job-seekers, aimed at preparing them to seek jobs and start employment or other paid work on their own;

43) employment – this shall mean the performance of work under an employment or service relationship, and under a cottage industry contract;

44) monitored redundancy – this shall mean the termination of an employment or service relationship for reasons related to employing establishment with respect to which labour market services are provided to employees within the period of notice of employment or service relationship termination, as well as to the persons facing such notice;

45) reserve soldiers – this shall mean persons discharged from professional military service as a result of the restructuring of the Armed Forces of the Republic of Poland who did not acquire rights to retirement pension or other pension allowances in their full amounts; they shall enjoy the status of reserve soldiers for 36 months following the day of their discharge from professional military service.

2. The provision by volunteers of performances corresponding to work performance, under the rules specified in the provisions on public benefit and volunteer activity, shall not constitute an obstacle to acquisition and maintenance of the status of being unemployed if a volunteer submits to the competent *powiat* employment office the arrangement he or she concluded with the beneficiary.

3. On application of the *poviat* employment office, medical examinations aimed at determining the general suitability of an unemployed person for performing work, undergoing internship or on-site occupational preparation, performing socially useful works or performing work under an activation contract, referred to in Article 61c, paragraph 1, shall be conducted by the health insurance doctors, within the meaning of the provisions on health-care performances financed through public funds. The costs of such examinations shall be covered by the Labour Fund means.

Chapter 2. Labour Market Policy

Article 3. 1. The State tasks in the area of employment promotion, alleviation of effects of unemployment and occupational activation shall be performed based on the National Action Plan for Employment, adopted by the Council of Ministers and including the rules for implementation of the European Employment Strategy, hereinafter referred to as “the National Action Plan”, and based on the initiatives of *gmina*, *poviat* and *voivodeship* self-governments, as well as those of social partners.

2. The minister competent for labour, collaborating with the minister competent for the economy, the minister competent for education and upbringing and the minister competent for higher education, shall prepare a draft National Action Plan and submit it to the Supreme Employment Council for opinion.

3. The National Action Plan shall specify:

1) the aims and actions consistent with directions and priorities of the State labour market policy;

2) the actions and assumed results of the implementation of the priorities and guidelines of the European Employment Strategy;

3) the tasks, programmes and projects, which may be supported within the scope of the National Action Plan;

4) the criteria for obtaining financial support from territorial self-governments;

5) the expected expenditures from the Labour Fund and State budget for subsidizing tasks covered by the National Action Plan, including a list of expenditures to be borne in subsequent budget years;

6) the efficiency ratios of the National Action Plan;

7) the manner of monitoring and coordinating the task implementation.

4. Based on the National Action Plan and taking into account the *voivodeship* development strategy and *voivodeship* social policy strategy referred to in separate provisions, the *voivodeship* self-government shall annually prepare a regional action plan for employment, specifying preferred regional programmes, local projects, priority groups of the unemployed and other persons requiring support – after seeking the opinions of the *poviat* territorial self-government units and social partners.

5. Under the National Action Plan, the Council of Ministers may adopt government programmes for employment promotion and counteracting unemployment, aimed at the occupational activation of the unemployed.

6. The Council of Ministers shall submit to the Sejm of the Republic of Poland both the adopted National Action Plan and reports on the implementation thereof.

Article 4. 1. The minister competent for labour shall perform tasks for the benefit of the labour market by:

1) preparing and coordinating the National Action Plan’s implementation;

- 2) coordinating public employment services, in particular, through:
 - a) the implementation of tasks resulting from his or her duties as the Labour Fund's disposer;
 - b) the definition of instruments stimulating the development of continuing education, understood as education in schools for adults, as well as acquisition and supplementation of general knowledge, occupational skills and qualifications, with respect to the unemployed, job-seekers, employees and employers;
 - c) the development of tools and methods for the purposes of occupational guidance, job brokerage, organization of training courses for the unemployed, activation of the unemployed and job-seekers, and EURES services;
 - d) the implementation of tasks resulting from the right to free movement of employees between the states referred to in Article 1, paragraph 3, subparagraph 2, letters a and b, in particular, by taking and coordinating activities in *voivodeships* and *poviats* concerning participation of the public employment services in the EURES network;
 - e) the representation of public employment services to the public employment services of other states;
 - f) the implementation of the provisions and coordination of the activities resulting from international agreements and other arrangements concluded with foreign partners regarding the movement of employees;
 - 3) repealed;
 - 4) ensuring uniform law application, in particular, through:
 - a) providing explanations about application of the provisions of this Act;
 - b) establishing standards for the performance of labour market services provided by public employment services;
 - 5) drawing up annual reports on implementation of the National Action Plan;
 - 6) planning and carrying out activities resulting from the sectoral and regional programmes, as well as Community initiatives referred to in separate provisions, co-financed by the European Social Fund;
 - 7) aiming at the achievement and development of high level human resources, in particular, through:
 - a) conducting labour market research and analyses;
 - b) establishing a classification of professions and specialties for labour market needs;
 - c) coordinating the development of occupational qualification standards for professions included in the classification of professions and specialties, and keeping databases of such qualifications standards;
 - d) coordinating the development of and recommending modular occupational training curricula for the unemployed and job-seekers, as well as keeping databases of such curricula;
 - 8) introducing and developing data transmission systems for public employment services to ensure a coherent system for supporting the labour market.
- 1a. The minister competent for social security shall perform tasks related to the coordination of social security schemes of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a and b, within the scope of allowances for the unemployed, in particular, by carrying out duties of a liaison institution.
2. The minister competent for labour in agreement with the minister competent for computerization shall, by a regulation, determine:

1) a description of the data transmission systems used in public employment services consisting of the system's structure, required minimum functionality thereof and scope of communication between the system's structure elements including specification of structure of the electronic documents, data formats, and communication and encryption protocols referred to in Article 13, paragraph 2, subparagraph 2, letter a of the Act of 17 February 2005 on computerizing the activity of subjects performing public tasks (Dziennik Ustaw 2005, No. 64, item 565);

2) standardization requirements with respect to the system's safety, performance and development;

3) the procedure for ascertaining the software compliance with system description and for providing the time limit for its adjustment

– taking into account the need to ensure the coherence of data transmission systems used in public employment services and, in particular, to the extent of uniformity of data range and types enabling their integration within a single central collection, as well as to maintain their compliance with the minimum requirements for and manner of stating the compatibility of software specified under the Act of 17 February 2005 on computerizing the activity of subjects performing public tasks.

3. Public employment services shall use software meeting the requirements specified by the minister competent for labour in provisions issued under paragraph 2.

4. The minister competent for labour may establish a central register including data referring to the labour market, labour market institutions, forms of the support provided, as well as data concerning job-seekers and the unemployed as collected by public employment services under the provisions of this Act and may process such data under the rules specified in the provisions on personal data protection. Public employment services shall transfer such data to the central register by means of the software referred to in paragraph 3.

Article 5. The minister competent for labour shall carry out the duties of a coordinator of public employment services.

Chapter 6. Employment Agencies

Article 18. 1. An economic activity which consists in providing services in respect of:

- 1) job brokerage in the territory of the Republic of Poland;
- 2) job brokerage related to the performance of work abroad by Polish citizens with foreign employers;
- 3) personnel consultancy;
- 4) occupational guidance;
- 5) temporary work

– shall be a regulated activity within the meaning of the Act of 2 July 2004 on the Freedom of Economic Activity (Dziennik Ustaw 2004, No. 173, item 1807, as amended), hereinafter referred to as “the Freedom of Economic Activity Act” and shall require an entry into the register of subjects operating employment agencies, hereinafter referred to as “the register”.

2. The activity referred to in paragraph 1, subparagraphs 1 to 4 may be also performed by territorial self-government units, higher education schools, associations, foundations, voluntary, professional and other organizations whose objective, as stated under their

statutes, is provision of such services, on condition that they are entered into the register.

3. The provision of paragraph 1 shall apply accordingly to foreign entrepreneurs, within the meaning of the Freedom of Economic Activity Act, that are entitled to carry out an economic activity in respect of job brokerage, personnel consultancy, occupational guidance or temporary work within the territory of a European Union Member State or European Free Trade Agreement (EFTA) Member States – parties to the European Economic Area Agreement, in accordance with the law of a given state, and that establish branches seated in the territory of the Republic of Poland for the purpose of carrying out an economic activity in this respect.

4. The provision of paragraph 1 shall not apply to:

- 1) activity of the authorities referred to in Article 35, paragraph 2a;
- 2) authorities specified in the provisions on educational system, appointing teachers to work abroad in “Polonia” communities, in respect of the activity referred to in paragraph 1, subparagraph 2;
- 3) foreign entrepreneurs entitled to and carrying out an activity in respect of job brokerage, personnel consultancy, occupational guidance or temporary work within the territory of a European Union Member State or European Free Trade Agreement (EFTA) Member States – parties to the European Economic Area Agreement, in accordance with the law of a given state, such entrepreneurs temporarily intending – in the period of up to 3 months in a calendar year, in total – to provide such services in the territory of the Republic of Poland.

5. In the event of provision by job brokerage agencies of the services referred to in Article 36, paragraph 1, a job-seeker shall mean a person seeking employment or other paid work, including also persons not registered in a *poviat* employment office.

6. Before starting the provision of services, the entrepreneurs referred to in paragraph 4, subparagraph 3 shall be obliged to submit to the marshal of the *voivodeship* competent for the place of provision of the services:

- 1) information including the following data:
 - a) name of the state of origin, designation and seat of entrepreneur;
 - b) place, time limit of initiation and termination of service provision and types of services provided in the territory of the Republic of Poland;
- 2) declaration that the services in respect of job brokerage, personnel consultancy, occupational guidance or temporary work provided in the territory of the Republic of Poland comply with:
 - a) the rights enjoyed by him or her;
 - b) activity carried out in the state of his or her seat;
 - c) provisions of law applicable in the state of his or her origin – including the components referred to in Article 19, paragraph 4;
- 3) transcript of the document entitling him or her to carry out the activity in respect of provision of the services referred to in paragraph 1, in the territory of another Member State of the European Union and its translation into Polish language written by a sworn translator, including the full name and address of the authority issuing such document.

7. The services referred to in paragraph 1, subparagraphs 1 and 2 shall be provided by job brokerage agencies.

8. The services referred to in paragraph 1, subparagraph 3 shall be provided by personnel consultancy agencies.

9. Personnel consultancy shall consist, in particular, in:

- 1) carrying out the analysis of employment with employers, determining qualifications, predispositions and other features of the employees necessary for the performance of specific work by them;
- 2) indicating sources and methods for finding candidates for specific working posts;
- 3) verifying candidates in respect of expected qualifications and predispositions, using psychological tools and methods.

10. The services referred to in paragraph 1, subparagraph 4 shall be provided by occupational guidance agencies.

11. Occupational guidance shall, in particular, consist in:

- 1) assistance in the choice of an appropriate profession and place of employment;
- 2) provision of occupational information;
- 3) provision of assistance to employers in the choice of candidates for the posts requiring specific psychological and physical predispositions.

12. The temporary work agencies providing the services referred to in paragraph 1, subparagraph 5 shall appoint employees to a user employer, which may mean an employer or subject not being an employer within the meaning of the Labour Code. A user employer shall assign tasks to employees appointed by temporary work agencies and control the implementation thereof. Employment-related services shall be provided exclusively by temporary work agencies being entrepreneurs within the meaning of the Freedom of Economic Activity Act.

13. Job brokerage agencies, personnel consultancy agencies, temporary work agencies and occupational guidance agencies shall be hereinafter referred to as “employment agencies”.

Article 18a. 1. A subject intending to provide or providing the services referred to in Article 18, paragraph 1, shall fulfill the following conditions:

- 1) have no arrears in payment of taxes, social and health insurance premiums and premiums for the Labour Fund and Employees’ Guaranteed Benefits Fund if he or she was obliged to pay such premiums;
- 2) no penalty having been imposed on him or her for the offences or petty offences referred to in Article 121 of the Act;
- 3) be a subject with respect to which neither liquidation was opened nor bankruptcy was declared.

2. An employment agency should:

- 1) own premises designated for an employment agency office ensuring the confidential nature of the conversations held;
- 2) own technical equipment enabling it to carry out the activity of an employment agency;
- 3) for the purpose of serving persons using the services in respect of:
 - a) occupational guidance and personnel consultancy – ensure persons that have obtained a Master’s diploma of higher education or other similar and whose curriculum included preparation within the scope of occupational guidance or personnel consultancy or that have at least a one-year experience in work at the post of a professional or personnel adviser in public employment services or employment agencies;
 - b) job brokerage and temporary work – ensure persons having at least secondary education.

3. An employment agency shall process data in accordance with the provisions on personal data protection.

4. An employment agency shall not discriminate against the persons for whom it seeks employment or other paid work on the grounds their sex, age, disability, race, ethnic origin, nationality, sexual orientation, political views, religious persuasion or trade union membership.

5. An employment agency shall not collect the amounts other than those specified in Article 85, paragraph 2, subparagraph 7 from persons for whom it seeks employment or other paid work or to whom it provides assistance in the choice of appropriate profession and place of employment.

6. An employment agency shall be obliged to cooperate with employment authorities on implementing the labour market policy.

7. Gathering and providing information in an electronic form about job vacancies and sought after jobs by means of the Internet and other telecommunications networks shall not require an entry into the register.

8. An employment agency shall specify the entry number into the register in documents, advertisements and offers, and a temporary work agency shall also add the “temporary work agency” phrase. Work offers published by a temporary work agency shall be designated as temporary work offers.

Article 19. 1. The marshal of the *voivodeship* competent for the seat of an employment agency shall keep the register. The register shall be publicly accessible and may be kept in an electronic form.

2. The marshal of a *voivodeship* shall make an entry into the register based on a written application of a subject intending to carry out the activity referred to in Article 18, paragraphs 1 to 3 containing the following data:

1) designating the subject running an employment agency, his or her address of residence or seat and addresses at which the activity is carried out, including the name of the *gmina* and *voivodeship*;

2) determining the type of employment agency;

3) designating the legal form of the activity being carried out;

4) tax identification number NIP, if was assigned;

5) number in the National Court Register or number in the economic activity records, if was assigned, and name and address of the records-keeping authority.

3. Together with the application referred to in paragraph 2, the subject shall submit:

1) a declaration saying:

“I hereby declare that:

1) the data contained in the application for entry in the register are complete and true;

2) I am aware of and I have fulfilled the conditions for carrying out the activity of an employment agency in respect of:

a) job brokerage in the territory of the Republic of Poland;

b) job brokerage related to the performance of work abroad by Polish citizens with foreign employers;

c) personnel consultancy;

d) occupational guidance;

e) temporary work

– specified in the Act of 20 April 2004 on Employment Promotion and Labour Market Institutions;

2) a transcript of confirmation of payment of the fee referred to in paragraph 6.

4. The declaration shall also contain:

1) designation of the subject running the employment agency and address of his or her place of residence or seat;

2) designation of the place and date of filing the declaration;

3) signature of the person entitled to represent the subject, indicating his or her fore-name and surname as well as the post he or she holds.

5. The data referred to in paragraph 2 and the date of making the entry into the register shall be entered therein, except for the address of residence if it was different then the subject's seat.

6. An entry into the register shall be liable to a one-time fee in the amount of 100 zloties to be paid into the bank account of the Labour Fund's disposer referred to in Article 103, paragraph 2.

7. The marshal of a *voivodeship* shall issue to the subject applying for the first time for an entry into the register, for one year, an initial certificate of the entry into the register having been made, hereinafter referred to as an "initial certificate".

8. The marshal of a *voivodeship* shall issue a certificate of an entry into the register having been made, hereinafter referred to as a "certificate", to the subject holding an initial certificate provided that:

1) an application was filed for issuing the certificate no later than 7 days before the lapse of validity period of the initial certificate;

2) a declaration was filed saying that he or she carries out the activity of an employment agency while holding an initial certificate;

3) a declaration was filed saying that he or she carries out the activity in accordance with the conditions for running an employment agency specified in this Act.

9. In the case where the information about a change of data referred to in paragraph 16 was received, the marshal of a *voivodeship* shall issue an initial certificate or certificate taking into account such change.

10. An initial certificate and a certificate shall contain the following data:

1) the name of the subject;

2) the address of the subject's seat;

3) determination of the type of employment agency;

4) the number in the register;

5) the date of making the entry into the register.

11. The marshal of a *voivodeship* shall, by a decision, refuse to make an entry of a subject into the register in the event where at least one of the conditions referred to in Article 18a, paragraph 1 has not been fulfilled.

12. The marshal of a *voivodeship* shall, by a decision, refuse to make an entry of a subject into the register in the event where within a period of three years preceding the filing of application:

1) the circumstances referred to in Article 68 of the Freedom of Economic Activity Act occurred;

2) the subject was removed from the register for the reasons referred to in paragraph 14, subparagraphs 3 to 6.

13. The marshal of a *voivodeship* shall, by a decision, refuse to issue a certificate in the event where within a period of three years preceding the filing of application:

1) the subject holding an initial certificate did not fulfill the condition referred to in paragraph 8, subparagraph 2;

2) the subject holding an initial certificate violated the conditions for carrying out an activity of an employment agency specified in this Act.

14. The marshal of a *voivodeship* shall, by a decision, remove the subject entered into the register:

1) on a written application of the subject;

2) in the event where the entrepreneur has been put into liquidation or bankruptcy;

3) where the decision referred to in Article 71, paragraph 1 of the Freedom of Economic Activity Act has been issued;

4) where the activity has not been mentioned in the information about activity of the employment agency referred to in paragraph 17;

5) where the subject violated the conditions for carrying out the activity of an employment agency referred to in this Act;

6) where the subject has filed the declaration referred to in paragraph 3, subparagraph 1 and paragraph 4, or the information referred to in paragraphs 16 and 17, inconsistent with the state of fact, has been transferred.

15. A subject removed from the register shall be obliged to return the initial certificate or certificate within a month from having received the decision on his or her removal from the register.

16. An employment agency shall be obliged to notify the marshal of a *voivodeship* of any change in details mentioned in the application referred to in paragraph 2, as well as of termination of its activity.

17. Each year, by 31 January, an employment agency shall be obliged to provide the marshal of a *voivodeship* with information about the employment agency's activity in the preceding year.

18. The information about activity referred to in paragraph 17 should include, in particular, the number of:

1) persons who started work through an employment agency, as divided into basic profession groups, in accordance with the applicable classification of professions and specialities for labour market needs, together with the states of their employment;

2) employers using personnel consultancy services;

3) persons using occupational guidance services;

4) employers using occupational guidance assistance;

5) persons appointed to perform temporary work.

19. By 31 March, the marshal of a *voivodeship* shall transfer in an electronic form to the minister competent for labour collective information from the *voivodeship* concerning the information referred to in paragraph 17.

20. The minister competent for labour shall process the data concerning employment agencies, transferred in an electronic form by marshals of *voivodeships*.

21. In matters not regulated in this chapter, the provisions of the Freedom of Economic Activity Act shall apply.

22. The minister competent for labour shall, by a regulation, determine the standard form of an application for an entry into the register, of an initial certificate and certificate as well as the scope of the information about the employment agency's activity submitted,

and model forms of the information provided, taking into account the need to establish conditions for the development of an employment agency.

Chapter 11. Labour Market Instruments

Article 44. The labour market instruments supporting essential labour market services shall include:

- 1) the financing of the costs of travel to an employer who announced a work offer or to the place of work, internship, on-site occupational preparation, and of attending a training course or occupational guidance classes outside the place of permanent residence borne by a person in connection with his or her appointment thereto by the *poviat* employment office;
- 2) the financing of the costs of accommodation at a workplace borne by the person who started employment or other paid work, internship, on-site occupational preparation or attending a training course outside the place of permanent residence as a result of his or her appointment thereto by the *poviat* employment office;
- 3) subsidizing the furnishings of a workplace, undertaking an economic activity, costs of legal assistance, consultancy and guidance;
- 4) refunding the expenses incurred due to the social insurance premiums paid in connection with employment of an appointed unemployed person;
- 5) the financing of additional activation allowances.

Article 45. 1. For the period of up to 12 months, the *staroste* may refund with means of the Labour Fund the costs of travel from the place of residence and return to the place of employment or other paid work, of undergoing an internship with the employer, of on-site occupational preparation, of attending a training course or occupational guidance classes, to the person who meets all the following conditions:

- 1) after being appointed by the *poviat* employment office has started employment or other paid work, on-site occupational preparation, attending a training course, internship or has been appointed to occupational guidance classes outside his or her place of residence;
- 2) receives remuneration in an amount not exceeding 200 per cent of the minimum remuneration for work.

2. For the period of up to 12 months, the *staroste* may refund with means of the Labour Fund the costs of accommodation to the person who meets all the following conditions:

- 1) after being appointed by the *poviat* employment office has started employment or other paid work, internship, on-site occupational preparation or attending a training course outside the place of residence in the locality the travel to and return from which to the place of permanent residence takes over three hours a day in total;
- 2) lives in a hotel or leased apartment in or near the locality in which he or she is employed, performs other paid work, undergoes an internship or undergoes an on-site occupational preparation;
- 3) receives a remuneration in the amount not exceeding 200 per cent of the minimum remuneration for work applicable in the month for which the accommodation costs are refunded.

3. The *staroste* shall finance with means of the Labour Fund the costs of accommodation and alimentation of the unemployed or another authorized person appointed to a

training course outside his or her place of residence if that results from the contract concluded with a training institution.

4. The *staroste* may refund to an unemployed person the cost of his or her travel to the employer and cost of return to the place of residence, in the case of appointment of the unemployed to the employer that announced a work offer and whose seat is located outside the place of residence of the unemployed.

Article 46. 1. With the Labour Fund's means the *staroste* may:

1) refund to the subject carrying out an economic activity the costs of furnishing and supplementary equipment of the working post for an appointed unemployed person, in the amount specified in the contract but not exceeding 500 per cent of the average remuneration;

2) award to an unemployed person a single amount of funds for undertaking an economic activity, including the funds for covering the costs of legal assistance, consultancy and guidance connected with undertaking such activity, in the amount specified in the contract but not exceeding 500 per cent of the average remuneration, and where the activity is undertaken under the rules specified for welfare cooperatives, the amount of means granted to the unemployed shall not exceed 300 per cent of the average remuneration per one member-founder of such cooperative and 200 per cent of the average remuneration per one member joining it after the founding of such cooperative.

2. The subject carrying out an economic activity who received a refund of the costs of furnishing and supplementary equipment of the working post for an appointed unemployed person shall be obliged to reimburse the means received, including interest, if he or she employed on a full-time basis at such post an appointed unemployed person or persons for a period not exceeding three years or two – in the case of small and medium entrepreneurs within the meaning of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises (Official Journal of EC, L 010, 13/01/2001, p. 33) as amended by Commission Regulation (EC) No 364/2004 of 25 February 2004 (Official Journal of EC, L 63, 28/02/2004, p. 22), or if he or she violated other conditions of the contract of refund.

3. The person who received from the Labour Fund a one-time amount of funds for undertaking an economic activity, founding or joining a welfare cooperative shall be obliged to reimburse the means received, including interest, if such person carried out the economic activity or was a member of the welfare cooperative for a period not exceeding 12 months or other conditions of contract relating to the award of such funds were violated.

4. In the event of a failure to fulfill the obligation referred to in paragraphs 2 and 3, the claims resulting from the concluded contract shall be vindicated by virtue of provisions of the Code of Civil Procedure.

5. The amount of the average remuneration referred to in paragraph 1 shall be adopted as on the day of concluding a contract with a subject carrying out an economic activity or with an unemployed person.

6. The minister competent for labour shall, by a regulation, determine:

1) detailed conditions and procedure for making the refund referred to in paragraph 1, subparagraph 1;

2) detailed conditions and procedure for awarding the unemployed with one-time amounts of funds for undertaking the economic activity referred to in paragraph 1, subparagraph 2;

3) forms of securing the repayment of the received refund or funds for undertaking an economic activity in the event of failure to observe the contract conditions relating the award thereof

– taking into account the increase in mobility of the unemployed and job-seekers and rational management of the Labour Fund means as well as the need to ensure the compliance of granting of the public aid for the subjects carrying on economic activity with the admissibility conditions of the aid aimed at employment where the costs of furnishing and supplementary equipment of the working post for an appointed unemployed person were refunded, and with principles for granting *de minimis* aid in the event where the aid was granted to an unemployed person as a one-time payment of funds for undertaking an economic activity or refund of legal assistance, consultancy and guidance related to undertaking such economic activity.

Article 47. 1. The *staroste* may conclude with an employer a contract providing for a one-time refund of expenses incurred for payment of the social insurance premiums related to employment of the appointed unemployed person.

2. The costs may be refunded in the case where:

1) an employer has provided employment to an appointed unemployed person on full-time basis for at least 12 months and

2) after the lapse of 12 months of employment, the appointed unemployed person is still employed.

3. The amount of the refunded premiums referred to in paragraph 1, shall not exceed 300 per cent of the minimum remuneration for work applicable as on the date of fulfillment of the conditions specified in paragraph 2.

Article 48. 1. An unemployed person enjoying the right to the benefit shall be entitled to receive an additional activation allowance if:

1) after being appointed by the *powiat* employment office, he or she started employment on a part-time basis, applicable to a given profession or service, and receives remuneration in an amount lower than the minimum remuneration for work;

2) on his or her own initiative, the unemployed started employment or other paid work.

2. In the case referred to in paragraph 1, subparagraph 1, an additional activation allowance shall be applied in the amount constituting a difference between the minimum remuneration for work and the remuneration received, however, not exceeding 50 per cent of the benefit, referred to in Article 72, paragraph 1, for the period in which such unemployed would be entitled to the benefit.

3. In the case referred to in paragraph 1, subparagraph 2, an activation allowance shall be granted in the amount of 30 per cent of the benefit specified in Article 72, paragraph 1 for half of the period in which such unemployed would be entitled to the benefit.

4. The additional activation allowance shall not be granted where:

1) an unemployed was appointed by the *powiat* employment office to perform intervention works or public works or to a working post whose costs of furnishing and supplementary equipment were refunded in accordance with Article 46, paragraph 1, subparagraph 1;

2) on his or her own initiative, an unemployed person started employment or other paid work with an employer he or she had been employed with or performed other paid work immediately before being registered as an unemployed;

3) on his or her own initiative, an unemployed person started employment or other paid work with a foreign employer outside the territory of the Republic of Poland.

Article 49. With respect to:

- 1) unemployed under 25;
- 2) long-time unemployed;
- 3) unemployed over 50;
- 4) unemployed with no occupational qualifications,
- 5) unemployed bringing up on their own at least one child under 7;
- 6) disabled unemployed

– hereinafter referred to as “persons with special labour market status”, the additional actions referred to in Articles 50 to 61 may be taken.

Article 50. 1. Within the period of up to 6 months from the registration date, the *powiat* employment office shall present to the unemployed referred to in Article 49, subparagraphs 1 and 3 an offer of employment, other paid work, internship, on-site occupational preparation or employment within the scope of intervention or public works.

2. Within 6 months from the loss of the right to the benefit due to the lapse of the period of being thereon, the *powiat* employment office shall present an offer of employment, other paid work, internship, on-site occupational preparation or employment within the scope of intervention or public works to the unemployed referred to in Article 49, subparagraph 2, who are on social aid benefits or implement an individual scheme of gaining independence under the provisions on social aid.

Article 51. 1. For a period of up to 6 months, the *staroste* shall refund to the employer that provided employment related to the performance of intervention works to the appointed unemployed referred to in Article 49 a part of the expenses incurred for remunerations, awards and social insurance premiums paid with respect to the appointed unemployed, in the amount previously agreed, not exceeding, however, the amount assessed as the product of the number of persons employed in a given month, calculated in terms of full-time employment, and the benefit amount specified in Article 72, paragraph 1, applicable as on the last day of employment in each settled month, and the social insurance premiums related to the refunded remuneration.

2. For a period of up to 6 months, the *staroste* shall refund to the employer who provided to the appointed unemployed referred to in Article 49 a part-time employment related to the performance of intervention works a part of the expenses incurred for remunerations, awards and social insurance premiums paid with respect to the appointed unemployed, in the amount previously agreed, not exceeding, however, half of the amount of the minimum remuneration for work and the social insurance premiums related to the remuneration refunded for each unemployed.

3. Within the scope of and under the rules specified in paragraph 1, the *staroste* may refund the expenses incurred by the employer for providing employment related to intervention works for a period of up to 12 months to the appointed unemployed referred to in Article 49, in the amount previously agreed, not exceeding, however, half of the amount of the minimum remuneration for work and the social insurance premiums related to the remuneration refunded for each unemployed person if such refund covers the expenses incurred in every second month of their employment.

4. If the employer has provided employment to an appointed unemployed person for the six months immediately following the termination of the intervention works which

lasted at least 6 months and, after such period, the full-time employment is still continued, the *staroste* may award to the employer a one-time refund of the remuneration in the previously agreed amount, not exceeding, however, 150 per cent of the average remuneration applicable as on the date of fulfillment of such condition.

5. By appointing an unemployed person to intervention works, the *staroste* shall be obliged to take into account his or her age, health condition and the types of work previously performed.

Article 52. The unemployed under 25 appointed by the *staroste* to a training course shall be entitled to receive a scholarship in the amount of 40 per cent of the benefit referred to in Article 72, paragraph 1 throughout such training period; the provisions of Article 41, paragraph 6 and Article 80 shall accordingly apply.

Article 53. 1. The unemployed referred to in Article 49, subparagraph 1 may be appointed by the *staroste* to undergo an internship with an employer for a period not exceeding 12 months.

2. Paragraph 1 shall accordingly apply to the unemployed person under 27 who was registered as unemployed within a period of 12 months from the date specified in a diploma, attestation or another document certifying termination by him or her of a high school education.

3. The *staroste* may appoint the unemployed referred to in Article 49, subparagraphs 2 to 6 to undergo for a period of up to 6 months occupational preparation with an employer, without establishing an employment relationship.

4. Both an internship and on-site occupational preparation shall be conducted under a contract concluded by the *staroste* with the employer and according to the curriculum specified in such contract. The curriculum shall be established taking into account the psychological, physical and health predispositions, educational level and current occupational qualifications of the unemployed. The curriculum shall specify:

- 1) the name of the profession or speciality it refers to;
- 2) the scope of tasks implemented by the unemployed;
- 3) the type of qualifications or occupational skills to be acquired;
- 4) the manner of confirming qualifications or occupational skills acquired;
- 5) the guardian of the person covered by the occupational preparation and internship curriculum.

5. The internship and on-site occupational preparation undergone by an unemployed person shall be supervised by the *staroste*. After terminating implementation of the curriculum referred to in paragraph 4, an employer shall issue an opinion including the information about the tasks implemented by the unemployed and practical skills acquired by him or her in the course of internship and about the tasks implemented by the unemployed and occupational qualifications or skills acquired by him or her in the course of occupational preparation. The *staroste* shall issue to the unemployed a certificate of his or her having undergone occupational preparation and internship.

6. In the course of an internship or on-site occupational preparation, an unemployed person shall be entitled to receive from the *staroste* a scholarship in the amount of the benefit referred to in Article 72, paragraph 1; the provisions of Article 41, paragraph 6 and Article 80 shall accordingly apply. The benefit shall not be granted for the period in which such scholarship is paid.

7. On application of an unemployed person undergoing an internship or on-site occupational preparation, an employer shall be obliged to give him or her 2 rest days in respect of each 30 calendar days of such internship or on-site occupational preparation. The scholarship shall be granted for all such rest days.

8. The provisions of paragraphs 1 to 7 shall accordingly apply to non-governmental organizations.

9. The minister competent for labour shall, by a regulation, determine detailed conditions for undergoing an internship and on-site occupational preparation, taking into account the need to ensure proper conditions for the acquisition of skills.

Article 54. The *staroste* shall assess and pay, in the amount and under the rules specified in separate provisions, the retirement and other pension insurance as well as occupational accident insurance premiums related to the scholarships paid under Article 52 and Article 53, paragraph 6.

Article 55. 1. The *staroste* shall grant a 12-month scholarship in the amount of 50 per cent of the benefit referred to in Article 72, paragraph 1 to the unemployed referred to in Article 49, subparagraph 1, being simultaneously the unemployed referred to in Article 49, subparagraph 4, who within 6 months from his or her registration in the *poviat* employment office, started education in a post-primary or post-junior high school for adults or in an evening or part-time higher education school, such scholarship being granted on application of the unemployed.

2. The *staroste* may make a decision to continue the payment of a scholarship until the education is completed in accordance with the teaching programme.

3. The scholarship shall be granted provided that the amount of income per one family member, within the meaning of the provisions on social aid, entitling to social aid benefits is not exceeded.

4. The scholarship shall be paid based on a certificate issued by a school establishment in order to confirm the continuity of learning.

5. The scholarship shall not be granted in the case of where the learning process has been interrupted or a person loses his or her status of being unemployed.

Article 56. 1. For the period of up to 12 months, the *staroste* may refund, with means of the Labour Fund, to the employer who provided full-time employment related to the performance of intervention works to the appointed unemployed referred to in Article 49, subparagraphs 1, 2 and 6 the expenses incurred for remunerations, awards and social insurance premiums paid with respect to the appointed unemployed, in the amount previously agreed, not exceeding, however, the amount of benefit specified in Article 72, paragraph 1, applicable as on the last day of each settled month, and the social insurance premiums related to the refunded remuneration.

2. For the period of up to 18 months, the *staroste* may refund, with means of the Labour Fund, to the employer who provided full-time employment related to the performance of intervention works to the appointed unemployed referred to in Article 49, subparagraphs 1, 2 and 6 the expenses incurred for his or her remunerations, awards and social insurance premiums paid with respect to the appointed unemployed, in the amount previously agreed, not exceeding, however, the amount of the minimum remuneration for work and the social insurance premiums related to such remuneration if such refund covers the expenses incurred in every second month.

Article 57. 1. For a period of up to 6 months, the *staroste* may refund to the public works organizer who provided employment to the appointed unemployed referred to in Article 49, subparagraph 2, 3 and 5 a part of the expenses incurred for remunerations, awards and social insurance premiums paid with respect to the unemployed, in the amount previously agreed, not exceeding, however, the amount assessed as a product of the number of persons employed in a given month, calculated in terms of full-time employment and 50 per cent of the average remuneration as on the last day of employment in each settled month, and the social insurance premiums related to the remuneration refunded.

2. Within the scope of and under the rules specified in paragraph 1, the *staroste* may refund the expenses incurred by the organizer of public works for providing employment for a period of up to 12 months to the appointed unemployed referred to in Article 49, subparagraphs 2, 3 and 5, in the amount previously agreed, not exceeding, however, an average remuneration and the social insurance premiums related to the remuneration refunded for each unemployed if such refund covers the expenses incurred in every second month of their employment.

3. On application of the organizer of public works, the *staroste* may allow advances towards remunerations and social insurance premiums to be paid from the means of the Labour Fund.

4. Under the rules applicable to public works, the *staroste* may appoint the unemployed referred to in Article 49, subparagraphs 1 and 2 to perform work not related to the profession they acquired, for a period of up to 6 months, where the amount of working time does not exceed half of the working time amount, and the work is performed in public utility institutions and organizations dealing with culture, education, sport, tourism, health care or social aid issues.

5. The appointment referred to in paragraph 4 shall, in particular, refer to the unemployed under a duty of maintenance or alimony under separate provisions.

6. The *staroste* shall reimburse to the employer who provided employment to the unemployed appointed to the works referred to in paragraph 4 a part of the expenses incurred for remunerations, awards and social insurance premiums in the amount previously agreed, not exceeding, however, the amount assessed as a product of the number of persons employed and 50 per cent of the minimum remuneration for work applicable as on the last day of employment in each settled month including the social insurance premium related to the remuneration refunded.

Article 58. After 6 months from their registration in the *poviat* employment office, the unemployed referred to in Article 49, subparagraph 3 may apply for a right to a pre-retirement-pension allowance if they fulfill the conditions necessary to acquire such allowance, specified in separate provisions.

Article 59. 1. The *staroste* may appoint the unemployed referred to in Article 49, subparagraph 3 to perform work within the scope of intervention works for a period of up to 24 months and refund the expenses incurred by the employer for remunerations and social insurance premiums.

2. The *staroste* may appoint the unemployed referred to in paragraph 1 to perform work within the scope of intervention works for a period of up to 4 years with an employer and refund the expenses incurred by the employer for remunerations and social insurance premiums if such refund covers the expenses incurred in every second month of their employment.

3. While appointing the unemployed to perform the work within the scope of intervention works referred to in paragraphs 1 and 2, under the rules specified in Article 46, paragraph 1, subparagraph 1, the *staroste* may refund to the entrepreneur the costs of furnishing or supplementary equipment for the working post of an appointed unemployed person.

4. If the work within the scope of intervention works is to be performed by those unemployed who:

1) fulfil the necessary conditions for acquiring the right to a pre-retirement-pension allowance – the refund shall be awarded in the amount of up to 80 per cent of the minimum remuneration for work and social insurance premiums related to the refunded remuneration;

2) do not fulfil the conditions necessary for acquiring the right to a pre-retirement-pension allowance – the refund shall be awarded in the amount of up to 50 per cent of the minimum remuneration for work and social insurance premiums related to the refunded remuneration.

Article 59a. The intervention works referred to in Articles 51, 56 and 59 shall not be organized in *powiat* and *voivodeship* employment offices.

Article 59b. 1. The lists of employers and persons with whom contracts were concluded in the events referred to in Article 46, paragraph 1, subparagraph 1, Article 47, paragraph 1, Article 51, paragraphs 1 to 4, Article 53, paragraphs 1 and 3, Article 56, Article 57, paragraphs 1, 2 and 4 and Article 59, paragraphs 1 to 3 shall be disclosed to the general public by the *powiat* employment office by being put on a notice board in its premises for 30 days.

2. After the end of each calendar year, by 31 January, the *powiat* employment office shall transfer to the competent *powiat* employment council a collective list of employers and persons referred to in paragraph 1.

3. The lists referred to in paragraph 1 shall include:

1) the name of the employer or forename and surname of the person such contract was concluded with;

2) the indication of the type of labour market instruments;

3) the number of working, internship and on-site occupational preparation posts created.

Article 60. The minister competent for labour shall, by a regulation, determine the detailed manner of and procedure for organizing intervention and public works, one-time refund of expenses incurred for the payment of social insurance premiums related to the employment of an appointed unemployed person, contents of an application for organizing public or intervention works as well as the procedure and conditions of the contracts concluded with authorized employers taking into account the conformity with the law of the spending of the means of the Labour Fund and the need to ensure conformity of the public aid provided to entrepreneurs with conditions of admissibility of the aid for employment purposes.

Article 61. 1. The *staroste* may refund the costs for the care of a child under seven to the unemployed referred to in Article 49, subparagraph 5, having been provided with the documentation of incurring said costs, in the amount agreed, not exceeding, however, a half of the benefit referred to in Article 72, paragraph 1, if the unemployed starts employment or other paid work or is appointed to an internship, on-site occupational preparation

or a training course and provided that the amount of income per family member is not exceeded, within the meaning of the provisions on social aid.

2. The costs of care for a child under 7 shall be refunded:

1) for a period of up to 3 months, if an unemployed person started employment or other paid work to be performed for at least 6 months;

2) for a period of up to 6 months, if an unemployed person started employment or other paid work to be performed for at least 12 months.

3. In the case of appointment of an unemployed person to an internship, on-site occupational preparation or a training course, the costs of care for a child under 7 shall be refunded for the period of such internship, on-site occupational preparation or course.

4. On application of the person referred to in paragraph 1, the *staroste* may make an advance payment for refunding the costs of care taken of a child.

5. Under the rules specified in paragraphs 1 to 4, also the costs of care for a dependent may be refunded.

Article 61a. An unemployed person may be appointed to undergo internship, on-site occupational preparation or intervention works with an entrepreneur not providing employment to any employee under the rules provided for employers.

Chapter 14. Instruments Concerning Human Resources Development

Article 67. 1. Employers, within the funds held thereby, may set up an establishment's training fund, hereinafter referred to as the "training fund".

2. The training fund shall be allocated for financing or co-financing the costs of continuing education for employees and employers.

3. The training fund may be set up by more than one employer, upon the principle of mutual arrangement.

4. The setting up, operation and liquidation of the training fund shall be regulated by the collective labour agreement or regulations governing the training fund.

Article 68. 1. The following shall be incomes of the training fund:

1) employers' payments, pursuant to the provisions of the collective labour agreement or regulations governing the training fund, in an amount not lower than 0.25 per cent of the remuneration fund;

2) other receipts.

2. The means of the training fund shall be expended pursuant to the training courses' curriculum agreed by the employer with the trade union body of the establishment. An employer without a trade union body operating in the establishment shall agree the training courses' curriculum with the employee selected by the personnel to represent their interests.

3. If the training courses' curriculum is not agreed within the time limit fixed by the parties, not longer than 30 days, the training courses' curriculum shall be implemented in accordance with the employer's proposals.

4. The training courses' curriculum shall contain:

1) a diagnosis of training needs;

2) the number of persons envisaged to be trained;

3) the scope of training;

4) the manner of monitoring training results;

5) the outlays envisaged for the delivery of training courses.

Article 69. 1. Upon application by the employer that set up a training fund, the *staroste* may refund from the Labour Fund, on the conditions set out in the contract, the costs of specialist training for employees facing dismissal for reasons pertaining to the employing establishment, in an amount of up to 50 per cent thereof, however, not more than up to the amount of average remuneration per person applicable on the day when the contract was made, if, following completion of the training course, said employees will be employed by that employer in line with the thrust of the training course they attended in other working posts for at least 12 months.

2. Upon an application by the employer that delegates an employee to a training course lasting at least 22 working days, for a time equal to the working time of the delegated employee, and grants him or her a paid training leave for that period, while employing, for the duration of training, an unemployed person appointed by the *poviat* employment office, the *staroste* may refund from the Labour Fund:

1) training costs – up to 80 per cent of the average remuneration applicable on the day when the training commenced, per employee;

2) remuneration, as well as social insurance premiums on that remuneration, not exceeding 40 per cent of the average remuneration applicable on the day when the training commenced, per each appointed unemployed person.

3. The rules for co-financing from the State budget of continuing education for employees and employers based on the training courses' curriculum of an establishment shall be regulated in separate provisions.

4. The minister competent for labour shall determine, by a regulation, the detailed conditions for refunding training courses' costs, as well as remuneration and social insurance premiums referred to in paragraphs 1 and 2, having regard for the conformity of expending funds with law, and the need to ensure compliance of the public aid with training aid admissibility conditions in the event of refunding the training courses' costs referred to in paragraph 1 and paragraph 2, subparagraph 1, as well as the rules of granting *de minimis* aid in the event of refunding remuneration and social insurance premiums referred to in paragraph 2, subparagraph 2.

Article 70. 1. An employer intending to dismiss at least 100 employees over three months shall be obliged to agree with the *poviat* employment office competent with regard to the employer's seat the scope and forms of aid for the dismissed employees, in particular:

- 1) job brokerage;
- 2) occupational guidance;
- 3) training courses;
- 4) assistance in active job-seeking.

2. In the event of monitored redundancy, the employer shall be obliged to take steps consisting in providing the employees envisaged for dismissal or in the period of notice of termination, or within six months after termination of the employment relationship or service relationship, with the labour market services implemented in the form of a programme.

3. A programme may be implemented by a *poviat* employment office, employment agency or a training institution.

4. A programme may be financed:

- 1) by the employer;

- 2) by the employer and relevant public administration units;
- 3) pursuant to an arrangement between organizations and legal persons, including the employer.
5. Employers that set up training funds, within the framework of the programme referred to in paragraph 2, may, upon application by the employee, finance training allowances from the training fund means.
6. A training allowances shall be granted for no more than six months by the employer upon application by the employee and the entitlement to receive them shall continue after termination of the employment relationship or service relationship for the duration of the employee's participation in training courses.
7. In the period when a dismissed employee is receiving training allowances he or she shall be entitled to assistance in the field of occupational guidance, granted by the *powiat* office competent for the dismissed employee. This employee may be delegated to a one-off training course organized and financed by the *powiat* employment office, according to the rules set out in this Act.
8. Following the grant by the employer of a training allowance the *powiat* employment office shall refund to the employer the retirement and other pension insurance premiums financed with the employer's own funds, in an amount specified in separate provisions.
9. Every month, starting from the month when the employee commenced the training course, the employer shall pay to the dismissed employee, pursuant to a contract concluded therewith, a training allowance in the amount equal to this employee's remuneration, calculated as for the vacation leave, however, not more than 200 per cent of the minimum remuneration for work.

Chapter 16. Polish Citizens' Starting Work Abroad for Foreign Employers and Foreign Persons' Performing Work in the Republic of Poland

Article 84. Polish citizens may start work abroad for foreign employers according to the procedure and rules applicable in the State of employment and set out in international agreements.

Article 85. 1. Starting work abroad shall take place by direct agreements made by Polish citizens with foreign employers or through public employment services, as well as job brokerage agencies providing the services referred to in Article 36, paragraph 1.

2. Appointment to work abroad for foreign employers through job brokerage agencies shall take place under contracts made by these agencies with Polish citizens. The contract shall define in particular the following:

- 1) the foreign employer;
- 2) the period of employment or other paid work;
- 3) the kind and conditions of work and remuneration, as well as social welfare allowances to which the person delegated to work is entitled;
- 4) the conditions of social insurance, accident insurance and insurance against tropical diseases;
- 5) the duties and rights of the person appointed to work and the job brokerage agency;
- 6) the scope of the parties' civil liability in the event of non-performance or improper performance of the contract between the job brokerage agency and the Polish citizen, including the party covering the cost of travel and return of the person appointed to work

in the event when the foreign employer does not observe the conditions of the contract, as well as the procedure for pursuing claims connected therewith;

7) the amounts due to the job brokerage agency for actually incurred costs connected with appointment to work abroad, incurred for:

- a) travel and return of the appointed person;
- b) issue of a visa;
- c) medical examinations;
- d) translation of documents;

8) information about the procedure and conditions for admission of foreign persons to the labour market in the State where work is performed;

9) other of the parties' obligations.

3. A job brokerage agency shall be obliged to conclude a contract with the foreign employer to which it intends to appoint Polish citizens to work abroad, the said contract defining in particular:

- 1) the number of jobs;
- 2) the period of employment or other paid work;
- 3) the kind and conditions of work, principles of remuneration, as well as social welfare allowances to which persons starting work are entitled;

4) the scope of the parties' civil liability in the event of non-performance or improper performance of the contract between the employee and the employer, including the party covering the cost of travel and return of the person appointed to work in the event when the foreign employer does not observe the conditions of the contract, as well as the procedure for pursuing claims connected therewith.

4. The job brokerage agency shall be obliged to inform the person delegated to work abroad about the rights enjoyed thereby, as referred to in Article 86.

5. The job brokerage agency shall be obliged to observe international agreements, arrangements and programmes concerning employment and binding upon the Republic of Poland, as well as provisions on employment applicable in the State of employment.

Article 86. 1. Documented periods of the employment of Polish citizens and citizens of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a and b, abroad with foreign employers shall be included in the periods of work in the Republic of Poland as regards employees' rights.

2. Documented periods of employment abroad of repatriated persons or persons considered as repatriated persons shall be included in the periods of work in the Republic of Poland as regards employees' rights.

3 to 5. Repealed.

6. The minister competent for the economy shall determine, by a regulation, the required documents, procedure and criteria for distribution of the limit of employment of Polish employees abroad for the purposes of the performance of specific work contracts by Polish employers, if the said limit was established in an international agreement, having regard for the existing needs in this respect.

Article 87. A foreign person may perform work in the territory of the Republic of Poland if he or she holds a work permit issued by the marshal of the *voivodeship* competent with respect to the employer's seat. The following foreign persons shall be exempt from this duty:

- 1) persons having the status of refugee granted in the Republic of Poland;

2) persons having a permit to settle or a long-term resident of the European Communities' stay permit in the Republic of Poland;

2a) persons having a permit to reside for a specified period of time in the Republic of Poland granted in connection with a circumstance referred to in Article 53, paragraph 1, subparagraph 13 of the Act of 13 June 2003 on Foreign Persons;

3) persons having consent for tolerated stay in the Republic of Poland;

4) persons enjoying temporary protection in the Republic of Poland;

5) family members of a Polish citizen being citizens of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a and b;

5a) the spouse of a Polish citizen not being a citizen of a state referred to in Article 1, paragraph 3, subparagraph 2, letters a and b, if he or she holds a permit to reside for a specified period of time in the territory of the Republic of Poland granted in connection with his or her entering into a marriage;

5b) descendants of a Polish citizen or a foreign person who is a spouse of a Polish citizen, as referred to in subparagraph 5a, not being a citizen of a state referred to in Article 1, paragraph 3, subparagraph 2, letters a and b, if he or she holds a permit to reside for a specified period of time in the territory of the Republic of Poland;

6) family members of the foreign persons referred to in subparagraphs 1 to 4:

a) being the spouse of this foreign person and holding a permit to reside for a specified period of time in the territory of the Republic of Poland granted in connection with his or her entering into a marriage;

b) holding a permit to reside for a specified period of time in the territory of the Republic of Poland granted under Article 53, paragraph 1, subparagraph 7 or 14 of the Act of 13 June 2003 on Foreign Persons (Dziennik Ustaw 2003, No. 128, item 1175 as amended) or being descendants of a foreign person holding consent for a tolerated stay in the territory of the Republic of Poland, if they obtained a permit to reside for a specified period of time in the territory of the Republic of Poland, or being descendants of a foreign person enjoying temporary protection in the territory of the Republic of Poland, if they obtained a permit to reside for a specified period of time in the territory of the Republic of Poland;

7) those exempt from the duty to hold work permits pursuant to separate provisions;

8) foreign persons – with the possibility of applying to them the principle of reciprocity with the use of equivalent means or limitations referred to in Annex XII, subparagraph 2, paragraph 11 of the Treaty on accession of Poland to the European Union:

a) citizens of European Union Member States;

b) citizens of States with which the European Union concluded agreements on free movement of persons;

c) family members of the foreign person referred to in subparagraphs a and b, who perform work or carry on economic activity in the territory of the Republic of Poland;

d) family members of the foreign person referred to in subparagraphs a and b, who stays in the territory of the Republic of Poland pursuant to the provisions:

– on the right of stay applicable in European Union Member States;

– on the right of stay of employees and self-employed persons who ceased their occupational activity, applicable in European Union Member States,

– on the right of residence for students, applicable in European Union Member States.

Article 88. 1. A work permit shall be required if the foreign person:

1) performs work for a subject having its seat in the territory of the Republic of Poland;

2) performs work for a foreign employer and is delegated in the territory of the Republic of Poland in order to deliver an export service;

3) performs work for a foreign employer and is delegated thereby to another subject having its seat in the territory of the Republic of Poland for a period exceeding 30 days per year in order to perform a task specified by the delegating party according to a procedure different from that of delivering export services; this provision shall not infringe the provisions referred to in Article 90, paragraph 2, concerning the procedure for employing foreign persons in the delivery of export services provided by foreign employers in the Republic of Poland.

2. The issue of a work permit shall be conditional upon the employer's prior obtaining of a promise and the foreign person's obtaining of the appropriate visa or permit to reside for a specified period of time in the territory of the Republic of Poland, or the permit referred to in the provisions on the principles and conditions of entry and stay of citizens of European Union Member States and their family members in the territory of the Republic of Poland.

3. [*This provision is valid until 31 December 2006.*] If the foreign person holds the appropriate visa or permit to reside for a specified period of time in the territory of the Republic of Poland, the voivode shall issue a decision on the work permit. The voivode shall issue a decision on the work permit also on the basis of the travel document or the permits referred to in the provisions on the principles and conditions of entry and stay of citizens of European Union Member States and their family members in the territory of the Republic of Poland, or on the basis of a temporary certificate of identity of a foreign person and a certificate confirming the period that has elapsed since the day of initiating the proceedings for granting the status of refugee, and confirming the circumstance that extension of the proceedings was not caused by the foreign person.

3. [*This provision comes into force on 1 January 2007.*] If the foreign person holds the appropriate visa or permit to reside for a specified period of time in the territory of the Republic of Poland, the marshal of a voivodeship shall issue a decision on the work permit. The marshal of a voivodeship shall issue a decision on the work permit also on the basis of the travel document or the permits referred to in the provisions on the principles and conditions of entry and stay of citizens of European Union Member States and their family members in the territory of the Republic of Poland, or on the basis of a temporary certificate of identity of a foreign person and a certificate confirming the period that has elapsed since the day of initiating the proceedings for granting the status of refugee, and confirming the circumstance that extension of the proceedings was not caused by the foreign person.

4. The provisions of paragraphs 1 to 3 shall not apply in the event when the employer entrusts the foreign person with the performance of work outside the territory of the Republic of Poland.

5. The work permit for foreign persons:

1) performing functions in management boards – shall be applied for by the subject authorized to representation;

2) [*this provision is valid until 31 December 2006*] referred to in paragraph 1, subparagraph 2 – shall be applied for by the foreign employer; the decision on the promise and

work permit shall be issued by the *voivode* competent with respect to the place of delivery of the export service;

2) [*this provision comes into force on 1 January 2007*] referred to in paragraph 1, subparagraph 2 – shall be applied for by the foreign employer; the decision on the promise and work permit shall be issued by the marshal of the *voivodeship* competent with respect to the place of delivery of the export service;

3) [*this provision is valid until 31 December 2006*] referred to in paragraph 1, subparagraph 3 – shall be applied for by the foreign employer or the subject where the task specified by the delegating party will be performed; the decision on the promise and work permit shall be issued by the *voivode* competent with respect to the seat of the subject where the task will be performed;

3) [*this provision comes into force on 1 January 2007*] referred to in paragraph 3 – shall be applied for by the foreign employer or the subject where the task specified by the delegating party will be performed; the decision on the promise and work permit shall be issued by the marshal of the *voivodeship* competent with respect to the seat of the subject where the task will be performed.

6. [*This provision is valid until 31 December 2006.*] A promise and work permit for a foreign person concerning work in units subordinated to the minister competent for culture and protection of national heritage, the minister competent for physical culture and sport, the minister competent for science, the minister competent for tourism, the minister competent for higher education, the minister competent for health, the minister competent for education and upbringing and the President of the Polish Academy of Sciences shall be issued by the *voivode* if the conditions set out in the provisions of this Act and in separate provisions have been fulfilled.

6. [*This provision comes into force on 1 January 2007.*] A promise and work permit for a foreign person concerning work in units subordinated to the minister competent for culture and protection of national heritage, the minister competent for physical culture and sport, the minister competent for science, the minister competent for tourism, the minister competent for higher education, the minister competent for health, the minister competent for education and upbringing and the President of the Polish Academy of Sciences shall be issued by the marshal of a *voivodeship* if the conditions set out in the provisions of this Act and in separate provisions have been fulfilled.

7. [*This provision is valid until 31 December 2006.*] A promise and work permit shall be issued to the employer by the marshal of a *voivodeship*, taking into account the situation on the local labour market and the criteria referred to in Article 8a, paragraph 1, subparagraph 2. In events justified by the labour market situation, the marshal of a *voivodeship* may limit the kind of work to management actions and representation of the subject. The marshal of a *voivodeship* may also consider the usefulness of the subject for the labour market and for the economy.

7. [*This provision comes into force on 1 January 2007.*] A promise and work permit shall be issued to the employer by the marshal of a *voivodeship*, taking into account the situation on the local labour market and the criteria referred to in Article 8a, paragraph 1, subparagraph 1. In events justified by the labour market situation, the marshal of a *voivodeship* may limit the kind of work to management actions and representation of the subject. The marshal of a *voivodeship* may also consider the usefulness of the subject for the labour market and for the economy.

8. *[This provision is valid until 31 December 2005.]* A foreign person's promise and work permit shall be issued upon the employer's application, for a specified period of time, for a specific foreign person and employer, for a specific job or kind of performed work. The permit shall be issued on the conditions set out in the promise, for a period not longer than the duration of stay specified in the appropriate visa or not longer than the validity period of the permit to reside for a specified period of time in the territory of the Republic of Poland or the permit referred to in the provisions on the principles and conditions of entry and stay of citizens of European Union Member States and their family members in the territory of the Republic of Poland, or the period indicated in the certificate issued under Article 30a, paragraph 1 of the Act of 13 June 2003 on Providing foreign persons with protection within the territory of the Republic of Poland (Dziennik Ustaw 2003, No. 128, item 1176, as amended). If the promise has been issued, the permit shall be issued after obtaining the employer's written confirmation of the date when the foreign person starts the performance of work. The date when the foreign person starts the performance of work may not be earlier than the date of issue of the decision on work permit. Upon the employer's application the voivode may extend the promise and work permit of a foreign person.

8. *[This provision comes into force on 1 January 2006.]* A foreign person's promise and work permit shall be issued upon the employer's application, for a specified period of time, for a specific foreign person and employer, for a specific job or kind of performed work. The permit shall be issued on the conditions set out in the promise, for a period not longer than the duration of stay specified in the appropriate visa or not longer than the validity period of the permit to reside for a specified period of time in the territory of the Republic of Poland or the permit referred to in the provisions on the principles and conditions of entry and stay of citizens of European Union Member States and their family members in the territory of the Republic of Poland, or the period indicated in the certificate issued under Article 30a, paragraph 1 of the Act of 13 June 2003 on Providing foreign persons with protection within the territory of the Republic of Poland (Dziennik Ustaw 2003, No. 128, item 1176, as amended). If the promise has been issued, the permit shall be issued after obtaining the employer's written confirmation of the date when the foreign person starts the performance of work. The date when the foreign person starts the performance of work may not be earlier than the date of issue of the decision on work permit. Upon the employer's application the marshal of a voivodeship may extend the promise and work permit of a foreign person.

9. *[This provision is valid until 31 December 2006.]* Upon application by the head of the competent revenue office, the Social Insurance Establishment or a consul, the voivode shall transfer transcripts of issued decisions.

9. *[This provision comes into force on 1 January 2007.]* Upon application by the head of the competent revenue office, the Social Insurance Establishment or a consul, the marshal of a voivodeship shall transfer transcripts of issued decisions.

10. Unless separate provisions provide otherwise, the employer shall employ a foreign person or conclude with him or her a contract for the performance of other paid work for the time for which the work permit was granted.

11. *[This provision is valid until 31 December 2006.]* If separate provisions make the possibility of occupying a specific post, practising a profession or carrying on other activity conditional on obtaining consent of the competent authority, the employer, prior to applying to the voivode, shall be obliged to obtain such a consent.

11. [This provision comes into force on 1 January 2007.] If separate provisions make the possibility of occupying a specific post, practising a profession or carrying on other activity conditional on obtaining consent of the competent authority, the employer, prior to applying to the marshal of a voivodeship, shall be obliged to obtain such a consent.

12. [This provision is valid until 31 December 2006.] The voivode shall annul the promise or work permit if:

- 1) the foreign person performs work illegally;
- 2) the foreign person has lost the rights to perform work;
- 3) there has been a change in the circumstances or evidence relating to the issued decision;
- 4) the reason for which the work permit was granted has ceased to exist;
- 5) the foreign person who performs, instead of the employer being an organizational unit, activities in the scope of labour law and infringes the said law; in the event of infringement of the labour law provisions the promise or work permit shall be annulled upon application of the competent labour inspector.

12. [This provision comes into force on 1 January 2007.] The marshal of a voivodeship shall annul the promise or work permit if:

- 1) the foreign person performs work illegally;
- 2) the foreign person has lost the rights to perform work;
- 3) there has been a change in the circumstances or evidence relating to the issued decision;
- 4) the reason for which the work permit was granted has ceased to exist;
- 5) the foreign person who performs, instead of the employer being an organizational unit, activities in the scope of labour law and infringes the said law; in the event of infringement of the labour law provisions the promise or work permit shall be annulled upon application of the competent labour inspector.

13. Annulment of the promise or work permit shall oblige the employer to immediately terminate the contract with the foreign person. In the event of a delegated foreign person, the employer shall be obliged to immediately recall him or her from the delegation.

14. The employer shall file an application for the issue of a foreign person's work permit having made a one-off payment amounting to the minimum remuneration for work, per each person, the said payment constituting income of the State budget. In the event of application for extension of the work permit, the payment shall amount to half of the minimum remuneration for work.

15. [This provision is valid until 31 December 2006.] The minister competent for labour and the voivode shall gather and process data relating to foreign persons, issue of work permits, control of observance of the provisions of this Act and proceedings pending in these matters, to the extent necessary to implement the provisions of this Act.

15. [This provision comes into force on 1 January 2007.] The minister competent for labour and the marshal of a voivodeship shall gather and process data relating to foreign persons, issue of work permits, control of observance of the provisions of this Act and proceedings pending in these matters, to the extent necessary to implement the provisions of this Act.

16. The provisions of paragraphs 1 to 15 shall apply accordingly to a natural person intending to entrust a foreign person with the performance of work.

Article 89. 1. Periods of employment of Polish citizens in the former German Democratic Republic and the former Czechoslovak Socialist Republic under international agreements and arrangements before 1 December 1991 shall be treated like periods of employment in the Polish State in the field of employees' rights.

2. The period of unpaid leave granted to an employee for the duration of appointment to work abroad pursuant to Regulation of the Council of Ministers of 27 December 1974 on certain rights and duties of employees appointed to work abroad in order to perform export construction work and services connected with export (*Dziennik Ustaw* 1990, No. 44, item 259; 1991, No. 78, item 346; 1993, No. 99, item 452), as well as the period of incapacity for work due to disease or separation connected with an infectious disease falling directly after the end of such leave – shall be included in the period of work upon which employees' rights are conditional if the employee started employment with his or her home employer within the time limit provided for in the said Regulation.

3. The period of employment abroad of an employee who did not have an employment relationship prior to appointment to work abroad pursuant to the Regulation referred to in paragraph 2 shall be treated as a period of employment in the Republic of Poland in the field of employee's rights. This shall also apply to an employee who was granted unpaid leave for the period of appointment to work abroad and who did not start work for the home employer following completion of the work abroad or started work for the home employer, but after the lapse of the time limit provided for in the Regulation referred to in paragraph 2.

Article 90. 1. The minister competent for labour shall, by a regulation, determine:

1) the procedure and conditions for issuing or extending promises or work permits for foreign persons;

2) the procedure and conditions for refusing the issue or extension of work permits for foreign persons;

3) model forms of applications for issue of a work permit, extension of a work permit and the permits and promises which may contain the foreign person's personal data – having regard for the needs of the Republic of Poland's labour market and for ensuring the proper organization of the issue or refusal of issue of promises and work permits.

2. The minister competent for labour shall, by a regulation, determine:

1) the procedure and conditions for issuing or extending promises or permits, as well as refusing the issue or extension of promises or work permits for foreign persons employed in the delivery of export services provided by foreign employers in the Republic of Poland;

2) model forms of applications for the issue of a work permit, extension of a work permit and the permits and promises which may contain the foreign person's personal data

– having regard for the needs of the Republic of Poland's labour market and to ensuring proper organization of the issue or refusal of issue of promises and work permits.

3. The minister competent for culture and protection of national heritage, in consultation with the minister competent for labour, may determine, by a regulation, the conditions for foreign persons' performing work within the framework of provision of artistic services, the qualifications and skills to be possessed by the foreign person and the employment duration, having regard for justified labour market needs in this scope.

4. The minister competent for labour shall determine, by a regulation, the cases when it is admissible to entrust a foreign person with the performance of work in the territory of the Republic of Poland without the need to obtain a work permit, if such cases result from international agreements and arrangements, training or advisory programmes conducted within the European Union, the particular character of practised profession, nature of the work, as well as the special status which was the grounds for granting to the foreign person a permit to reside for a specified period of time in the territory of the Republic of Poland.

5. [*This provision is valid until 31 December 2006.*] The minister competent for labour may determine, by a regulation, the cases when the promise and work permit for a foreign person are issued by the marshal of a voivodeship regardless of the local labour market situation and the criteria referred to in Article 10, paragraph 2, subparagraph 2, guided by, in particular, the principle of reciprocity.

5. [*This provision comes into force on 1 January 2007.*] The minister competent for labour may determine, by a regulation, the cases when the promise and work permit for a foreign person are issued by the marshal of a voivodeship regardless of the local labour market situation and the criteria referred to in Article 8a, paragraph 1, subparagraph 1, guided by, in particular, the principle of reciprocity.

6. In the situation referred to in Article 87, subparagraph 8, the minister competent for labour may determine, by a regulation, the scope of limitations on the performance of work by foreign persons in the territory of the Republic of Poland, having regard for the protection of the Polish labour market.

NOTE 1 (To the Act's Title): Within the scope of its regulation, this Act shall implement the following directives of the European Communities:

– Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (OJ of EEC, L 257, 19/10/1968);

– Council Directive 90/364/EEC of 28 June 1990 [*editors' note: the Polish legislator mistakenly dates the Directive at 28 July, which we correct according to the original document*] on the right of residence (OJ of EEC, L 180, 13/07/1990);

– Council Directive 90/365/EEC of 28 June 1990 [*editors' note: the Polish legislator mistakenly dates the Directive at 28 July, which we correct according to the original document*] on the right of residence for employees and self-employed persons who have ceased their occupational activity (OJ of EEC, L 180, 13/07/1990);

– Council Directive 93/96/EC of 29 October 1993 on the right of residence for students (OJ of EEC, L 317, 18/12/1993).

The data concerning promulgation of legislative acts of the European Union and contained herein shall, from the day of obtaining by the Republic of Poland of membership of the European Union, concern promulgation of these acts in the Official Journal of the European Union – special edition.

Translated by Magdalena Sporniak-Czerkas [Articles 1 to 61]
 and
 Anna Setkowicz-Ryszka [Articles 62 to 152]