

ACT
of 15 June 2018
on the Collective Management of Copyright and Related Rights

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Chapter 1
General provisions

Article 1. The Act sets forth the principles of:

- 1) the functioning of collective copyright and related rights management organisations and other entities managing copyright and related rights;
- 2) granting authorisations for the collective management of copyright and related rights, hereinafter referred to as “authorisations”;
- 3) supervising collective copyright and related rights management organisations;
- 4) the functioning of the Copyright Committee, hereinafter referred to as “Committee”.

Article 2. 1. The provisions of this Act shall apply to:

- 1) collective copyright and related rights management organisations;
- 2) entities who perform activities with regard to the collective management of copyright and related rights under a legal title granted to them by a collective copyright and related rights management organisation;
- 3) legal persons or organisational units which are not legal persons but are granted capacity to perform acts in law under this Act, do not act in the capacity of a rightholder and are not a collective copyright and related rights management organisation, which perform activities with regard to the collective management of copyright and related rights under a legal title granted to them by rightholders, hereinafter referred to as “independent management entities”.

2. To the extent not regulated by this Act, collective copyright and related rights management organisations are governed by the provisions of the Act of 7 April 1989 – Law on Associations (*Dziennik Ustaw* 2017, item 210; *Dziennik Ustaw* 2018, item 723).

Article 3. Any reference made in this Act to:

- 1) collective management of copyright and related rights – shall mean activity consisting in the exercise of copyright or related rights for the collective benefits of rightholders by performing such actions as:
 - a) exercising collective management over rights,
 - b) concluding agreements for the use of works or objects of related rights or the collection of remuneration for such use,
 - c) collecting, distributing and paying rights revenue,
 - d) monitoring the use of rights or objects of related rights by users,
 - e) enforcing the protection of copyright and related rights,
 - f) exercising other rights and obligations of collective copyright and related rights management organisations arising from this Act and the Act of 4 February 1994 on Copyright and Related Rights (*Dziennik Ustaw* 2018, items 1191 and 1293), hereinafter referred to as “Copyright and Related Rights Act”;
- 2) collective copyright and related rights management organisation – shall mean an association of rightholders or entities representing rightholders the main statutory purpose of which is the collective management of copyright and related rights for the benefit of rightholders to the extent of the authorisation granted thereto by the minister in charge of culture and national heritage, hereinafter referred to as “minister”;
- 3) foreign collective management organisation – shall mean an entity recognised as a collective copyright and related rights management organisation abroad in a the country of its establishment;

- 4) rightholder – shall mean any person or entity, other than a collective copyright and related rights management organisation, that holds copyrights or related rights or is entitled to a share of the rights revenue;
- 5) person who manages the business of a collective management organisation – shall mean a member of the management board, a member of the audit committee and a person who manages the organisational unit responsible in the relevant organisation for the performance of activities with regard to the collective management of copyright and related rights;
- 6) rights revenue – shall mean:
 - a) income collected by a collective copyright and related rights management organisation on behalf of rightholders, deriving from copyright and related rights, a right to remuneration, and fees specified in the Copyright and Related Rights Act, and
 - b) benefits generated by this income until the time of its payment to rightholders;
- 7) distribution of rights revenue – shall mean the determination of the amount of rights revenue due to individual rightholders prior to its payment;
- 8) payment of rights revenue – shall mean the transfer of collected rights revenue to individual rightholders;
- 9) representation agreement – shall mean any agreement between collective copyright and related rights management organisations or between a collective copyright and related rights management organisation and a foreign collective copyright and related rights management organisation whereby one organisation mandates another organisation to collectively manage rights exercised by each of them to the extent and on terms set forth in this Act;
- 10) user – shall mean any natural person, legal person or organisational unit which is not a legal person but is granted capacity to perform acts in law hereunder and carries out the exploitation of works or objects of related rights subject to the authorisation of rightholders or payment of remuneration thereto or performs acts subject to the payment of fees pursuant to the Copyright and Related Rights Act;
- 11) repertoire – shall mean the works in respect of which a collective copyright management organisation manages rights;
- 12) multi-territorial licence – shall mean an agreement mandating the use of musical works as well as musical and lyrical works in the territory of more than one Member State of the European Union or a member state of the European Free Trade Agreement – a party to the Agreement on the European Economic Area, on fields of exploitation listed in Article 50 (1) and (3) of the Copyright and Related Rights Act, to the extent necessary to use those works for the purposes of digital content delivery services within the meaning of Article 2 (5) of the Act of 30 May 2014 on Consumer Rights (*Dziennik Ustaw* 2017, items 683 and 2361; *Dziennik Ustaw* 2018, item 650), supplied by electronic means within the meaning of the Act of 18 July 2002 on the Supply of Services by Electronic Means (*Dziennik Ustaw* 2017, item 1219; *Dziennik Ustaw* 2018, item 650).

Article 4. 1. A collective copyright and related rights management organisation, hereinafter referred to as “collective management organisation”, collectively manages copyright and related rights under an agreement on the collective management of copyright and related rights, a representation agreement, the Copyright and Related Rights Act or this Act, to the extent of authorisation granted thereto.

2. A collective management organisation cannot without a valid reason refuse to exercise collective management over copyright and related rights to the extent of authorisation granted thereto.

3. A collective management organisation shall treat rightholders equally, irrespective of legal grounds from the collective management of their rights.

4. A collective management organisation shall manage copyright and related rights with due diligence, especially by regularly distributing and paying rights revenue.

5. A collective management organisation is liable for actions referred to in Article 2.1 (2) as for its own actions.

Article 5. 1. It is presumed that a collective management organisation is authorised to collectively manage copyright and related rights to the extent of authorisation granted thereto and has the necessary capacity in that regard.

2. Insofar as Articles 21 to 21³, Article 25.4 and Article 70.3 of the Copyright and Related Rights Act provide for the obligation to conclude an agreement or pay remuneration through a collective management organisation, the rights held by a given category of rightholders, who did not conclude a contract for the collective management of copyright and related rights with any organisation, to a given type of works or objects of related rights in a specific field of exploitation are collectively managed by an organisation that is representative in regard to those rights.

3. An agreement concluded with a representative collective management organisation also authorises the user to use

works or objects of related rights the rights to which are collectively managed by that organisation pursuant to paragraph 2.

4. A rightholder who is not represented by any collective management organisation and whose work or object or related rights is covered by an agreement referred to paragraph 3 is entitled to rights revenue under that agreement on the same terms and conditions as rightholders who have concluded an agreement for the collective management of copyright and related rights with the relevant organisation to that extent. A claim for the payment rights revenue may be sought only from a collective management organisation who concluded the agreement referred to in paragraph 3.

Chapter 2

Authorisations

Article 6. 1. The collective management of copyright and related rights is carried out only by a collective management organisation and to the extent of authorisation granted thereto by the minister.

2. An association of authors, artists, performers, producers, publishers of published lyrical works or radio and television organisations files an application for authorisation to the minister.

3. The application referred to in paragraph 2 shall be accompanied by:

- 1) a statute of the association and draft statute that meets the requirements referred to in Article 12;
- 2) draft rules and regulations referred to in Article 19 (4) to (8);
- 3) draft strategy referred to in Article 19 (9);
- 4) a description of the planned manner of exercising the collective management of copyright and related rights and an indication of circumstances referred to in Article 7.1 (2).

Article 7. 1. The minister grants authorisation to the association referred to in Article 6.2 which:

- 1) demonstrates the need for collective management of copyright and related rights separately for each field of exploitation covered by the application;
- 2) provides a guarantee for the due exercise of collective management of copyright and related rights, in particular:
 - a) has technical and organisational capacity that guarantees independent and appropriate exercise of collective management of copyright and related rights,
 - b) employs persons whose qualifications guarantee appropriate management of legal and accounting issues related to activities with regard to the collective management of copyright and related rights,
 - c) has sufficient funds to guarantee the due exercise of collective management of copyright and related rights.

2. Insofar as the application for authorisation concerns cases where the provisions of this Act require joint operation of collective management organisations under an arrangement concluded by them, the minister grants an authorisation to the applicant, provided that the applicant agrees with these organisations the principles for the joint conclusion of agreements for the use of works or objects of related rights or on the collection of remuneration for such use.

Article 8. Authorisation shall not be granted:

- 1) to a field branch of an association;
- 2) if the applicant is in liquidation;
- 3) if 5 years have not passed from the effective date of the decision of the minister on the revocation of the applicant's authorisation pursuant to Article 103.1 (4) or (5), to the extent covered by the application for authorisation.

Article 9. 1. An authorisation shall specify:

- 1) types of works or objects of related rights the rights to which are collectively managed by a collective management organisation.
- 2) fields of exploitation on which a collective management organisation collectively manages copyright and related rights.

2. An authorisation may specify the categories of rightholders whose rights are collectively managed by a collective management organisation.

Article 10. 1. A collective management organisation which has an exclusive authorisation to collectively manage the rights of a specific category of rightholders to a given type of works or objects of related rights in a specific field of exploitation is a representative organisation.

2. If more than one collective management organisation holds an authorisation to collectively manage the rights of a specific category of rightholders to a given type of works or objects of related rights in a specific field of exploitation is a representative organisation, the representative organisation is the organisation that represents the greatest number of rightholders to that extent under an agreement for the collective management of copyright and related rights and a representation agreement.

3. In the case referred to in paragraph 2, the representativeness is determined *ex officio* by the minister by way of a decision.

4. The minister repeals or amends the decision establishing representativeness *ex officio*, if the grounds for representativeness referred to in paragraph 2 have changed to a material degree or it is not necessary to establish representativeness.

Article 11. 1. Articles 6 to 9 shall apply accordingly to the application to amend an authorisation.

2. A decision of minister to grant or amend an authorisation and a decision concerning representativeness shall be announced in the Public Information Bulletin on the website of the office of the minister.

Chapter 3

Statute, Membership in a Collective Management Organisation as well as Bodies and Persons Managing the Business of This Organisation

Subchapter 1

Statute of a Collective Management Organisation

Article 12. The statute of a collective management organisation, hereinafter referred to as the “statute”, shall specify in particular:

- 1) the name of the collective management organisation, which distinguishes it from other entities;
- 2) the territory of operation and seat of the collective management organisation;
- 3) objectives of the collective management organisation and ways in which they are to be achieved;
- 4) requirements and procedure to acquire and lose the status of member as well as rights and obligations of members;
- 5) rules and procedure for:
 - a) convening a general assembly of members or an assembly of delegates,
 - b) replacing a general assembly of members with an assembly of delegates, if such possibility has been provided for;
- 6) the term of office as well as rules and procedure for appointing the management board and audit committee, supplementing the composition of those bodies, and revoking and expiry of mandates of their members;
- 7) the manner in which funds are acquired and membership contributions are determined;
- 8) the manner of representation of the collective management organisation, including entry into financial obligations, and requirements for the validity of resolutions adopted by the bodies of this organisation;
- 9) the manner of managing the collective management organisation’s assets;
- 10) rules for amending the statute;
- 11) how to allocate the collective management organisation’s assets in the event of its liquidation.

Article 13. 1. The management board of a collective management organisation without delay notifies the registry court about an amendment to the statute or adoption of a new statute. The amendment of the statute or adoption of a new statute must be entered into the National Court Register, to which the principles and procedure for entry of an association into that register shall apply accordingly.

2. The application for entry of amendments to the statute or a new statute to the National Court Register shall be filed together with a certified copy of the decision to grant authorisation.

3. The registry court delivers to the minister a certified copy of the application for entry of amendments to the statute of a new statute to the Register.

4. The minister has the right to issue an opinion concerning the application referred to in paragraph 3 within 21 days from the delivery date of its certified copy and participate in the proceedings as an interested party.

Subchapter 2

Membership in a Collective Management Organisation

Article 14. 1. A collective management organisation accepts rightholders and entities representing rightholders, including other collective management organisations, foreign collective management organisations and rightholders' associations as members without delay, if they are nationals of a Member State of the European Union or Member States of the European Free Trade Agreement (EFTA) – a party to the Agreement on the European Economic Area, or if they have a place of residence or seat in that state and meet the membership requirements set forth in the statute.

2. Rightholders and entities representing rightholders who are nationals of a state other than indicated in paragraph 1 or have a place of residence or seat in such state can become members, provided that the statute does not stipulate otherwise.

3. A member of a collective management organisation, on terms set forth in paragraph 1 and 2, can also be a legal person.

4. The membership requirements are based on objective, transparent and non-discriminatory criteria. A collective management organisation communicates membership requirements to the public by publishing them on its website.

5. The refusal to accept rightholders and entities representing rightholders referred to in paragraph 1 as members is expressed in writing or electronically and must include a detailed statement of reasons.

Article 15. 1. A collective management organisation provides access to means of electronic communication that allow to fix, transfer, store and secure the substance of acts performed in connection with membership in that organisation.

2. A collective management organisation keeps and updates on a continuous basis an electronic register of its members containing at least their full name, pseudonym or name and correspondence address, including an electronic e-mail address, if one has been provided by a member.

Subchapter 3

Bodies and Persons Managing the Business of a Collective Management Organisation

Article 16. 1. The bodies of a collective management organisation include:

- 1) the general assembly of members or the assembly of delegates;
- 2) the management board;
- 3) the audit committee.

2. Where the statute so provides, a collective management organisation may establish bodies other than those specified in paragraph 1. The procedure for appointing members of those bodies, supplementing their composition, and the authority of those bodies are set forth in the statute.

3. A member of the management board and audit committee may be a natural person who has full capacity to perform acts in law. Where the statute so provides, members of the management board and audit committee may be entitled to remuneration or other consideration for the performed function.

Article 17. 1. The general assembly of members is the highest authority of a collective management organisation. In cases where the statute does not lay down the competencies of other bodies, resolutions shall be adopted by the general meeting of members. The provisions of the statute that provide for the general competence of other bodies are invalid.

2. Members of a collective management organisation have the right to participate and vote in a general assembly of members.

3. Only those members of a collective management organisation who concluded an agreement for the collective management of copyright and related rights with that organisation have the right to vote in a general assembly of members on matters referred to in Article 19 (4) to (7).

4. The statute may stipulate that rightholders who are not members of the collective management organisation but who entered into an agreement for the collective management of copyright and related rights with that organisation also have the right to participate in the general assembly of members and vote on matters referred to in Article 19 (4) to (7). Articles 15.1 and 21 shall apply accordingly.

Article 18. 1. If a collective management organisation has more than 300 members, the statute may provide for an assembly of delegates instead of a general assembly of members or for the replacement of a general assembly of members with an assembly of delegates.

2. The right to appoint delegates is vested in members of the collective management organisation. Any of these members can be appointed as a delegate.

3. The assembly of delegates shall be composed of at least:

- 1) 100 delegates – in the case of a collective management organisation with up to 1000 members;
- 2) 200 delegates – in the case of a collective management organisation with more than 1000 members.

4. The principles for appointing delegates set forth in the statute ensure a fair and balanced representation of members who belong to different categories of rightholders within the collective management organisation in the assembly of delegates, based on:

- 1) the number of members of the collective management organisation who belong to a given category of rightholders, or
- 2) the amount of rights revenue payable to members of the collective management organisation who belong to a given category of rightholders, or
- 3) the number of works or objects of related rights of members of the collective management organisation who belong to a given category of rightholders, the rights to which are collectively managed by that organisation.

5. The statute may provide that rightholders who are not members of the collective management organisation but who entered into an agreement for the collective management of copyright and related rights with that organisation also have the right to appoint delegates. In this case, such rightholder can also be appointed as a delegate. A delegate who is not a member of the collective management organisation has the right to vote in the assembly of delegates only on matters referred to in Article 19 (4) to (7). Paragraph 4, Article 15.1 and Article 21 shall apply accordingly, especially ensuring a fair and balanced representation of different categories of rightholders in the assembly of delegates.

6. In the case referred to in paragraph 1, the statute shall specify the term of office, detailed principles and procedure for appointing delegates and procedure for convening the assembly of delegates, with the stipulation that delegates shall be appointed at least once every 4 years.

7. The provisions of this Act and the statute concerning the general assembly of members shall apply accordingly to the assembly of delegates.

Article 19. In addition to other matters listed in the statute, a resolution of the general assembly of members is required:

- 1) to approve and make amendments to the statute;
- 2) to appoint and dismiss members of the management board, lay down remuneration principles as well as the amounts of remuneration and other benefits in cash and in kind due on account of the function held, including retirement pension benefits and rights as well as severance packages;
- 3) to appoint and dismiss members of the audit committee, lay down remuneration principles as well as the amounts of remuneration and other benefits in cash and in kind due on account of the function held, including retirement pension benefits and rights as well as severance packages;
- 4) to approve repartition regulations laying down at least the principles for the distribution of the rights revenue between rightholders, detailed principles governing the use of funds referred to in Article 41.1, and principles for making deductions from the rights revenue;
- 5) to approve rules and regulations laying down the principles for making deductions from the rights revenue to fund social, cultural or educational activities;
- 6) to approve investment regulations laying down the principles for managing the rights revenue until its payment to rightholders, including its investment;
- 7) to approve regulations laying down the principles for conducting social, cultural or educational activities;
- 8) to approve regulations laying down the principles and procedure for handling complaints referred to in Article 94;
- 9) to approve the risk management strategy;
- 10) to acquire and dispose of real property, perpetual usufruct, a share in real property and share in perpetual usufruct, and to establish a limited property right thereon;
- 11) to lend and borrow as well as establish collateral for the repayment of borrowings;
- 12) to establish subsidiaries of the collective management organisation in which the organisation has the right to appoint and dismiss the majority of members of decision-making bodies, managing bodies or auditing bodies of the subsidiary,

holds the majority of votes in its bodies or has a deciding impact on the subsidiary's activity;

- 13) for the collective management organisation to acquire an enterprise or its organised part, shares or stocks;
- 14) to give the collective management organisation permission to establish a membership in another legal person.

Article 20. 1. The general assembly of members is convened at least once a year, not later than 6 months from the balance sheet date.

2. The agenda discussed at the general assembly of members includes in particular:

- 1) examination and approval of the report of the Management Board on the collective management organisation's operations for the previous financial year;
- 2) granting discharge to members of the management board and the audit committee for the performance of their duties;
- 3) appointing a statutory auditor to examine the financial statements of the collective management organisation and financial data referred to in Article 91.3.

Article 21. 1. A member of the collective management organisation may appoint any other member as a proxy holder to participate in, and vote on their behalf at, the upcoming general assembly of members, provided that such appointment does not result in a conflict of interest. A power of attorney cannot be granted, if the appointing member and the proxy holder belong to different categories of rightholders within the collective management organisation.

2. A proxy must be granted in writing, otherwise being null and void, and attached to the minutes from the general assembly of members.

3. Any member of the management board and the audit committee as well as any employee of the collective management organisation cannot be a proxy at the general assembly of members.

4. A single proxy holder can represent at:

- 1) the general assembly of members – no more than seven members;
- 2) the assembly of delegates – no more than one delegate.

5. A member of the collective management organisation who participates in the general assembly of members can be advised by a person who is not a member of the collective management organisation. The principles for the participation of such persons in the general assembly of members are set forth in the statute.

Article 22. 1. The management board handles the collective management organisation's affairs and represents it.

2. The management board is appointed by the general assembly of members for a maximum term of 4 years.

3. The principles that govern the handling of the collective management organisation's affairs and its representation by the management board are set forth in the statute.

4. The management board operates on the basis of the rules of procedure approved by the management board, unless the statute provides that the rules of procedure be approved by the general assembly of members.

Article 23. 1. Prior to their appointment, a candidate for a member of the management board or the audit committee submits to the general assembly of members a statement concerning:

- 1) any interests in the collective management organisation;
- 2) any amounts received in the previous financial year as a rightholder from the collective management organisation;
- 3) any circumstances which after appointment will lead to a conflict between any personal interest and those of the collective management organisation and any duty owed to other entities;
- 4) any circumstances which after appointment may potentially lead to conflicts referred to in subparagraph 3.

2. A candidate for manager of the organisational unit responsible for performing activities with regard to the collective management of copyright and related rights in the collective management organisation submits the statement referred to in paragraph 1 to the management board before the date on which they take up their duties.

3. At the first general assembly of members in a given calendar year, a person who manages the business of a collective management organisation submits a statement concerning:

- 1) any interests in the collective management organisation;
- 2) remunerations and other benefits in cash and in kind, including pension benefits and rights as well as

severance packages, received from the collective management organisation in the previous financial year on account of the function held;

- 3) any amounts received in the previous financial year as a rightholder from the collective management organisation;
- 4) any circumstances which lead to a conflict between any personal interest and those of the collective management organisation and any duty owed to other entities;
- 5) any circumstances which may potentially lead to conflicts referred to in subparagraph 4.

4. The statements referred to in paragraphs 1 and 2 and paragraphs 3 (1) to (4) shall be made under the penalties of perjury. The person submitting the statement is obliged to include a following clause in it: “I am aware of the penalties of perjury.” This clause replaces the notice on the penalties of perjury.

Article 24. In agreements between a member of the management board and the collective management organisation and disputes between them, the collective management organisation is represented by a member of the audit committee indicated in its resolution or an attorney-in-fact appointed by resolution of the general assembly of members.

Article 25. 1. The audit committee holds constant supervision over the business of a collective management organisation, in particular monitors whether persons who manage its business perform their duties in accordance with the provisions of law, the statute, resolutions adopted by the general assembly of members, repartition regulations referred to in Article 19 (4) and investment regulations referred to in Article 19 (6), and other internal regulations of the collective management organisation.

2. The statute can grant the audit committee the competences referred to in Article 19 (9) to (14) and provide that the management board is obliged to obtain the audit committee’s permission before performing any other activities specified in the statute. If the audit committee refuses to grant permission, the management board may refer this matter to the general assembly of members.

Article 26. 1. The audit committee performs its duties collectively, but it may delegate its members to perform specific supervisory functions.

2. In order to perform its duties, the audit committee may examine all documents of the collective management organisation, request the person who manages the business of this organisation, its employees and entities cooperating with this organisation under a different legal basis to provide statements and explanations as well as reevaluate the collective management organisation’s assets.

3. Where the requests are refused or the performance of duties referred to in paragraph 2 is being impeded, the audit committee shall immediately notify the management board of this fact. The management board shall ensure that the audit committee is able to duly perform its duties within 7 days from the receipt of this information. If effective measures are not taken by the management board, the audit committee notifies the minister of this occurrence without delay.

Article 27. 1. The audit committee must be composed of at least five members appointed for a maximum term of 4 years.

2. A member of the management board, a liquidator, a manager of the organisational unit responsible for performing activities with regard to the collective management of copyright and related rights in the collective management organisation, its chief accountant, legal counsel or attorney-at-law providing services to this organisation, and a person directly subordinate to the person who manages the business of the collective management organisation cannot be a member of the audit committee.

3. The principles for the appointment of audit committee members set forth in the statute ensure a fair and balanced impact of individual categories of members of the collective management organisation on the committee’s composition.

Article 28. 1. Audit committee meetings are held at least once a quarter.

2. The audit committee annually submits a statement on its operations to the general assembly of members.

3. The audit committee operates on the basis of the rules of procedure approved by the audit committee, unless the statute provides that the rules of procedure be approved by the general assembly of members.

Chapter 4

Relationship Between a Collective Management Organisation and Rightholders and the Management of Rights Revenue

Subchapter 1

Agreement for the Collective Management of Copyright and Related Rights

Article 29. 1. The rightholder may conclude an agreement for the collective management of copyright and related rights, hereinafter referred to as “collective management agreement”, with a collective management organisation to the extent of authorisation granted thereto. A collective management organisation may refuse to conclude this agreement only for a valid reason and such refusal requires a statement of reasons in written or electronic form.

2. A collective management agreement specifies works or objects of related rights, the fields of exploitation and territories to which this management applies. A collective management agreement may provide that the collective management of copyright and related rights of the relevant rightholder covers:

- 1) all of their works or objects of related rights, or
- 2) a specific type of works or objects of related rights

- existing at the time of entry into the collective management agreement or established during its term.

3. A collective management agreement is concluded in written, electronic or document form.

4. Prior to the conclusion of the collective management agreement, a collective management organisation communicates to the rightholder information on rights and obligations of the rightholder arising from the provisions laid down in this chapter and in the collective management agreement as well as any deductions made by the collective management organisation, as referred to in Article 36 (2) and (4), in a form that allows for this information to be fixed.

5. The statement of intent connected with the amendment, performance or termination of the collective management agreement can be submitted using electronic means of communication. A collective management organisation provides access to means of electronic communication that allow to fix, transfer, store and secure the substance of actions performed and communicates information that clearly and transparently presents the process of performing these actions to the public.

Article 30. The rightholder has the right to grant a licence to use the works or objects of related rights covered by a collective management agreement to a third party, provided that this use does not entail any direct or indirect economic benefits. The principles governing the exercise of this right by the rightholders are set forth by the collective management organisation in the collective management agreement.

Article 31. 1. The rightholder without delay communicates to the collective management organisation with which they concluded a collective management agreement information on:

- 1) on granting a licence referred to in Article 30 to a third party, containing in particular the full name or business name of the licensee, date on which the licence was granted, and works or objects or related rights, fields of exploitation and territories to which the licence applies;
- 2) the transfer of rights covered by the collective management agreement to a third party, containing in particular the full name or business name of the acquirer along with their correspondence address, transfer date, works or objects or related rights and fields of exploitation to which the licence applies;
- 3) the change of the address of residence, seat or correspondence address;
- 4) the change of data necessary for the collective management organisation to pay the portion of rights revenue due to the rightholder.

2. Where the obligations referred to in paragraph 1 are breached, the rightholder bears reasonable and documented costs of ineffective enforcement of claims for infringement of rights covered by the collective management organisation or claims for remuneration for the use of these rights from a user mandated to use the work or object of related rights, resulting from the infringement.

3. A collective management agreement may also lay down other provisions concerning the liability of the rightholder towards the collective management organisation for the breach of obligations referred to in paragraph 1 than those specified in paragraph 2.

Article 32. 1. The rightholder may terminate the collective management agreement at any time by observing the notice period specified therein. The notice period cannot be longer than 3 months with effect at the end of the calendar semester.

2. The termination of the collective management agreement may apply to the collective management agreement as a whole or to individual works, objects of related rights, their types, fields of exploitation or territories covered by this agreement. In the case referred to in the second sentence of Article 29.2, the termination of the collective management agreement may apply to the collective management agreement as a whole or to types of works or objects of related rights,

fields of exploitation or territories covered by this agreement.

3. The termination of the collective management agreement does not affect the effectiveness of agreements for the use of works or objects of related rights or the collection of remuneration for such use which were concluded by the collective management organisation before the notice period expires, for a period of 2 years after the notice period expires. After the specified time limit, these agreement expire with regard to works or objects of related rights covered by the termination notice.

4. The termination of the collective management agreement does not affect obligations of the collective management organisation connected with the collective management of copyright and related rights in the period referred to in paragraph 3.

5. In the period referred to in paragraph 3, the collective management organisation does not conclude agreements for the use of works or objects of related rights or the collection of remuneration for such use with regard to works or objects of related rights covered by the termination notice, unless Article 5.2 applies to these works or objects of related rights in result of the termination.

Article 33. Article 32 shall apply accordingly to the termination of the collective management agreement by the collective management organisation, with the stipulation that termination can occur for a valid reason only and requires a written statement of reasons.

Article 34. A collective management organisation keeps and updates on a continuous basis electronic registers of:

- 1) collective management agreements, containing full names, pseudonyms or business names of rightholders, works or objects of related rights, fields of exploitation and territories with respect to which the organisation was mandated to exercise collective management;
- 2) established rightholders whose rights are collectively managed by the organisation under a legal basis other than a collective management agreement, containing their full names, pseudonyms or business names.

Subchapter 2

Management of Rights Revenue

Article 35. A collective management organisation is obliged to specify accounting principles, including the corporate chart of accounts, in documentation referred to in Article 10 of the Accounting Act of 29 September 1994 (*Dziennik Ustaw* 2018, items 395, 398 and 650), in a manner allowing to recognise revenue and related costs in accounting records separately with regard to:

- 1) rights revenue to be distributed and paid pursuant to Article 39;
- 2) rights revenue not paid in the case referred to in Article 40;
- 3) other own assets of the collective management organisation, including those obtained from deductions made in order to cover the costs of collectively managing copyright and related rights.

Article 36. A collective management organisation allocates the rights revenue for:

- 1) payment to rightholders;
- 2) deductions to cover the costs of collectively managing copyright and related rights, made in accordance with principles set forth in the repartition regulations referred to in Article 19 (4);
- 3) the use of non-distributable amounts specified in the repartition regulations referred to in Article 19 (4);
- 4) deductions for the purposes of social, cultural or educational activity pursued by the collective management organisation, made in accordance with principles set forth in the regulations referred to in Article 19 (5);

Article 37. 1. Until the time of its payment, rights revenue is managed in the interest of rightholders for whom this revenue was collected in accordance with the principles set forth in the investment regulations referred to in Article 19 (6) and the risk management strategy referred to in Article 19 (9).

2. Rights revenue may be:

- 1) kept or deposited on bank accounts;
- 2) invested in treasury securities or bonds issued by local government units.

3. The investment regulations referred to in Article 19 (6) and the risk management strategy referred to in Article 19 (9)

ensure that:

- 1) investing the rights revenue and its placement in deposits does result in a delay in its payment to rightholders;
- 2) funds are invested and placed in deposits in a way that guarantees the security, quality, liquidity and profitability of the investment portfolio as a whole;
- 3) investments and deposits are appropriately diversified, so as to avoid excessive dependence on any specific asset and the concentration of risk in the investment portfolio as a whole.

Article 38. 1. A collective management organisation makes deductions referred to in Article 36 (2) and (4) in accordance with the principles set forth in the repartition regulations referred to in Article 19 (4) and the regulations referred to in Article 19 (5). These deductions are made insofar as justified by actions taken by the collective management organisation for the rightholders and determined based on objective criteria.

2. Deductions to cover the costs of collectively managing copyright and related rights must be justified and documents with regard to individual fields of exploitation covered by the authorisation granted to the collective management organisation.

3. Where a collective management organisation carries out social, cultural or educational activities funded through deductions referred to in Article 36 (4), such activities shall be carried out on the basis of fair criteria, in particular as regards access to, and the extent of, services and benefits provided as part of these activities.

Article 39. 1. A collective management organisation distributes and pays rights revenue in accordance with the repartition regulations referred to in Article 19 (4), ensuring the regularity, diligence, correctness and transparency of the distribution and payment process for rightholders.

2. A collective management organisation distributes and pays rights revenue within time limits specified in the repartition regulations referred to in Article 19 (4), but not later than within 9 months from the end of the financial year it was collected.

3. The time limit referred to in paragraph 2 is suspended for a period during which the collective management organisation is not able to distribute or pay the rights revenue to rightholders due to objective reasons other than those specified in Article 40, in particular relating to the non-communication of information necessary to make the distribution or payment by rightholders, users or collective management organisations operating under a representation agreement.

Article 40. If a collective management organisation is not able to pay the rights revenue due to the fact that rightholders have not been established or found, at the latest three months after the expiry of the time limit referred to in Article 39 (2) the collective management organisation takes necessary measures to establish or find rightholders, in particular:

- 1) seeks information concerning rightholders in registers referred to in Article 34 and other available sources of information;
- 2) communicates to its members, rightholders represented under a collective management agreement, collective management organisations authorised to collectively manage rights of the same category of rightholders and collective management organisations with which it concluded representation agreements any information available concerning works or objects of related rights with regard to which rightholders have not been established or found which could assist in identifying or finding the rightholders, containing in particular:
 - a) the titles of works or objects of related rights,
 - b) full names, pseudonyms or business names of rightholders who have not been established or found,
 - c) full names or business names of relevant publishers or producers;
- 3) publishes information referred to in subparagraph 2 on its website.

Article 41. 1. The rights revenue which cannot be paid after three years from the end of the financial year in which the collection of the rights revenue occurred, provided that all necessary measures referred to in Article 40 have been taken, shall be allocated by the collective management organisation to finance social, cultural or education activities carried out for rightholders pursuant to Article 38.3 or for payment to other rightholders in proportion to the rights revenue due to them. Detailed principles for using those funds are set forth in the repartition regulations referred to in Article 19 (4).

2. The rightholder retains the right to seek a claim against the collective management organisation for the payment of rights revenue referred to in paragraph 1 in the full amount due to the rightholder. The payment is made from rights revenue collected in subsequent financial years which has not been paid to rightholders due to the fact that they could not be established or found.

Subchapter 3

Payment of Rights Revenue Through Other Collective Management Organisations

Article 42. 1. A collective management organisation that collectively manages copyright and related rights under a representation agreement concluded with a collective management organisation or a foreign collective management organisation established in a Member State of the European Union or a Member State of the European Free Trade Agreement – party to the Agreement on the European Economic Area, can make deductions from the rights revenue collected as a result of collectively managing those rights, other than deductions referred to in Article 36 (2), however only with the permission of the collective management organisation with which it concluded a representation agreement.

2. The distribution and payment of rights revenue under a representation agreement is made without delay, but not later than within 9 months from the end of the financial year in which it was collected, unless it is not possible to meet this time limit due to objective reasons, in particular relating to the non-communication of information necessary to make the distribution or payment by users or a party to the representation agreement.

Article 43. The provisions of subchapter 2 shall apply to the management of rights revenue received under a representation agreement, with the stipulation that the time limit referred to in Article 39.2 is 6 months from the day on which the collective management organisation received this revenue.

Chapter 5

Relationship Between a Collective Management Organisation and Users

Article 44. 1. The remuneration and other terms and conditions of the agreement on the use of works or objects of related rights or the collection of remuneration for such use, being concluded with a user, are determined based on objective and non-discriminatory criteria.

2. The remuneration claimed by the collective management organisation takes into account the amount of proceeds generated from the use of works or objects of related rights as well as the nature and extent of this use.

Article 45. 1. A collective management organisation cannot refuse to conclude an agreement for the use of works or objects of related rights or the collection of remuneration for such use without a valid reason, provided that it is mandated to exercise the collective management of copyright and related rights to that extent.

2. The refusal to conclude an agreement for the use of works or objects of related rights and the collection of remuneration for such use along with the statement of reasons for refusal is communicated without delay to the user who declared the intention to conclude this agreement to the collective management organisation.

3. A collective management organisation and the user provide each other all information necessary to conclude an agreement for the use of works or objects of related rights and the collection of remuneration for such use.

4. If there are no grounds for the refusal to conclude an agreement for the use of works or objects of related rights and the collection of remuneration for such use and the collective management organisation has all information necessary for its conclusion, the collective management organisation submits an offer for the conclusion of this agreement to the user. Where the offered rate of remuneration arises from the approved table of remuneration, the collective management organisation indicates an item in that table used as grounds for the offered rate. In other cases, the offer contains a statement of reasons for the amount of proposed remuneration, including the fulfilment of criteria referred to in Article 44.2.

5. Where the offer referred to in paragraph 4 is not accepted by the user, the collective management organisation and the user enter into negotiations, which they are obliged to conduct in good faith.

Article 46. 1. A collective management organisation, based on objective and non-discriminatory criteria, offers lower remuneration rates to users engaging in cultural activity within the meaning of Article 1.1 of the Act of 25 October 1991 on Organising and Engaging in Cultural Activity (*Dziennik Ustaw* 2017, item 862; *Dziennik Ustaw* 2018, items 152 and 1105) who use works or objects of related rights as part of their statutory activity, provided that this use does not generate any economic benefits, either directly or indirectly.

2. Where the user provides a new type of service by electronic means, which is available to the public for less than 3 years in the territory of a Member State of the European Union or a Member State of the European Free Trade Agreement – party to the Agreement on the European Economic Area, the collective management organisation may offer terms and conditions of an agreement for the use of works or objects of related rights or the collection of remuneration for such use that differ from those offered to other users who provide services by electronic means.

Article 47. 1. Collective management organisations can enter into agreements concerning the exercise of activities with

regard to the collective management of copyright and related rights with each other.

2. Insofar as more than one collective management organisation holds an authorisation to collectively manage the rights of a specific category of rightholders to a given type of works or objects of related rights in a specific field of exploitation is a representative organisation, an agreement for the use of works or objects of related rights or the collection of remuneration for such use is concluded with the user by all those organisations acting jointly under an agreement concluded between them. These organisations shall use the same format of information referred to in Article 49.1 in the agreement with the user.

3. Insofar as remuneration for the communication to the public of objects of related rights is set forth in the approved table of remuneration, the agreement for the use of works or objects of related rights or the collection of remuneration for such use is concluded by the organisation collectively managing related rights that was appointed by way of a decision issued *ex officio* by the minister, having regard to the need to ensure the effective collection of remuneration and its payment as well as the assessment of the effectiveness and proper operation of a collective management organisation on the field of exploitation: communication to the public.

4. Collective copyright management organisations holding an authorisation on the field of exploitation: communication to the public, and a collective management organisation appointed pursuant to paragraph 3 conclude an agreement for the use of works or objects of related rights or the collection of remuneration for such use with the user, acting jointly under an agreement laying down the principles for concluding such agreements.

Article 48. To the extent of its business, a collective management organisation may request information and access to documents necessary to determine the amount of remunerations and fees to be collected by that organisation.

Article 49. 1. An agreement for the use of works or objects of related rights or the collection of remuneration for such use lays down principles in accordance with which the user make information and documents necessary to collect rights revenue as well as distribute and pay revenue due to rightholders available within the specified time limit and in the specified format, including information concerning the use of rights.

2. If the user commits a gross breach of the obligation to make information and documents referred to in paragraph 1 available, the collective management organisation may, after calling upon the user to perform the obligation within the time limit specified for this purpose, terminate the agreement for the use of works or objects of related rights or the collection of remuneration for such use with immediate effect.

Article 50. The scope of information and documents referred to in Article 49 takes into account the purpose for which this information and documents are to be provided, their availability to the user as well as the scope and nature of their activity, and meets industry standards, where possible.

Article 51. 1. A collective management organisation informs the user of circumstances of significance to the validity and performance of the agreement for the use of works or objects of related rights or the collection of remuneration for such use concluded with that organisation, especially of the termination of the collective management agreement, the extent of this termination and the date of expiry of this agreement, provided that the termination affects the extent of rights covered by the agreement.

2. A collective management organisation does not bear liability towards the user, if the agreement for the use of works or objects of related rights or the collection of remuneration for such use concluded with that user ceases to entitle the user to use those works or objects of related rights with regard to which the rightholder terminated the collective management agreement, provided that the user is informed without delay by this organisation that the rightholder terminated the collective management agreement and of its expiry date.

Article 52. 1. A collective management organisation shall make available means of electronic communication allowing users to:

- 1) declare the intention to conclude an agreement for the use of works or objects of related rights or the collection of remuneration for such use with that organisation;
- 2) perform information obligations referred to in Article 49.1;
- 3) submit other applications and statements connected with the business of a collective management organisation or the agreement for the use of works or objects of related rights or the collection of remuneration for such use concluded with that organisation.

2. The means of electronic communication referred to in paragraph 1 must allow to fix, transfer, store and secure the substance of actions performed. A collective management organisation shall apply, insofar as possible and reasonable, industry standards and open formats.

Chapter 6

Granting of Multi-territorial Licences

Article 53. 1. A collective management organisation, insofar as it grants multi-territorial licences, must at least:

- 1) have the ability to identify accurately the musical works as well as musical and lyrical works, wholly or in part, with regard to the use of which it is mandated to grant multi-territorial licences;
- 2) have the ability to identify accurately, with respect to each relevant territory covered by the multi-territorial licence and each field of exploitation, the rightholders for each musical work as well as musical and lyrical work referred to in paragraph 1, as a whole or in part;
- 3) to make use of unique identifiers in order to identify rightholders and the licences repertoire, taking into account, as far as possible, voluntary industry standards and practices developed at international or Union level;
- 4) to make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations or foreign collective management organisations established in a Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA) – party to the Agreement on the European Economic Area and granting multi-territorial licences.

2. A collective management organisation shall process information required to manage multi-territorial licences in electronic form and in a way that allows at least to:

- 1) identify the licensed repertoire and monitor its use;
- 2) issue invoices to users;
- 3) collect the rights revenue;
- 4) distribute and pay the rights revenue due to rightholders.

Article 54. 1. A collective management organisation, insofar as it grants multi-territorial licences, provides to the users of rights covered by these licences or to the rightholders whose rights it represents and to other collective management organisations or foreign collective management organisations established in a Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA) – party to the Agreement on the European Economic Area, by electronic means, in response to a duly justified request, up-to-date information allowing the identification of the licensed repertoire.

2. The information referred to in paragraph 1 shall include:

- 1) the licensed repertoire;
- 2) the rightholders for each licensed musical work as well as musical and lyrical work on individual fields of exploitation;
- 3) territories in which the collective management organisation may grant multi-territorial licences with respect to each musical work as well as musical and lyrical work.

3. A collective management organisation, insofar as it grants multi-territorial licences, may take reasonable measures, where necessary, to protect the accuracy and integrity of the information referred to in paragraph 1, to control their reuse and to protect commercially sensitive information.

Article 55. A collective management organisation, insofar as it grants multi-territorial licences, shall enable the rightholders whose rights it represents, the users of rights covered by these licences and other collective management organisations or foreign collective management organisations established in a Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA) – party to the Agreement on the European Economic Area, to request a correction of information referred to in Article 53.2 and Article 54.1, where the rightholders, other collective management organisations and users have reasonable grounds to believe that the information is inaccurate or incorrect with respect to their rights. Where this is sufficiently substantiated, the collective management organisation which grants multi-territorial licences shall correct the information without delay.

Article 56. 1. The collective management organisation, insofar as it grants multi-territorial licences, shall provide rightholders with the means of submitting to it in electronic form information concerning each musical work as well as musical and lyrical work, individual fields of exploitation, and the territories in respect of which the collective management organisation has been mandated to grant multi-territorial licences. When doing so, the collective management organisation and the rightholders shall take into account, as far as possible, voluntary industry standards or practices for the electronic exchange of information, developed at international or Union level.

2. Where the licensed repertoire is collectively managed by the collective management organisation under a mandate granted by another collective management organisation pursuant to Article 60 and Article 61, paragraph 1 of this Article shall apply with respect to the rightholders whose works are included in the licensed repertoire of the mandating collective management organisation, unless the agreement between collective management organisations provides otherwise.

Article 57. 1. A collective management organisation, insofar as it grants multi-territorial licences, shall monitor the use of works covered by these licences.

2. The user shall provide information on the actual use of each work covered by the multi-territorial licence to the collective management organisation by electronic means.

3. A collective management organisation, insofar as it grants multi-territorial licences, shall offer the use of a least one method of reporting information referred to in paragraph 2 which takes into account voluntary industry standards or practices standard for the electronic exchange of information, developed at international or Union level. A collective management organisation may refuse to accept reporting in a proprietary format, if the organisation allows for reporting using an industry standard for the electronic exchange of information.

Article 58. 1. A collective management organisation, insofar as it grants multi-territorial licences, shall invoice the user by electronic means and without delay after the receipt of information referred to in Article 57.2, unless this is not possible due to reasons attributable to the user.

2. An electronic invoice shall specify the works and fields of exploitation covered by the multi-territorial licence, their actual use on the basis of the data referred to in Article 53.2, to the extent that this is possible on the basis of the information referred to in Article 57.2, and the format used to provide that information. When issuing an invoice, a collective management organisation shall apply at least one of the formats which takes into account voluntary industry standards and practices in this respect developed at international or Union level. The user may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

3. A collective management organisation, insofar as it grants multi-territorial licences, shall enable the user to challenge, by electronic means, the accuracy of issued invoices concerning the use of works covered by the licence.

Article 59. 1. A collective management organisation, insofar as it grants multi-territorial licences, distributes and pays the rights revenue due to rightholders without delay after the actual use of the work is reported, except where this is not possible for reasons attributable to the user.

2. A collective management organisation, insofar as it grants multi-territorial licences, shall provide at least the following information to rightholders together with each payment it makes under paragraph 1:

- 1) the period and territories with respect to which the use of works connected with the payment being made took place;
- 2) the amount of rights revenue collected, distributed and paid as well as deductions made with respect to:
 - a) each work, as a whole or in part, covered by the multi-territorial licence in each field of exploitation,
 - b) each user.

3. A collective management organisation which grants multi-territorial licences under a mandate granted by another collective management organisation pursuant to Articles 60 and 61 shall without delay transfer the rights revenue referred to in paragraph 1 and provide the information referred to in paragraph 2 to the mandating collective management organisation. The mandating organisation shall be responsible for the distribution and payment of rights revenue and the provision of such information to rightholders, unless the representation agreement concluded between these organisations provides otherwise.

Article 60. 1. A representation agreement providing for multi-territorial licensing is concluded on a non-exclusive basis.

2. The mandating organisation shall inform the rightholders with whom it concluded a collective management agreement of the essential terms of the agreement referred to in paragraph 1, in particular its term and the costs of collective management borne by the mandated organisation in connection with granting multi-territorial licences to the mandating organisation.

3. The mandated organisation shall inform the mandating organisation of the essential terms of licences granted by the mandated organisation, including the fields of exploitation and territories covered by the multi-territorial licence, all provisions which relate to or affect remuneration, the duration of the multi-territorial licence and the adopted accounting periods.

Article 61. 1. A collective management organisation which grants multi-territorial licences covering the repertoire of

another collective management organisation or foreign collective management organisation established in a Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA) – party to the Agreement on the European Economic Area, under the representation agreement referred to in Article 60.1, cannot refuse to conclude such agreement with another collective management organisation which does not grant such licences. A collective management organisation requested to conclude such agreement shall respond in writing and without undue delay.

2. A collectively mandated organisation shall manage the licensed repertoire of the mandating organisation on the same conditions as those which it applies to the management of its own repertoire, and offer the licensed repertoire of the mandating organisation to all users interested in obtaining such licence.

3. Deductions made to cover the costs of collectively managing copyright shall not exceed the costs reasonably incurred by the mandated organisation.

4. The mandating organisation shall make available to the mandated organisation information relating to its own repertoire required for granting multi-territorial licences. Where this information is insufficient or provided in a form that does not allow to grant a multi-territorial licence, the mandated organisation shall be entitled to make deductions for the additional costs reasonably incurred in order to grant such licence or exclude those works for which information is insufficient or cannot be used from the scope of such licence.

Article 62. If a collective management organisation does not grant multi-territorial licences or did not conclude a representation agreement referred to in Article 60.1, the rightholders may terminate the collective management agreement with immediate effect to the extent providing mandate to grant multi-territorial licences. This termination does not affect the mandate of a collective management organisation to grant licences covering a single territory.

Article 63. The provisions of this Chapter shall not apply to collective management organisations which grant a multi-territorial licence – by way of voluntary pooling of repertoires in accordance with the principles of competition set forth under Articles 101 and 102 of the Treaty on the Functioning of the European Union – necessary for a radio or television organisation for the purposes of:

- 1) broadcasting an own programme or disseminating that programme or broadcasts contained therein in a different manner, or
- 2) making other materials developed, ordered or commissioned by that radio or television organisation, constituting a supplementation of that programme or broadcasts contained therein, available in a way that allows anyone to access them at a time and place of their choosing.

Chapter 7
Commission

Subchapter 1
General provisions

Article 64. 1. The tasks of the Commission shall include:

- 1) examining cases concerning the approval of tables of remuneration for the use of works or objects of related rights and the amendment of approved tables of remuneration;
- 2) resolving disputes concerning the application of tables referred to in subparagraph 1;
- 3) resolving disputes concerning the conclusion and terms of an agreement referred to in Article 21¹.1 of the Copyright and Related Rights Act;
- 4) resolving disputes should an agreement not be concluded despite negotiations referred to in Article 45.5.

2. Unless this chapter provides otherwise, the provisions of the Act of 14 June 1960 – The Code of Administrative Procedure (*Dziennik Ustaw* 2017, item 1257; *Dziennik Ustaw* 2018, items 149 and 650) shall apply accordingly to proceedings before the Commission, referred to in paragraph 1. A superior authority with regard to the Commission, within the meaning of the Act of 14 June 1960 – The Code of Administrative Procedure, is the minister.

3. Unless this chapter provides otherwise, the provisions of the Act of 17 November 1964 – The Code of Civil Procedure (*Dziennik Ustaw* 2018, item 155, as amended¹⁾) concerning mediation shall apply accordingly to proceedings before the Commission, referred to in paragraph 1 (2) to (4).

Article 65. 1. The Commission is composed of twenty arbitrators appointed from among candidates referred to in Article 66.2.

2. The Commission is appointed for a 5-year term.

Article 66. 1. The minister shall announce, in at least two printed daily nationals and in the Public Information Bulletin on its website, no later than 60 days before the end of the Commission's term of office, information on the commencement of the procedure to appoint arbitrators and shall designate a time limit for the submission of candidates, no shorter than 30 days after the announcement is published.

2. Candidates for arbitrators shall be proposed by:

- 1) collective management organisations;
- 2) associations of authors, performers, publishers or producers;
- 3) associations of users of works or objects of related rights;
- 4) radio and television organisations;

3. Candidates for Commission arbitrators must have appropriate knowledge and the necessary professional experience in copyright and related rights, and:

- 1) holds a doctoral degree in law or economic sciences, or
- 2) is entered on the list of legal counsel, attorneys-at-law or investment advisors or in the register of statutory auditors.

4. An arbitrator cannot be a person who:

- 1) performs a function in a body of an entity referred to in paragraph 2;
- 2) has been convicted of an intentional offence or an intentional fiscal offence or who has been officially banned from holding certain positions, working in certain professions or conducting certain business activity.

5. An arbitrator candidate proposal shall include their curriculum vitae documenting their knowledge and experience referred to in paragraph 3 in the introduction and a written statement:

- 1) expressing consent to their candidature;
- 2) on legal relationships with entities referred to in paragraph 2 in the period of 5 years prior to the statement submission

¹ Amendments to the consolidated text of the said Act were published in the *Dziennik Ustaw* 2017, item 2491; *Dziennik Ustaw* 2018, items 5, 138, 398, 416, 650, 730, 756, 770, 771, 1000, 1009 and 1104.

date;

- 3) on meeting the requirements laid down in paragraph 3 (1) or (2);
- 4) on the absence of grounds specified in paragraph 4.

6. If the candidate proposal does not meet the requirements laid down in paragraph 5, the minister shall call on the proposer to rectify the deficiencies within a time limit no shorter than 7 days from the day on which notice is served, advising them that failure to remove those deficiencies will result in the proposal not being considered.

7. If circumstances referred to in paragraph 5 (2) to (4) change, the arbitrator shall file another statement without delay, but no later than within 14 days from the date of their occurrence.

8. The statements referred to in paragraph 5 (2) to (4) and paragraph 7 shall be filed under the penalties of perjury. The person submitting the statement is obliged to include a following clause in it: "I am aware of the penalties of perjury." This clause replaces the notice on the penalties of perjury.

Article 67. 1. The minister shall appoint ten arbitrators from among the candidates proposed by the entities referred to in Article 66.2 (1) and (2) and ten arbitrators proposed by the entities referred to in Article 66.2 (3) and (4).

2. If a person who already held the function of arbitrator is proposed as a candidate for an arbitrator, the minister shall take into account their previous performance of this function.

3. If the number of candidates proposed pursuant to Article 66.2 and meeting the requirements laid down in Article 66.3 to 66.5 is insufficient to appoint arbitrators pursuant to paragraph 1, the minister shall appoint other persons who meet these requirements to the Commission.

Article 68. 1. Arbitrators are independent in performing their functions.

2. Arbitrators cannot refuse to participate as a member of an adjudicating panel without a valid reason.

Article 69. 1. Before the Commission's term of office expires, an arbitrator's mandate shall expire in the event of their death or recall.

2. Arbitrators are recalled by the minister in the event of:

- 1) resignation from the function of arbitrator;
- 2) failing to duly exercise the function of arbitrator;
- 3) being finally convicted of an intentional offence or an intentional fiscal offence or banned from holding certain positions, working in certain professions or conducting certain business activity;
- 4) an illness which prevents them from performing the function of Commission arbitrator, lasting longer than 6 months;
- 5) failing to meet the requirements laid down in Article 66.3 (1) or (2);
- 6) taking up a function in a body of an entity referred to in Article 66.2.

3. In the case referred to in paragraph 1, the minister shall appoint a new arbitrator on the terms set forth in Articles 66 and 67.

4. If the arbitrator referred to in paragraph 1 was a member of the adjudicating panel, a new member of the adjudicating panel is appointed or chosen pursuant to Article 75.2 to 75.4. The time limits referred to in Article 75.2 and 75.4 shall start running from the day of becoming aware of circumstances referred to in paragraph 1.

Article 70. The minister shall publish in their official journal and in the Public Information Bulletin on their website the names of Commission arbitrators and information on expiry of an arbitrator's mandate and on appointment of a new arbitrator.

Article 71. 1. The first meeting of the Commission is held within 14 days of the Commission being appointed.

2. The first meeting of the Commission is convened and chaired by the minister. During this meeting, arbitrators elect the chairperson of the Commission from among themselves.

3. The chairperson of the Commission is elected by a three-fourths majority of votes in the presence of at least 16 arbitrators.

4. If the chairperson is not elected during the first meeting of the Commission, the chairperson shall be appointed by the minister within 14 days of the end of the Commission meeting.

5. A motion to recall an arbitrator from the function of chairperson of the Commission, with an indication of a candidate

for this position, may be submitted by at least seven arbitrators or by the minister.

6. Within 14 days of the motion referred to in paragraph 5 being submitted, the chairperson of the Commission shall convene a meeting of the Commission at which the motion is put to the vote on the terms set forth in paragraph 3.

7. The minister recalls a chairperson of the Commission is they fail to duly perform this function or are unable to perform this function for longer than 2 months or resign from the function of chairperson of the Commission. Paragraphs 2 to 4 shall apply to the election of a new chairperson of the Commission.

8. The duties of the chairperson of the Commission include representing the Commission and organising its operation, including:

- 1) convening Commission meetings;
- 2) appointing or recalling members of adjudicating panels on terms set forth in Article 75.2, 75.4, 75.5 and Article 79;
- 3) appointing mediators on terms set forth in Article 85.3;
- 4) convening the first meeting of an adjudicating panel;
- 5) performing activities referred to in Articles 64 to 66 and Article 261 of the Act of 14 June 1960 – The Code of Administrative Procedure, and referring cases for examination by the competent adjudicating panel;
- 6) providing the minister with rulings ending proceedings for publication in the Public Information Bulletin on their website.

9. Technical and organisational support for the Commission is provided by the office of the minister.

10. The chairperson of the Commission cannot be a member of the adjudicating panel.

11. The chairperson of the Commission is entitled monthly remuneration in the amount equal to twice the average monthly remuneration in the enterprise sector, together with distribution of profit, for the previous quarter, published by the President of Statistics Poland in the Official Journal of the Republic of Poland “*Monitor Polski*”, paid from the state budget funds available to the minister.

Article 72. 1. Meetings of the Commission’s adjudicating panels are held in the presence of at least 2/3 of their members.

2. Rulings are issued in the form of decisions or orders.

3. Rulings are taken with a majority of the votes of the adjudicating panel.

4. Rulings ending proceedings are made in the presence of the whole adjudicating panel.

5. Rulings ending proceedings along with reasons are delivered to the parties and participants of the proceedings *ex officio*.

Article 73. 1. Members of the adjudicating panels are entitled to remuneration for issuing a ruling ending proceedings, in the amount of:

- 1) the average monthly remuneration referred to in Article 71.11 –in cases concerning the approval of tables of remuneration for the use of works or objects of related rights and the amendment of approved tables of remuneration;
- 2) 1/3 of the average monthly remuneration referred to in Article 71.11 – in cases concerning the supplementation, correction and clarification of the substance of the ruling.

2. The chairperson of the adjudicating panel is entitled to remuneration in the amount equal to twice the remuneration due to a member of the adjudicating panel in cases referred to in paragraph 1, paid after drawing up reasons for the ruling ending the proceedings.

3. If the proceedings are discontinued, remunerations referred to in paragraphs 1 and 2 are payable in amount reduced by half.

4. In cases referred to in Article 69.4 and 75.6, remuneration is paid to members of the adjudicating panel in proportion to the number of meetings they have attended.

5. For participation in mediation proceedings in cases referred to in Article 64.1 (2) to (4), the mediator shall be entitled to remuneration in the amount equal to the average monthly remuneration referred to in Article 71.11, paid after the mediations proceedings have ended.

6. Remunerations referred to in paragraphs 1 to 5 are paid from the state budget funds, in the part available to the

minister.

Article 74. 1. Applications in cases within the competence of the Commission are subject to fees amounting to:

- 1) six times the average monthly remuneration referred to in Article 71.11 – in cases referred to in Article 64.1 (1);
 - 2) the average monthly remuneration referred to in Article 71.11 – in cases referred to in Article 64.1 (2) to (4) and concerning the clarification of the substance of the ruling.
2. The fee shall be paid at the time of filing the application referred to in paragraph 1, to the minister's bank account.
3. Fees referred to in paragraph 1 constitute state budget revenue.
4. No fees are collected for applications concerning the supplementation or correction of a ruling.

Subchapter 2

Approval of Tables of Remuneration for the Use of Works or Objects of Related Rights and Amendment of Approved Tables

Article 75. 1. Cases for approval of tables of remuneration for the use of works or objects of related rights are examined by an adjudicating panel composed of three members.

2. Within 7 days of receiving an application in the case referred to in paragraph 1, the chairperson of the Commission shall appoint to the adjudicating panel from the list of arbitrators two arbitrators proposed by the entities specified in Article 66.2 (1) and (2) and two arbitrators proposed by the entities specified in Article 66.2 (3) and (4).

3. Arbitrators appointed in accordance with paragraph 2, at a meeting convened by the chairperson of the Commission, elect the chairperson of the adjudicating panel from among arbitrators.

4. If arbitrators fail to elect the chairperson of the adjudicating panel within 14 days of being appointed to the adjudicating panel, the chairperson shall be appointed by the chairperson of the Commission.

5. When appointing the chairperson and other members of the adjudicating panel, the chairperson of the Commission shall assess their impartiality, taking into account the substance of statements referred to in Article 66.5 (2).

6. Proceedings concerning cases referred to in paragraph 1 which are initiated and not completed before the Commission's term of office lapses shall be continued by adjudicating panels of the new term of office, appointed pursuant to paragraphs 2 to 4. The time limit referred to in paragraph 2 starts running from the date of appointment of the chairperson of the Commission for the new term of office. Rulings made by the adjudicating panel of the previous term of office shall remain in effect.

Article 76. 1. An application for the approval of a table of remuneration for the use of works or objects of related rights shall be filed by the collective management organisation. An application for the approval of a shared table of remuneration for the use of works or objects of related rights may be filed collectively by several collective management organisations.

2. Collective management organisations whose authorisations covers the collective management of rights of the same category of rightholders to the same type of works or objects of related rights in the same field of exploitation are obliged to submit, to that extent, a shared application for the approval of a shared table of remuneration for the use of works or objects of related rights in the same field of exploitation.

3. Collective management organisations whose authorisations cover the following fields of exploitation: communication to the public and collection of remuneration referred to in Article 70.2¹ (1) of the Copyright and Related Rights Act, are obliged to file a shared application for the approval of a shared table of remuneration for the use of works or objects of related rights in each of these fields of exploitation.

4. Where an application for the approval of a shared table of remuneration for the use of works or objects of related rights is filed, applicants shall pay a fee as for a single application, in equal parts.

Article 77. 1. An application for the approval of a table of remuneration for the use of works or objects of related rights specifies:

- 1) the fields of exploitation to which the remuneration table applies;
- 2) the categories of works or objects of related rights to which the remuneration table applies;
- 3) the categories of rightholders represented by the applicant;
- 4) remuneration rates, and in the case of an application for the approval of a shared remuneration table – remuneration rates applicable to specific categories of rightholders along with their distribution to individual collective management

organisations;

5) a statement of reasons for each rate, with an indication of the manner in which they were calculated.

2. In the application for the approval of remuneration tables for the use of works or objects of related rights, the collective management organisation shall specify lower remuneration rates applicable to entities conducting cultural activity referred to in Article 1.1 of the Act of 25 October 1991 on Organising and Engaging in Cultural Activity who use works or objects of related rights as part of their statutory activity, provided that this use does not generate any economic benefits, either directly or indirectly.

Article 78. 1. The applicant is a party to the proceedings concerning the approval of a remuneration table for the use of works or objects of related rights.

2. A social organisation participating in the proceedings concerning the approval of a remuneration table for the use of works or objects of related rights as a party is:

- 1) a collective management organisation holding an authorisation for the fields of exploitation to which the application for the approval of a remuneration table applies,
- 2) an association of users of works or objects of related rights in the fields of exploitation to which the application for the approval of a remuneration table applies

- if within the time limit specified by the chairperson of the adjudicating panel, pursuant to paragraph 3, it files a motion to join these proceedings.

3. The chairperson of the adjudicating panel, within 14 days from their election or appointment, shall announce, in at least two printed daily nationals and in the Public Information Bulletin on the minister's website, the initiation of proceedings in the case concerning the approval of a remuneration table for the use of works or objects of related rights and inform social organisations referred to in paragraph 2 about the possibility of filing a motion to join the proceedings, setting a time limit no shorter than 14 days and no longer than 30 days from the date of announcement.

4. An appeal may be filed with the minister against an order refusing participation in a case concerning the approval of a remuneration table for the use of works or objects of related rights.

Article 79. The minister, upon deeming it justified to issue a reminder referred to in Article 37 of the Act of 14 June 1960 – the Code of Administrative Procedure, shall instruct the chairperson of the Commission to recall members of the adjudicating panel and appoint new members of the adjudicating panel in their place. Articles 75.2 to 75.5 shall apply accordingly.

Article 80. 1. By way of a decision, the adjudicating panel:

- 1) approves the remuneration table for the use of works or objects of related rights, wholly or in part;
- 2) refuses to approve the remuneration table for the use of works or objects of related rights, wholly or in part;
- 3) amends and approves the amended remuneration table for the use of works or objects of related rights, wholly or in part,

2. When issuing a decision, the adjudicating panel takes into consideration:

- 1) criteria specified in Article 44.2;
- 2) the total amount payable by entities using works or objects of related rights to all collective management organisations for the use of copyrights and related rights in a specific field of exploitation;
- 3) the justified public interest.

3. The approved remuneration table for the use of works or objects of related rights contains remuneration rates expressed as amounts or percentages.

4. The chairperson of the Commission provides the ruling ending the proceedings in the case concerning the approval of a remuneration table for the use of works or objects of related rights to the minister, and the minister publishes it in the Public Information Bulletin on their website.

5. By 15 March of each year, the minister adjusts remuneration rates for the use of works or objects of related rights expressed as amounts based on the annual average consumer price index published by the President of Statistics Poland for the last year, rounded up to 1 grosz, and publishes the table of remuneration for the use of works or objects of related rights containing adjusted remuneration rates in the Public Information Bulletin on their website.

6. The adjusted rates referred to in paragraph 5 shall be effective as of 1 April of the relevant year.

Article 81. 1. Rates specified in approved tables of remuneration for the use of works or objects of related rights shall be applied in agreements to which the collective management organisation holding such approved tables is a party.

2. In agreements referred to in paragraph 1, contractual provisions that provide for remuneration other than resulting from the approved remuneration table shall be null and void and shall be replaced by the provisions of those tables accordingly.

Article 82. 1. An appeal may be filed with the minister against the Commission's decision concerning approval of the table of remuneration for the use of works or objects of related rights.

2. The chairperson of the Commission shall publish information on the appeal lodged as referred to in paragraph 1 in the Public Information Bulletin on the minister's website.

Article 83. 1. After examining the appeal referred to in Article 82.1, the minister issues a decision:

- 1) upholding the contested decision, or
- 2) repeals the contested decision, wholly or in part, and approves the table of remuneration for the use of works or objects of related rights to that extent or refuses to approve it or, repealing the contested decision, terminates the proceedings of the first instance, or
- 3) discontinues the appeal proceedings.

2. The minister may repeal the contested decision in whole and refer the case to be re-examined by the Commission, if the decision was issued in breach of the rules of procedure and the scope of the case which has to be clarified is materially relevant to the settlement of the case. When referring a case, the minister indicates circumstances which need to be taken into consideration in re-examining the case.

3. The re-examination of the case is conducted by the adjudicating panel in a different composition.

Article 84. 1. In the case of a material change in the circumstances constituting the basis for a decision approving the table of remuneration for the use of works or objects of related rights, the application for the amendment of the table shall be filed by the applicant who filed the application for its approval. Article 77 shall apply to this application.

2. If the granting of a new authorisation or a modification or revocation of an authorisation results in the need to distribute remuneration rates between individual collective management organisations or its modification, the chairperson of the Commission, at the request of the collective management organisation with a legal interest, initiates the proceedings concerning modification of a table of remuneration for the use of works or objects of related rights to the necessary extent.

3. Provisions on the approval of remuneration tables shall apply accordingly to proceedings to modify approved table of remuneration for the use of works or objects of related rights.

Subchapter 3

Mediation Proceedings and Cases Concerning the Supplementation, Correction or Clarification of Rulings

Article 85. 1. Without detriment to the admissibility of judicial recourse, disputes in cases referred to in Article 64.1 (2) to (4) can be resolved by way of mediation proceedings.

2. Mediation proceedings are conducted on the basis of a mediation agreement or an application for mediation, which is provided by the chairperson of the Commission to the other party without delay.

3. If the other party does not lodge an objection within 14 days from the receipt of the application for mediation, the chairperson of the Commission calls on both parties to appoint a mediator from the list of arbitrators within 14 days after receiving the notice to do so. If the parties do not appoint a mediator within this time limit, the chairperson of the Committee shall appoint the mediator without delay.

4. The mediator may put forward settlement proposals to the parties. If none of the parties lodges a written objection to the proposed settlement to the mediator within three months of the settlement being proposed, the proposal will be deemed to have been accepted.

5. In a case that was to be the subject matter of mediation proceedings, the court may charge the party with the obligation to return the costs of civil proceedings, irrespective of the result of the case, if the refusal to enter into mediation proceedings was manifestly unfounded.

Article 86. Cases concerning the supplementation, correction or clarification of a ruling shall be examined by the adjudicating panel in the composition which issued the ruling in the case. Where it is not possible for the case to be examined by the adjudicating panel in the same composition, the chairperson of the Commission shall appoint a new adjudicating panel

on the terms referred to in Articles 75.2 to 75.5. Article 75.6 shall apply accordingly.

Chapter 8

Information and Reporting Obligations of Collective Management Organisations

Article 87. At least once a year, a collective management organisation makes available to the rightholder to whom it distributed or paid rights revenue information on the exercise of collective management of copyright and related rights for the relevant period, including at least:

- 1) contact details of the rightholder: name, surname, pseudonym or business name and correspondence address, including e-mail address, which with the rightholder's permission can be used by the organisation to establish and find them – for update purposes;
- 2) the amount of rights revenue due to the rightholder;
- 3) the amount of rights revenue paid to the rightholder for the use of works and objects of related rights in each field of exploitation;
- 4) the period for which rights revenue was distributed and paid, unless objective reasons relating to the reporting of the use of rights by users prevent the collective management organisation from providing this information;
- 5) the amount of deductions made to cover the costs of collective management of copyright and related rights;
- 6) the amount of deductions made for the purposes of social, cultural or educational activity pursued by the collective management organisation;
- 7) the amount of rights revenue due to the rightholder which has not yet been paid until the end of the relevant period.

Article 88. At least once a year, the collective management organisation makes available, using means of electronic communication of the collective management organisation whose rights it collectively manages under a representation agreement, information on the exercise of collective management of copyright and related rights for the relevant period, including at least:

- 1) the amount of rights revenue due to a given collective management organisation;
- 2) the amount of rights revenue paid to a given collective management organisation for the use of works and objects of related rights in each field of exploitation;
- 3) the amount of rights revenue due to a given collective management organisation which has not yet been paid until the end of the relevant period;
- 4) the amount of deductions made to cover the costs of collective management of copyright and related rights;
- 5) the amount of deductions made for the purposes of social, cultural or educational activity pursued by the collective management organisation;
- 6) licences granted and licences refused to be granted in regard to rights covered by the representation agreement;
- 7) resolutions adopted by the general assembly of members, in so far as they are relevant to the management of rights covered by the representation agreement.

Article 89. The collective management organisation, at a duly justified request of a rightholder, a user or a collective management organisation with regard to whose rights it exercises collective management under a representation agreement, shall make available without delay and using electronic means of communication at least information relating to:

- 1) works and objects of related rights with regard to which the collective management organisation exercises collective management under a collective management agreement or a representation agreement, and where this is not possible due to objective reasons – the types of works or object of related rights with regard to which the collective management organisation exercises collective management on those bases;
- 2) fields of exploitation and territories on which this collective management is being exercised.

Article 90. The collective management organisation publishes on its website, and updates on an on-going basis, basic information on its activities, including at least:

- 1) its statute;
- 2) requirements and procedure for acquiring and losing the status of member of a collective management organisation;
- 3) terms and conditions for the conclusion and termination of collective management agreements, where they are not

included in the statute;

- 4) draft standard licence agreements;
- 5) approved tables of remuneration for the use of works or objects of related rights as well as other standard rates applied, including discounts;
- 6) the list of persons who manage the business of a collective management organisation, containing full name and function of each person;
- 7) rules and regulations referred to in Articles 19 (4) and (5);
- 8) the list of concluded representation agreements, with an indication of the parties, the subject matter of the agreement, its execution date and term;
- 9) information on the procedure for handling complaints referred to in Article 94, the option to resolve disputes by way of mediation proceedings referred to in Article 85.1 and the option to refer a dispute with a collective management organisation for examination by a common court or, with its permission, by an arbitration tribunal pursuant to Part 5 of the Act of 17 November 1964 – The Code of Civil Procedure.

Article 91. 1. A collective management organisation shall prepare annual statements on its operations for each financial year.

2. The annual statement on the organisation's operations shall include:

- 1) the primary statement;
- 2) the financial statements;
- 3) a statement on the use of deductions referred to in Article 36.4.

3. The financial data contained in statements referred to in paragraph 2 (1) and (3) concerning the rights revenue, deductions from rights revenue, costs of collective management of copyright and related rights and other services provided by the collective management organisation to rightholders, and funds allocated to the social, cultural and educational activity pursued by the collective management organisation shall be taken from accounting records.

4. The statement referred to in paragraph 2 (2) and the financial data contained in statements referred to in paragraph 2 (1) and (3) are subject to examination by a statutory auditor.

5. After conducting the examination referred to in paragraph 4, the statutory auditor prepares a written report from the examination referred to in Article 83 of the Act of 11 May 2017 on Statutory Auditors, Audit Firms and Public Supervision (Dziennik Ustaw, item 1089; Dziennik Ustaw 2018, item 398) in which they shall additionally include information whether the financial data contained in the statements referred to in paragraph 2 (1) and (3) have been presented in accordance with the requirement laid down in paragraph 3 and implementing provisions issued pursuant to Article 92.

6. A collective management organisation provides the approved annual statement on its operations together with the statement from the examination referred to in paragraph 5 to the minister and communicates them to the public by publishing them on its website within 6 months from the end of the relevant financial year. These documents shall remain available to the public on the collective management organisation's website.

Article 92. The minister shall lay down, by way of a regulation, the detailed scope of statements referred to in Article 91.2 (1) and (3), containing in particular information referred to in the Annex to Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.03.2014, p. 72), hereinafter referred to as "Directive 2014/26/EU", taking into account information on the collective management organisation's organisational structure, its internal bodies, assets and activities with regard to the collective management of copyright and related rights, and the need to evaluate whether the collective management organisation duly achieves its statutory goals.

Article 93. 1. The provisions of the Accounting Act of 29 September 1994 shall apply to collective management organisations, with the exclusion of Article 2.5 of the said Act.

2. The statement referred to in Article 91.2 (2) shall also contain a statement of cash flows.

Chapter 9

Complaints

Article 94. A collective management organisation shall enable the rightholders and collective management organisations with which it concluded a representation agreement to lodge a complaint concerning membership in the collective management organisation or the exercise of collective management of copyright and related rights.

- Article 95.** 1. A collective management organisation shall examine the complaint without delay and respond in writing.
2. The non-acceptance of a complaint requires a statement of reasons.

Chapter 10

Monitoring of Collective Management Organisations

Article 96. 1. The body responsible for monitoring collective management organisations is the minister.

2. As part of its monitoring duties, the minister acts *ex officio*.

3. The monitoring duties of the minister do not apply to field branches of an association holding an authorisation, if they do not carry out activities with regard to the collective management of copyright and related rights.

Article 97. The purpose of monitoring is to ensure that collective management of copyright and related rights is duly exercised with respect to:

- 1) the compliance of the business of a collective management organisation with the law, the authorisation and the provisions of the statute and other internal regulations of the collective management organisation;
- 2) the effective functioning of the system of collective management of copyright and related rights;
- 3) correct and timely distribution of the rights revenue and its payment to rightholders;
- 4) the justified amount of deductions made to cover the costs of collective management of copyright and related rights;

Article 98. 1. As part of monitoring duties, the minister may:

- 1) request a collective management organisation to provide, within the specified time limit, information and documents necessary to achieve the purpose of monitoring referred to in Article 97;
- 2) request a collective management organisation to periodically provide specific information and documents necessary to evaluate whether the collective management organisation duly exercises the collective management of copyright and related rights or determine whether identified infringements have been removed;
- 3) issue recommendations to the collective management organisation, in particular with regard to:
 - a) ensuring the compliance of the business of a collective management organisation with the law, the authorisation and the provisions of the statute and other internal regulations of the collective management organisation;
 - b) the necessary measures to be taken by the collective management organisation in order to duly perform its duties relating to the collection, distribution or payment of rights revenue,
 - c) development and application of procedures to ensure that duties with regard to the collective management of copyright and related rights are duly performed,
 - d) the necessary measures to be taken in order to prevent the infringement on the interests of rightholders or users;
- 4) conduct consultations on matters in dispute between collective management organisations, in particular matters concerning principles for their joint operation as referred to in Articles 47.2 and 47.4.

2. Requests and recommendations referred to in paragraph 1 shall contain a written statement of reasons indicating their purpose and scope.

Article 99. 1. The minister, having particular regard to the protection of interests of rightholders, may issue recommendations concerning good practices with regard to the collective management of copyright and related rights for all collective management organisations.

2. Recommendations referred to in paragraph 1 shall contain a written statement of reasons indicating their purpose and scope.

Article 100. 1. The minister may conduct an audit in the registered office of the collective management organisation or in its field branches, if they carry out activities with regard to the collective management of copyright and related rights.

2. The audit shall be conducted on the terms and in a manner set forth in the Act of 15 July 2011 on Auditing Government Administration. (*Dziennik Ustaw*, item 1092).

Article 101. In the case of a gross delay in the payment of rights revenue, the minister may order the collective management organisation to prepare and implement, within the specified time limit, a plan for the distribution and payment of rights revenue collected by that organisation to rightholders.

Article 102. At the request of the minister or the public prosecutor, the court may repeal a resolution adopted by the collective management organisation, if it is in violation of the applicable law or the statute.

Article 103. 1. If it is ascertained that the collective management organisation operates in breach of the provisions of this Act imposing obligations thereon, the authorisation, the statute or other internal regulations of the collective management organisation, does not duly exercise the collective management of copyright and related rights, does not duly perform the obligation to provide information or documents, as referred to in Article 98.1 (1) or (2), hinders or prevents the performance of an audit referred to in Article 100, does not comply with recommendations issued on the basis of that audit or did not comply with the order referred to in Article 101 within the specified time limit, the minister may, after the time limit to comply with the notice to remove infringements passes to no effect:

- 1) request the collective management organisation to dismiss a member of the management board or the audit committee responsible for the identified irregularities;
- 2) fine the person referred to in subparagraph 1 up to amount equal to three times the average monthly remuneration referred to in Article 71.11;
- 3) fine the collective management organisation up to PLN 1,000,000;
- 4) revoke the authorisation in whole;
- 5) revoke the authorisation in part.

2. When determining the amount of the fine referred to in paragraph 1 (3), the minister shall also take into consideration the financial standing of the collective management organisation.

3. Measures referred to in paragraph 1 (1) to (4) may be used together, with the stipulation that fines can be applied multiple times, if the infringement is not remedied despite these fines being imposed.

4. The measures referred to in paragraph 1 (2) to (5) are applied by way of a decision.

5. The decision to impose a fine sets forth the time limit and manner in which the fine is to be paid.

6. The fine referred to in paragraph 1 (3) cannot be paid from rights revenue subject to distribution or distributed between rightholders.

7. The final decision to revoke the authorisation, wholly or in part, shall be published in the Public Information Bulletin on the minister's website without delay.

Article 104. 1. Revenue from fines constitutes the revenue of the Culture Promotion Fund referred to in Article 87 of the Act of 19 November 2009 on Games of Chance (*Dziennik Ustaw* 2018, items 165, 650 and 723).

2. Outstanding fines are subject to enforcement pursuant to the Act of 17 June 1966 on the Enforcement Procedure in Administration (*Dziennik Ustaw* 2017, item 1201, as amended²⁾).

Article 105. The provisions of the Act of 14 June 1960 – The Code of Administrative Procedure, except for Article 189k of that Act, shall apply to the decisions referred to in Article 103.

Article 106. Each interested party may notify the minister of any actions or circumstances which, in their opinion, constitute reasonable grounds to undertake monitoring activities with regard to the collective management organisation. The minister shall inform the notifying party of activities undertaken as a result of the notification.

Article 107. 1. In order to perform duties under this Act, the minister shall cooperate with competent bodies of Member States of the European Union and Member States of the European Free Trade Agreement (EFTA) – a party to the Agreement on the European Economic Area, responsible for monitoring foreign collective management organisations and other entities, in particular:

- 1) the European Commission;

² Amendments to the consolidated text of the said Act have been published in *Dziennik Ustaw* 2017, items 1475, 1954 and 2491; *Dziennik Ustaw* 2018, items 138, 398, 1000, 1009 and 1104.

2) foreign collective management organisations and international thereof.

2. At a duly justified request of a body of a Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA) – a party to the Agreement on the European Economic Area responsible for monitoring foreign collective management organisations, the minister shall without delay provide information relevant to compliance with the provisions of law implementing Directive 2014/26/EU, in particular concerning the business of a collective management organisation established in the territory of the Republic of Poland.

3. At a duly justified request to take appropriate measures with regard to the collective management organisation which is established in the Republic of Poland and of a body referred to in paragraph 2 and is in breach of the provisions of this Act, the minister shall provide a response concerning measures taken along with a statement of reasons within a time limit no longer than 3 months from the date on which the request is received.

4. The minister may approach the body referred to in paragraph 2 with a duly justified request to:

- 1) provide information relevant to compliance with the provisions of law implementing Directive 2014/26/EU, in particular concerning the business of a collective management organisation established in other Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA) – a party to the Agreement on the European Economic Area;
- 2) take appropriate measures with regard to the collective management organisation which is established in other Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA) – a party to the Agreement on the European Economic Area and is in breach of the provisions of law implementing Directive 2014/26/EU.

5. The minister may enter into cooperation agreements with bodies referred to in paragraph 2 to facilitate the performance of monitoring duties with regard to collective management organisations.

Chapter 11

Revocation of Authorisations

Article 108. Authorisations shall be revoked *ex officio* pursuant to Article 103.1 (4) or (5) or Article 112.1 or at the request of the collective management organisation to whose authorisation that request pertains.

Article 109. 1. In the decision revoking the authorisation, the minister imposes the obligation to:

- 1) distribute and pay the rights revenue due to rightholders within the specified time limit, or
- 2) transfer, within the specified time limit after the time limit referred to in subparagraph 1 passes, rights revenue due to rightholders to another collective management organisation, with its permission and insofar as it is authorised to represent a given category of rightholders to a given type of works or objects of related rights on the same field of exploitation, together with documentation necessary to distribute and pay these funds,
- 3) place distributed rights revenue in escrow after the time limit referred to in subparagraph 1 passes, or
- 4) transfer non-distributed rights revenue to the Culture Promotion Fund after the time limit referred to in subparagraph 1 passes.

2. The provisions of Articles 36 to 42, Article 59 and Chapter 8 to 10 shall apply accordingly to an association whose authorisation has been revoked until it performs obligations referred to in paragraph 1.

3. Article 693¹¹ of the Act of 17 November 1964 – The Code of Civil Procedure shall not apply in the case referred to in paragraph 1 (3).

Article 110. An association whose authorisation has been revoked:

- 1) informs its members, rightholders represented under a collective management agreement, collective management organisations with which it concluded representation agreements, and user with whom it concluded agreements for the use of works or objects of related rights and the collection of remuneration for such use about the substance of the decision referred to in Article 109 and its consequences;
- 2) publishes information that rightholders may seek claims for the payment of rights revenue from the association and the substance of the decision referred to in Article 109.1 on its website.

Article 111. Members of the management board of an association whose authorisation has been revoked are jointly and severally liable together with the association for damage caused by their actions or omissions which are contrary to the provisions of law, the statute and other internal regulations of the collective management organisation as well as the

substance of the decision referred to in Article 109.1, unless they are not at fault.

Article 112. 1. Where an association holding an authorisation is dissolved, the minister revokes this authorisation *ex officio*.

2. The liquidation of an association whose authorisation has been revoked shall not be completed until the performance of obligations referred to in Article 109.1.

Chapter 12

Independent Management Entities

Article 113. The management of copyright and related rights for rightholders by an independent management entity constitutes a regulated activity referred to in the Act of 6 March 2018 – Law of Entrepreneurs (*Dziennik Ustaw*, item 646) and requires entry in the register of independent management entities, hereinafter referred to as “register”.

Article 114. The requirements for pursuing activity referred to in Article 113 include:

- 1) communication to the public by the independent management entity, on its website, and continuous update of basic information on its activity, including:
 - a) the statute, where it is required by law,
 - b) terms and conditions governing the conclusion and termination of agreements for the management of rights,
 - c) draft standard licence agreements;
 - d) standard remuneration rate applied, including discounts,
 - e) principles for the distribution of rights revenue between rightholders and making deductions from this revenue,
 - f) types of works or objects of related rights the rights to which will be collectively managed by the independent management entity,
 - g) fields of exploitation on which the independent management entity will manage rights,
 - h) categories of rightholders whose rights will be managed by the independent management entity,
 - i) the territory on which activity referred to in Article 113 will be carried out;
- 2) having a legal title to manage rights to be covered by the agreement for the use of works or objects of related rights or the collection of remuneration for such use.

Article 115. 1. The body responsible for keeping the register is the minister.

2. Entry to the register is made at a written request of the independent management entity, which shall include:

- 1) the business name of the independent management entity as well as its registered office and address;
- 2) the legal form of the independent management entity and number in the register of entrepreneurs or any other relevant register;
- 3) Tax Identification Number (NIP);
- 4) types of works or objects of related rights the rights to which will be collectively managed by the independent management entity;
- 5) fields of exploitation on which the independent management entity will manage rights;
- 6) categories of rightholders whose rights will be managed by the independent management entity;
- 7) the territory on which activity referred to in Article 113 will be carried out;

3. Together with the application for entry in the register, the independent management entity shall submit, under the penalties of perjury, a statement worded as follows: “Being aware of the penalties of perjury, I hereby declare that:

- 1) data contained in the application for entry in the register of independent management entities is complete and accurate;
- 2) I am aware of and meet the requirements for pursuing business activity to the extent covered by the obligation to be entered in the register of independent management entities set forth in the Act of 15 June 2018 on the Collective Management of Copyright and Related Rights”.

4. The clause referred to in paragraph 3 replaces the body’s notice on the penalties of perjury.

5. The statement referred to in paragraph 3 shall also specify:

- 1) the business name of the independent management entity, its registered office and address;
- 2) the place where and date when the statement was submitted;
- 3) a signature of the person authorised to represent the independent management entity, with an indication of their full name and function held.

6. Entry in the register includes data specified in paragraph 2.

7. The register may be kept in an IT system.

Article 116. 1. Article 45.3, first sentence of Article 45.4, Article 45.5, Article 51.1, Article 87 and Article 89 shall apply to independent management entities.

2. Information communicated to the user by the independent management entity pursuant to Article 45.3 includes, in particular, the list of works or objects of related rights to be covered by the agreement.

3. Where an independent management entity is in breach of the obligations referred to in paragraph 1 or 2, the rightholder or the user may request for this entity to be obliged to perform them by the court.

Article 117. 1. The minister issues a decision prohibiting the pursuit of activity referred to in Article 113 by the independent management entity, if:

- 1) the independent management entities submitted statements referred to in Article 115.3 which were inconsistent with the facts;
- 2) the independent management entity did not remove the breach of requirements which need to be met in order to pursue activity referred to in Article 113 within the time limit specified by the minister;
- 3) the minister identifies a gross breach of requirements which need to be met in order to pursue activity referred to in Article 113 by the independent management entity.

2. The decision referred to in paragraph 1 shall have immediate effect.

Article 118. The minister removes the entry from the register:

- 1) at the request of the independent management entity;
- 2) *ex officio*, where:
 - a) it is ascertained that the entity no longer conducts business activity or stopped pursuing activity covered by the entry in the register in the event other than its suspension,
 - b) a decision prohibiting the pursuit of activity covered by entry in the register has been issued;

Article 119. 1. Each interested party may notify the minister of any actions or circumstances which, in their opinion, constitute reasonable grounds to initiate an audit with regard to the independent management entity on terms and conditions set forth in the Act of 6 March 2018 – Law of Entrepreneurs.

2. In matters referred to in paragraph 1, the minister acts *ex officio*.

Chapter 13

Personal Data Protection

Article 120. 1. For the purpose of performing tasks set forth in Chapter 2 and Chapters 10 to 12, the minister processes personal data insofar as necessary to perform these tasks.

2. For the purpose of performing activities with regard to the collective management of copyright and related rights pursuant to this Act or conducting social, cultural or educational activity, collective management organisations process the personal data of rightholders and users insofar as necessary to perform these tasks.

3. For the purpose of distributing and paying rights revenue, collective management organisations process the following personal data of the rightholder: forename(s), surname, family name, pseudonym, parents' names, date and place of birth, nationality, personal identification number (PESEL), series and number of the identity card, contact details, in particular address of permanent residence, address of residence stated on the tax return, e-mail address and phone number, bank account number, SWIFT/BIC code in the case of a foreign bank account number, tax identification number (NIP) as well as title of the work and percentage share in the work, in particular they may disclose the personal data of rightholders to other collective management organisations, foreign collective management organisations and international organisations

dealing with the protection of rights and interests of rightholders.

4. For the purpose of concluding and performing the agreement on the use of works or objects of related rights or the collection of remuneration for such use, collective management organisations process the following personal data of users:

- 1) forename(s), surname, business name, personal identification number (PESEL) and tax identification number (NIP);
- 2) contact details, in particular e-mail address and phone number.

5. For the purpose of performing obligations referred to in Chapters 5 and 6, the user processes the following personal data of rightholders and other users: forename(s), surname, family name, pseudonym, contact details, in particular address of permanent residence, address of residence state on the tax return, e-mail address and phone number. Users shall process data insofar as and for the purpose necessary to perform these tasks.

6. For the purpose referred to in Article 48, personal data referred to in paragraph 4 is processed by:

- 1) collective management organisations;
- 2) entities providing information or access to documents referred to in Article 48.

Article 121. 1. In connection with the processing of personal data referred to in Article 120.1, the application of Articles 12 and 15 of the Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 04.05.2016, p. 1) is limited so that the rights of the data subject specified in these provisions are exercised free of charge once every 6 months. In the remaining cases, the data controller has the right to charge a fee in the amount corresponding to the cost of preparing responses or copies of data.

2. Article 14 of the regulation referred to

in paragraph 1 does not apply to the processing of personal data referred to in Article 120.1, insofar as this data is necessary to ensure the proper performance of tasks set forth in Chapter 2 and Chapters 10 to 12.

3. Article 34 of the regulations referred to in paragraph 1 does not apply, if within 72 hours from the identification of a personal data breach the data controller issues a notice on the breach and announces it in the Public Information Bulletin on the minister's website.

4. The data controller shall announce the limited application referred to in paragraph 1 and 2 in the Public Information Bulletin on the minister's website.

5. Personal data referred to in Article 120 are subject to security measures preventing its processing in breach of applicable law and abuse, and retained only for the period necessary for the implementation or performance of:

- 1) tasks referred to in Chapter 2 and Chapters 10 to 12 by the minister;
- 2) activities referred to in Article 120.2 to 120.4 by the collective management organisation;
- 3) obligations referred to in Chapters 5 and 6 by the user;
- 4) the purpose referred to in Article 48 by the collective management organisation and entities who provide information and access to documents referred to in Article 48.

6. The security measures referred to in paragraph 5 consist at least in:

- 1) permitting the processing of personal data only by persons authorised by the data controller;
- 2) obliging persons authorised to process personal data, in writing, to keep it confidential.

Chapter 14

Criminal Liability

Article 122. Anyone who fails in their duty to submit a statement referred to in Article 66.7 shall be subject to imprisonment for a period from 6 months to 8 years.

Chapter 15

Amending, Transitional, Adapting and Final Provisions

Article 123. The following amendments are made to the Act of 4 February 1994 on Copyright and Related Rights (*Dziennik Ustaw* 2018, item 1191):

1) in Article 6.1:

a) subparagraph (9) shall be worded as follows:

“9) the public performance of a work means communicating it to the public by means of sound, image or sound and image carriers on which the work is fixed, or using devices for receiving a radio or television programme in which the work is broadcast, or using devices that allow to use a work communicated to the public in a manner that allows anyone to access it from a place and at a time of their choosing;”;

b) in subparagraph (13), the full stop shall be replaced by a semicolon, and subparagraphs (14) to (17) shall be added, worded as follows:

“14) a collective management organisation shall mean a collective management organisation within the meaning of Article 3 (2) of the Act of 15 June 2018 on the Collective Management of Copyright and Related Rights (*Dziennik Ustaw* 2018, item 1293), hereinafter referred to as the "Act on the Collective Management of Copyright and Related Rights”;

15) a collective management agreement shall mean an agreement referred to in Article 29 of the Act on the Collective Management of Copyright and Related Rights;

16) a representation agreement shall mean an agreement within the meaning of Article 3 (9) of the Act on the Collective Management of Copyright and Related Rights;

17) a competent collective copyright or related rights management organisation shall mean an organisation that collectively manages the rights of a rightholder on the basis of a collective management agreement or a representation agreement, and where the rightholder has not concluded any agreement with any organisation — an organisation representative for the given type of works or subject matters of related rights and categories of rightholders within a given field of use within the meaning of the Act on the Collective Management of Copyright and Related Rights.”;

2) in Article 21, paragraph 1 shall be worded as follows:

“1. Radio and television broadcasting organisations may broadcast minor musical works, minor lyrical works as well as musical and lyrical works exclusively on the basis of a contract signed with the competent collective copyright management organisation, unless the radio or television broadcasting organisation is entitled under a separate contract to broadcast works commissioned by a radio or television broadcasting organisation under a separate contract.”;

3) in Article 21¹, paragraph 2 shall be worded as follows:

“2. In the case of any disputes related to the conclusion and the terms and conditions of the agreement referred to in paragraph 1, the provision of Article 85 of the Act on the Collective Management of Copyright and Related Rights shall apply.”;

4) after Article 21¹, Article 21² and Article 21³ shall be added in the following wording:

“Article 21². 1. A broadcasting organisation may, as part of its own archival broadcasts, broadcast works and make them publicly available in a manner enabling everyone to access them from a place and at a time individually chosen by them, and may reproduce them for the purposes of such use, exclusively on the basis of an agreement concluded with a competent copyright collecting society, unless a given broadcasting organisation has the right to such use under the statute or a separate agreement. The provision of Article 21.2 shall apply accordingly.

2. An own archival broadcast, as referred to in paragraph 1, shall be a broadcast produced by a given broadcasting organisation, ordered or commissioned by it or co-produced by it before 1 January 2003.

Article 21³. The holders of devices used to receive radio or television programming can communicate broadcast works to the public only under a contract concluded with a competent collective copyright management organisation, unless their communication occurs on the basis of a separate agreement.”;

5) Article 92 shall be worded as follows:

“Article 92. The provisions of Articles 8 to 10, Article 12, Article 18, Articles 21 to 213, Articles 41 to 45, Articles 47 to 49, Articles 52 to 55, Articles 57 to 59, Articles 62 to 68, Article 71, and Article 78 shall apply accordingly to performances.”;

6) in Article 95¹, paragraph 2 shall be worded as follows:

“2. The provisions of Articles 21¹ to 21³ shall apply accordingly to phonograms and videograms.”;

7) Chapters 12 and 12¹ are repealed.

Article 124. In the Act of 28 July 2005 on Court Fees in Civil Cases (*Dziennik Ustaw* 2018, items 300, 398, 770 and 914), Article 67a is repealed.

Article 125. In the Act of 16 November 2006 on the Stamp Duty (*Dziennik Ustaw* 2018, item 1044), in Part III of the Annex to the Act, paragraph 30a is added after paragraph 30, worded as follows:

	30a. Authorisation for collective management of copyright and related rights	PLN 10 000	
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Article 126. In the Act of 6 March 2018 on the Rules for the Participation of Foreign Entrepreneurs and Other Foreign Persons in Business Transactions Within the Territory of the Republic of Poland (*Dziennik Ustaw* 2018, item 649), in subparagraph 33 of Article 12.1 the coma is replaced with a semicolon and subparagraph 34 is added, worded as follows:

“34) the Act of 15 June 2018 on the Collective Management of Copyright and Related Rights (*Dziennik Ustaw* 2018, item 1293).”.

Article 127. Administrative proceedings for granting, amending or revoking the authorisation referred to in Article 104.2 (2) of the Act being amended in Article 123, initiated and not completed prior to the effective date of this Act, shall be repealed *ex officio*.

Article 128. Authorisations referred to in Article 104.2 (2) of the Act being amended in Article 123 shall remain in effect.

Article 129. 1. Administrative proceedings referred to in Article 107¹.3 of the Act being amended in Article 123, initiated and not completed prior to the effective date of this Act, shall continue on the basis of the previous provisions.

2. As of the effective date of this Act, collective management organisations managing related rights, appointed pursuant to Article 107¹.3 of the Act being amended in Article 123, become organisations referred to in Article 47.3.

Article 130. 1. The provisions of Article 47.2 and 47.4 do not constitute grounds for termination of the agreement on the use of works or objects of related rights or the collection of remuneration for such use concluded before the effective date of this Act.

2. Agreements referred to in Article 47.2 and 47.4 shall be concluded by collective management organisations within 6 months from the effective date of this Act.

Article 131. 1. The Copyright Commission operating pursuant to provisions previously in force becomes the Commission within the meaning of this Act as of its entry into force.

2. The term of the Copyright Commission whose arbitrators have been appointed pursuant to principles previously in force shall expire as of the effective date of this Act.

3. Within no more than 30 days from the effective date of this Act, the minister shall commence the arbitrator appointment procedure on terms set forth in this Act.

4. Court proceedings concerning cases from applications referred to in Article 110¹⁴.1 and 110¹⁴.3 as well as appeals referred to in 110¹⁷.6 of the Act being amended in Article 123, initiated and not completed before the effective date of this Act, are repealed *ex officio*, with the exception of proceedings concerning the approval of tables of remuneration for the use of works or objects of related rights on the following fields of exploitation: rebroadcasting and public performance, which shall continue on the basis of provisions previously in force.

5. Collective management organisations shall file a shared application for the approval of a shared table of remuneration for the use of works or objects of related rights or the collection of remuneration for such use, referred to in Article 70.2¹ (1) of the Act being amended in Article 123, within 3 months from the date of appointment of arbitrators pursuant to paragraph 3.

Article 132. The tables of remuneration for the use of works or objects of related rights approved pursuant to the provisions in force until 31 September 2006 cease to have effect.

Article 133. 1. The tables of remuneration for the use of works or objects of related rights approved pursuant to the provisions in force until the effective date of this Act shall remain in effect.

2. Within one month from the date of appointment of arbitrators on terms set forth in this Act, the chairperson of the

Commission shall initiate *ex officio* proceedings for the distribution of remuneration rates between individual collective management organisations with regard to shared remuneration tables referred to in paragraph 1, if they do not meet the requirement referred to in Article 77.1 (4).

3. The provisions of this Act shall apply to remuneration tables referred to in paragraph 1 and tables of remuneration for the use of works or objects of related rights on the following fields of exploitation: rebroadcasting and public performance, approved in proceedings conducted pursuant to Article 131.4.

Article 134. The implementing provisions issued pursuant to Article 104.3⁵ of the Act being amended in Article 123 shall apply to the performance of the reporting obligation for the financial year:

- 1) preceding the year in which this Act entered into force;
- 2) not yet ended on the effective date of this Act.

Article 135. 1. A register is hereby established.

2. An entity pursuing activity referred to in Article 113 shall file an application for entry in the register within 6 months from the effective date of this Act.

Article 136. As of the effective date of this Act, collective copyright and related rights management organisations referred to in Article 104.1 of the Act being amended in Article 123 become collective management organisations.

Article 137. 1. Within 6 months from the effective date of this Act, the minister shall *ex officio* commence proceedings for the purpose of:

- 1) revoking the authorisation to the extent in which:
 - a) in the course of its activity conducted thus far, a collective copyright and related rights management organisation referred to in Article 104.1 of the Act being amended in Article 123 did not exercise collective management of copyright and related rights on a given field of exploitation or exercised collective management on a given field of exploitation, but only on a small scale,
 - b) there is no need for collective management of copyright and related rights on a given field of exploitation with regard to a specific type of works or objects of related rights;
- 2) amending the authorisation insofar as necessary for its adaptation to the names of fields of exploitation specified in Article 50 of the Act being amended in Article 123.

2. Within 6 months from the effective date of this Act, the minister shall *ex officio* commence proceedings to determine the representativeness of a collective management organisation in cases referred to in Article 10.2.

Article 138. 1. Within 9 months from the effective date of this Act, the collective management organisation shall notify the amendment of the statute, consisting in its adaptation to the requirements laid down in this Act, to the registry court.

2. Within 6 months from the date of the final order on the entry of amendment to the statute referred to in paragraph 1, the collective management organisation shall convene a general assembly of members in order to elect members of the management board and the audit committee as well as approve rules and regulations referred to in Article 19 (4) to (8) and the risk management strategy referred to in Article 19 (9). If the statute grants the audit committee the authority to approve the strategy referred to in Article 19 (9), the audit committee shall approve this strategy within 3 months from the date of appointment of its members. Until these documents are approved, the collective management organisation shall apply its own internal regulations in force to matters regulated in these documents, however only insofar as they are not in breach of the provisions of this Act.

Article 139. The first general assembly of members on terms and conditions set forth in Article 20 shall be convened in the first full financial year following the year in which this Act enters into force.

Article 140. 1. Within 9 months from effective date of this Act, the collective management organisation shall adapt its terms and conditions for concluding and terminating agreements under which collective management is exercised to the requirements laid down in this Act, inform rightholders with whom it concluded such agreement of these terms and conditions, and communicates them to the public on its website.

2. Until the date of adjustment referred to in paragraph 1, agreements under which collective management is exercised may be concluded and terminated on terms and conditions currently in force.

3. Immediately after approving the repartition regulations referred to in Article 19 (4), the collective management organisation shall inform rightholders with whom it concluded an agreement under which collective management is

exercised of the principles for making deduction from rights revenue, as referred to in Article 36 (2) and (4), and communicate this information to the public on its website.

Article 141. 1. Agreements under which collective management is exercised, concluded before the date of adaptation referred to in Article 140.1 and not meeting the requirements laid down in this Act, shall be adapted to comply with this Act within 6 months from the date of adaptation referred to in Article 140.1.

2. Agreements for the use of rights or objects of related rights and the collection of remuneration, concluded before the effective date of this Act and not meeting its requirements, shall be adapted to comply with this Act within 18 months from its effective date.

Article 142. This Act shall come into effect 14 days after its promulgation.

The President of the Republic of Poland:

A. Duda