

LICENCE FEES ACT ¹⁾

of April 21, 2005.

(official journal „Dz.U.” of May 16, 2005)

Article 1

Licence fees shall be charged to enable the carrying out of the public mission referred to in Article 21 paragraph 1 of the Broadcasting Act of December 29, 1992 (official journal „Dz.U.” of 2004, No 253, item 2531; and of 2005, No 17, item 141), hereinafter the “Broadcasting Act”, by public radio and television broadcasting organizations.

Article 2

1. Licence fees shall be charged for the use of radio and television sets.
2. A person who possesses a radio or television set whose condition enables immediate reception of a programme service shall be deemed to use that set.
3. The obligation to pay a licence fee arises on the first day of the month following the month in which a radio or television set was registered.
4. A licence fee shall be paid for each radio and television set, subject to the reservation of paragraph 5.
5. Irrespective of the number of radio and television sets used by:
 - 1) natural persons in the same household or motor vehicle owned by such persons,
 - 2) public health care institutions, sanatoria, nurseries, public and non-public organizational units of the educational system, state and non-state higher education establishments as well as social welfare institutions – in the same building, within a complex of buildings or in motor vehicles used by these institutions,
- only one of the fees referred to in Article 3 paragraph 1 shall be paid.
6. For the purpose of this Act, a household shall be a group of persons who reside together and share the costs of living or one person alone who bears his/her costs of living.
7. For the purpose of this Act, a radio or television set shall be a technical device that can be used to receive a programme service.

Article 3

1. ⁽¹⁾ The amount of the monthly licence fee payable in a given calendar year for:
 - 1) the use of a radio set shall amount to PLN 5.94;
 - 2) for the use of a television set or a radio and television sets shall amount to PLN 18.68.

- 1a. ⁽¹⁾ The amounts referred to in paragraph 1 shall be indexed each year with the total average annual consumer price index, determined in the Budget Act.
2. By May 31 each year, the National Broadcasting Council shall announce amounts of licence fees for the following calendar year calculated in accordance with paragraph 1, subject to the provision of paragraph 5, in the official journal of the Republic of Poland "Monitor Polski".
3. The amounts of licence fees referred to in paragraph 2 shall be rounded up to the nearest ten grosze.
4. The licence fee shall be paid in advance by the 25th day of the month for which the fee is due. The fee may be paid in advance for the entire year or for selected months.
5. By May 31 each year, the National Broadcasting Council may define, by a regulation, lower amounts of licence fees for the following calendar year than the amounts specified in paragraph 1, with due regard for:
 - 1) projected costs of carrying out the mission of public radio and television referred to in Article 21 paragraph 1 of the Broadcasting Act, assessed on the basis of reports and programme & financial guidelines referred to in Article 31b thereof;
 - 2) capabilities to finance the costs of carrying out the mission referred to in subparagraph 1 with proceeds specified in Article 31 paragraph 1 subparagraphs 2-4 of the Broadcasting Act;
 - 3) the degree and manner in which the funds referred to in Article 2 paragraph 1 were utilized in the preceding year.
6. The National Broadcasting Council shall define, by a regulation, discounts for advance payment of licence fees for a period exceeding one month, with due regard for:
 - 1) the number of persons availing themselves of the discounts, projected on the basis of the number of persons who paid licence fees in advance for a period exceeding one month in the preceding year;
 - 2) the necessity to ensure coverage of the costs of the carrying out of the mission referred to in paragraph 5 subparagraph 1.

Article 4

1. The following persons shall be exempt from payment of licence fees:
 - 1) persons who have been adjudged to:
 - a) classify as invalids of group I, or
 - b) be totally incapacitated for work and unaided existence, pursuant to the Act of December 17, 1998 on Old Age and Disability Pensions from the Social Insurance Fund (official journal „Dz.U.” of 2004, No. 39, item 353, as further amended²⁾), or
 - c) possess a serious degree of disability, pursuant to the Act of August 27, 1997 on Occupational and Social Rehabilitation and on Employment of Disabled Persons (official Journal “Dz.U.”, No. 123, item 776, as further amended³⁾), or
 - d) be permanently or temporarily totally incapacitated for work on a farm, pursuant to the Act of December 20, 1990 on Social Insurance of Farmers (official journal „Dz.U.” of 1998, No. 7, item 25, as further amended⁴⁾), and who are entitled to a nursing allowance;
 - 2) senior citizens over 75 years of age;

- 3) persons who receive a nursing benefit from a competent authority that performs tasks related to family benefits, mandated as tasks falling within the scope of government administration, or a social pension from the Social Insurance Board (ZUS) or any other authority in charge of old-age and disability pensions;
 - 4) deaf persons with ascertained anacusis or ambilateral hearing loss (measured on 2,000 Hz frequency of volume from 80 dB up);
 - 5) the blind whose visual acuity does not exceed 15 %.
2. The exemptions specified in paragraph 1 shall not apply to persons who share a household with at least two persons over 26 years of age who are not eligible for these exemptions.
 3. The exemptions specified in paragraph 1 shall apply as from the first day of the month following the month in which a declaration on compliance with the requirements of eligibility for the entitlement and documents confirming the entitlement to the exemptions were submitted at the establishment of the public operator referred to in Article 5 paragraph 1.
 4. Persons taking advantage of exemptions from payment of licence fees shall notify the establishment of the public operator referred to in paragraph 3 of any changes in the legal status or state of facts affecting the obtained exemptions, within 14 days as from the date on which such a change occurred.
 5. The National Broadcasting Council shall, by a regulation, define:
 - 1) types of documents confirming the entitlement to exemptions from payment of licence fees,
 - 2) the model declaration referred to in paragraph 3,
 - with due regard for the documents issued by competent bodies and without burdening persons who take advantage of exemptions with excessive impediments.

Article 5

1. Radio and television sets shall, for the purposes of collecting licence fees for the use thereof, be subject to registration at the establishments of the public operator, as defined in the Act of July 12, 2003 – Postal Law (official journal „Dz.U.”, No. 130, item 1188, as further amended⁵⁾).
2. Mandatory registration shall not apply to radio and television sets:
 - 1) used exclusively in production of programmes or other broadcasts;
 - 2) used exclusively to produce, transmit or retransmit radio or television programme services, including the use thereof to control the quality of transmission or retransmission;
 - 3) intended by an entrepreneur exclusively for sale or handing over to third persons for use under contracts, if these activities are covered by the scope of core business operations of the entrepreneur.
3. In the event an unregistered radio or television set is found to be in use, a fine equivalent to thirty times the amount of a monthly licence fee applicable on the date on which the unregistered set was found to be in use shall be charged.
4. The payment of the fine referred to in paragraph 3 shall not release from the duty to pay the current licence fee for the period from the date on which the unregistered set was found to be in use.

Article 6

1. Licence fees shall be collected by the public operator referred to in Article 5 paragraph 1.
2. The public operator referred to in Article 5 paragraph 1 shall remit proceeds from collected licence fees and default interest for delay in their payment to a dedicated account of the National Broadcasting Council, earmarked for the purposes specified in Article 8 paragraph 1 – after deducting a contractual remuneration for these services.
3. The account referred to in paragraph 2 and in Article 7 paragraph 9 is to be kept by Bank Gospodarstwa Krajowego.
4. Acting in agreement with the Chairman of the National Broadcasting Council, the minister in charge of communications shall define, by a regulation, the terms and procedure for the registration of radio and television sets, with due regard for the accessibility of establishments of the public operator referred to in Article 5 paragraph 1, as well as its organizational structure.

Article 7

1. The public operator referred to in Article 5 paragraph 1 shall control compliance with the duty to register radio and television sets and the duty to pay licence fees.
2. The minister in charge of communications shall exercise supervision over activities taken to control compliance with the duty to register radio and television sets and the duty to collect licence fees.
3. Provisions on administrative enforcement proceedings pertaining to enforcement of financial obligations shall apply to licence fees and the fine referred to in Article 5 paragraph 3.
4. In the event of delay in the payment of licence fees, default interest at the rate applicable to tax arrears, as defined in the Act of August 29, 1997 – Tax Ordinance (official journal „Dz.U.” of 2005, No. 8, item 60 and No. 85, item 727), shall be charged.
5. Heads of establishments of the public operator referred to in Article 5 paragraph 1 shall be authorized to request compliance with the duties specified in paragraph 1 within the frame of an administrative enforcement procedure.
6. In the event an unregistered radio or television set is found to be in use, the head of the establishment of the public operator referred to in Article 5 paragraph 1 conducting the control shall issue a decision warranting registration of the set and determining the fine for the use of an unregistered set referred to in Article 5 paragraph 3.
7. The decision referred to in paragraph 6 may be appealed against to the minister in charge of communications.
8. Half of the proceeds from the fine referred to in Article 5 paragraph 3 shall constitute the income of the public operator referred to in Article 5 paragraph 1.
9. After deducting the amounts referred to in paragraph 8, the proceeds from the fines referred to in Article 5 paragraph 3 shall be remitted to a dedicated account of the National Broadcasting Council earmarked for the purposes indicated in Article 8 paragraph 1.
10. Acting in agreement with the Chairman of the National Broadcasting Council, the minister in charge of communications shall, by a regulation, define:

- 1) establishments of the public operator referred to in Article 5 paragraph 1 conducting controls specified in paragraph 1,
 - 2) a model authorization for the performance of controlling activities as well as the principles and procedures for the issue of authorizations,
- in view of ensuring proper performance of controlling activities and organizational structure of the public operator.

Article 8

1. The proceeds referred to in Article 2 paragraph 1, Article 5 paragraph 3 and Article 7 paragraph 4, with the exclusion of the deductions provided for in Article 6 paragraph 2 and Article 7 paragraph 8, shall be earmarked exclusively for the carrying out of the mission of public radio and television referred to in Article 21 paragraph 1 of the Broadcasting Act by broadcasters, in the amount that shall not exceed expenditure incurred in connection with the carrying out of that mission.
2. Following an analysis of programme & financial guidelines referred to in Article 31b subparagraph 4 of the Broadcasting Act and of reports referred to in Article 31b subparagraph 3 of the Broadcasting Act for the preceding calendar year, and an analysis of costs specified therein, the National Broadcasting Council shall determine on an annual basis, by June 30 at the latest, the method of distributing the proceeds referred to in paragraph 1 amongst the public radio and television broadcasting organizations in the following calendar year, including the minimum share of the regional branches of the companies referred to in Article 26 paragraphs 2 and 3 of the Broadcasting Act .
3. The Chairman of the National Broadcasting Council shall advance to the public radio and television organizations funds for the carrying out of the mission referred to in Article 21 paragraph 1 of the Broadcasting Act, on the basis of the method of distributing the proceeds referred to in paragraph 2.
4. If the report referred to in Article 31b subparagraph 3 of the Broadcasting Act demonstrates that the proceeds referred to in Article 31 paragraph 1 subparagraph 1 and paragraph 2 of the Broadcasting Act exceed the value of expenditure for the carrying out of the mission referred to in Article 21 paragraph 1 of the Broadcasting Act, the surplus shall be credited towards expenditure for the carrying out of that mission in the following quarter of the year.

Article 9

1. Acting upon an application of the head of the establishment of the public operator referred to in Article 5 paragraph 1, the National Broadcasting Council shall remit licence fees in arrears, default interest for delay in their payment and the fine referred to in Article 5 paragraph 3 as well as default interest for delay in its payment, in case:
 - 1) the identity or the address of the entity obligated to pay these fees cannot be ascertained, or
 - 2) the entity obligated to pay these fees does not have any property from which the debt could be collected.
2. In the cases referred to in paragraph 1 subparagraph 1, the debt shall be remitted based on findings made by the head of the establishment of the public operator referred to in Article 5 paragraph 1, and in the case referred to in paragraph 1 subparagraph 2 – based on

information on ineffective debt enforcement from the authority in charge of enforcement of debts.

3. The head of the establishment of the public operator referred to in Article 5 paragraph 1 shall submit the application referred to in paragraph 1, along with a list of debtors, fees due from them and default interest for delay in their payment as well as with an indication of the reason for inability to collect these dues, to the National Broadcasting Council once a quarter.

Article 10

1. In such exceptional circumstances, whenever so justified by particular social interests or random events, the National Broadcasting Council may remit or divide into instalments the arrears in the payment of licence fees, default interest for delay in their payment and the fine referred to in Article 5 paragraph 3 as well as default interest for delay in its payment.
2. The entity obligated to pay licence fees shall file an application for remittance or division into instalments of the dues specified in paragraph 1 with the National Broadcasting Council.
3. The entity obligated to pay licence fees shall file a document confirming remittance or division into instalments of the dues specified in paragraph 1 with the establishment of the public operator referred to in Article 5 paragraph 1 within 14 days as from the date of the receipt thereof.

Article 11

The Broadcasting Act of December 29, 1992 (official journal „Dz.U.” of 2004, No. 253, item 2531; and of 2005, No. 17, item 141) is hereby amended as follows:

- 1) Article 4 subparagraph 8 shall be repealed;
- 2) in Article 6 paragraph 2:
 - a) subparagraph 6 shall be replaced by the following:

"6) to determine fees for the award of broadcasting licences and registration;"
 - b) the following subparagraph 6a shall be added after subparagraph 6:

"6a) to determine licence fees in accordance with the principles set forth in the Licence Fees Act of April 21, 2005 (official journal „Dz.U.”, No. 85, item 728);"
- 3) Article 15 paragraph 4 subparagraph 3 shall be replaced by the following:

"3) programme services transmitted solely via satellite or cable which in their entirety are available against payment of a fee, excluding licence fees as defined in the Licence Fees Act of April 21, 2005 and basic fees charged by satellite or cable network operators";
- 4) Article 20b paragraph 1 subparagraph 1 shall be replaced by the following:

"1) only in a national programme service as defined in the Act or in the broadcasting licence, accessible entirely free of charge, excluding licence fees as defined in the Licence Fees Act of April 21, 2005 and basic fees charged by cable network operators, or";

- 5) Article 30 paragraph 6 shall be repealed;
- 6) Article 31 paragraph 1 subparagraph 1 shall be replaced by the following:
 - "1) licence fees, default interest for delay in their payment and fines for the use of unregistered radio and television sets, as defined in the provisions of the Licence Fees Act of April 21, 2005, subject to the reservation of Article 8 paragraph 1 thereof,";
- 7) the following Article 31c shall be added:

"Article 31c. Boards of Management of the companies referred to in Article 26 paragraphs 2 and 3 shall prepare and make publicly available, by March 15 for the preceding calendar year, reports on the use of proceeds from licence fees as defined in the Licence Fees Act of April 21, 2005, default interest for delay in their payment and fines for the use of unregistered sets, for carrying out the public mission referred to in Article 21 paragraph 1, with an indication of funds allocated for implementation of individual tasks set forth in Article 21 paragraph 1a.";
- 8) Chapter 7 shall be repealed.

Article 12

The entitlement to exemptions from payment of licence fees shall be retained by persons who have been taking advantage of that entitlement under former regulations, provided that they submit the declaration referred to in Article 4 paragraph 3 within 6 months as from the date of entry into force of this Act.

Article 13

Until September 30, 2005, licence fees shall be collected in the amounts specified in former regulations.

Article 14

1. By June 30, 2005, the National Broadcasting Council shall:
 - 1) announce the amounts of licence fees, or
 - 2) determine, by a regulation referred to in Article 3 paragraph 5, the amounts of licence fees
 - for the period from October 1, 2005 to December 31, 2005.
2. In the event of advance payment of licence fees for the year 2005 or for selected months covering the period from October 1, 2005 to December 31, 2005:
 - 1) if the amount of the fee referred to in paragraph 1 is lower than the amount of the fee determined for the year 2005 in former regulations, the difference shall not be refundable;
 - 2) if the amount of the fee referred to in paragraph 1 is higher than the amount of the fee determined for the year 2005 in former regulations, the difference shall not be payable.

3. In respect of the year 2006, the National Broadcasting Council shall perform the actions referred to in Article 3 paragraphs 2 and 5 by June 30, 2005.

Article 15

Articles 9 and 10 shall apply to proceedings related to the remittance and division into instalments of licence fees in arrears and default interest for delay in their payment, initiated and not resolved by the date of the entry into force of this Act.

Article 16

This Act shall come into force after the lapse of 30 days as from its promulgation, save for Article 6 paragraph 3 that shall come into force after the lapse of 3 months as from the date of its promulgation.