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Item 1243

ACT

dated 28 May 2021

on the amendment of the Act on certain forms of supporting housing construction and certain other acts¹

Article 1. The Act of 26 June 1995 on certain forms of supporting housing construction (Journal of Laws of 2019l, item 2195, and Journal of Laws of 2021, item 11 and 1177) shall be amended as follows:

1. in Article 1, a comma and the words 'rules of the social rental agencies' shall be added after the word 'housing';

2) the following Chapter 3a shall be added after Chapter 3:

'Chapter 3a

Social Rental Agencies

Article 22a. 1. A social rental agency is an entity that, for the purpose of establishing conditions to meet the housing needs of the local government community, conducts activities of leasing residential premises or single-family residential buildings from their owners and renting those premises or those buildings to natural persons designated by the municipality under the terms of this chapter.

2. A social rental agency, hereinafter referred to as 'SRA', may operate in the form of:

1) a limited liability company or a joint stock company in which a municipality or municipalities hold more than 50% of votes at the shareholders' meeting or the general meeting, respectively;

2) a foundation;

3) an association;

4) a social cooperative.

3. The SRA shall use the income from the activities referred to in paragraph 1 in its entirety for those activities.

Article 22b. 1. It shall be a condition for SRA to carry out the activity referred to in Article 22a(1) on the territory of a municipality that the municipality concludes an agreement with the SRA, hereinafter referred to as the 'cooperation agreement', specifying at least:

¹This Act amends the following acts: the Act of 26 July 1991 on income tax from natural persons, the Act of 15 February 1992 on income tax from legal persons, the Act of 20 November 1998 on the lump sum income tax on some incomes attained by natural persons, the Act of 21 June 2001 on the protection of tenants' rights, the housing resource of the municipality, and on amendments to the Civil Code, the Act of 5 December 2002 on subsidies to interest rates on housing loans with a fixed interest rate, the Act of 24 April 2003 on public benefit activity and voluntary work, the Act of 11 March 2004 on tax on goods and services, the Act of 21 November 2008 on supporting thermal modernisation and renovations and on the central register of building emissions, and the Act of 20 July 2018 on state aid in incurring housing expenses in the first years of flat rental.

- 1) the number of residential premises or single-family residential buildings to be rented by the SRA to natural persons designated by the municipality, including the number of such residential premises or such buildings to be rented to natural persons with special housing needs, particularly persons with disabilities or persons raising three or more children;
- 2) the rules for the municipality to co-finance the activities referred to in Article 22a(1);
- 3) reporting principles with consideration for the obligations of the municipality referred to in Article 22h;
- 4) the rules for sharing responsibility for the tenant's unpaid rent dues to SRA in the event of termination of the rent relationship.

2. The cooperation agreement is concluded for a period of 5 years.

3. The cooperation agreement concluded with a SRA operating in the form referred to in Article 22a(2)(1) may be extended for a period of 5 consecutive years upon SRA's request made within the last year of the term of the cooperation agreement.

This extension may be renewed on the terms indicated in the first sentence.

4. In the case of expiry of the cooperation agreement concluded with the SRA operating in the form referred to in Article 22a(2)(2)-(4), the SRA may apply for concluding another cooperation agreement with the same municipality pursuant to the procedure specified in Section II Chapter 2 of the Act of 24 April 2003 on public benefit activity and voluntary work (Journal of Laws of 2020, item 1057, and Journal of Laws of 2021, item 1038 and 1243).

5. The cooperation agreement shall be terminated by giving at least one year's notice.

6. The cooperation agreement with the SRA operating in the form referred to in Article 22a(2)(2)-(4) shall be concluded in the mode defined in Section II Chapter 2 of the Act of 24 April 2003 on public benefit activity and voluntary work as an agreement of support for the implementation of a public task or as an agreement on entrusting of implementation of a public task.

Article 22c. 1. A lease agreement between the owner of residential premises or a single-family residential building and the SRA, hereinafter referred to as the 'tenancy agreement', shall be concluded for a fixed term.

2. The lease agreement shall be terminated no later than upon the date of termination of the cooperation agreement.

3. In the event of termination of the cooperation agreement, SRA shall terminate the lease agreement.

4. The lease agreement shall be terminated, subject to paragraph 2, upon at least:

1. six months' notice - in the case the lease agreement is terminated by SRA;

- 2) one year's notice - in the case the lease agreement is terminated by the owner of residential premises or a single-family residential building.

5. The lease agreement shall be terminated in writing under pain of being null and void.

6. The tenancy agreement shall be accompanied by a declaration of the owner of the residential premises or a single-family residential building that they are aware of the rules on the application of the provisions on public aid, including the requirements to meet the conditions for *de minimis* aid laid down in the

Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (Official Journal of the European Union L 352 of 24.12.2013, p. 1) and the obligations arising from Article 37(1) and (5a) of the Act of 30 April 2004 on proceedings in public aid cases (Journal of Laws of 2021, item 743) arising in connection with the support provided as a result of conclusion of the lease agreement on the basis of:

- 1) Article 21(2)(131a) of the Act of 26 July 1991 on personal income tax (Journal of Laws of 2021, item 1128, 1163, and 1243);
- 2) Article 17 of the Act of 15 February 1992 on corporate income tax (Journal of Laws of 2020, item 1406 as amended²);
- 3) The Act of 20 November 1998 on lump sum income tax on some incomes attained by natural persons (Journal of Laws of 2020, item 1905, 2123, and 2320, Journal of Laws of 2021, item 255, 1163, and 1243);
- 4) Article 43(1)(36) of the Act of 11 March 2004 on value added tax (Journal of Laws of 2021, points 685, 694, 802, 1163, and 1243).

Article 22d. 1. In the lease agreement, the SRA may undertake to carry out renovations of the rented residential premises or single-family residential building.

2. The renovation of the leased residential premises or single-family residential building may be carried out by the SRA in exchange for either a reduction or temporary waiver of collection of the lease rent.

Article 22e. 1. The Municipal Council shall determine, by way of a resolution constituting an act of local law:

- 1) the criteria for entitling a natural person to conclude a tenancy agreement with a SRA for residential premises or single-family residential building, hereinafter referred to as the 'tenancy agreement';
- 2) the rules for natural persons applying for the conclusion of a tenancy agreement;
- 3) criteria the fulfilment of which entitles the current tenant to conclude a new tenancy agreement;
- 4) the manner of verifying compliance with the criteria referred to in points 1 and 3.

2. When defining the criteria entitling to conclude a tenancy agreement referred to in section 1 points 1 and 3, the Municipal Council shall make a selection from among the criteria referred to in Article 8 paragraph 2 points 1-4 and 6-13 of the Act of 20 July 2018 on state aid in incurring housing expenses in the first years of flat rental (Journal of Laws of 2020, item 551, and Journal of Laws of 2021, item 11, 223, and 1243) or shall indicate its own criteria.

Article 22f. 1. The SRA shall enter into a tenancy agreement for a fixed term with a natural person designated by the municipality.

2. The tenancy agreement is terminated at the latest on the date of termination of the lease agreement.

3. Should the lease agreement be terminated, the SRA shall terminate the tenancy agreement by giving at least three months' notice.

4. In the event of expiration of a tenancy agreement, at the request of the current tenant meeting the criteria referred to in Article 22e(1)(3), the SRA enters into a new tenancy agreement with that tenant.

²Amendments of the consolidated text of the referred Act were published in Journal of Laws of 2020, item 1492, 1565, 2122, 2123, and 2320, and Journal of Laws of 2021, item 11, 255, 1163, and 1243.

Article 22g. 1. The SRA may set the rent for the leased residential premises or a single-family residential building at a level higher than the lease rent for those residential premises or a single-family residential building.

2. By virtue of the tenancy agreement, apart from the rent, the SRA may only charge fees independent from the owner within the meaning of Article 2(1)(8) of the Act of 21 June 2001 on the protection of tenants' rights, the housing resource of the municipality, and on amendments to the Civil Code (Journal of Laws of 2020, item 611, and Journal of Laws of 2021, item 11 and 1243).

Article 22h. 1. Within 30 days from the date of conclusion of the cooperation agreement, the municipality shall inform the minister competent for construction, planning and spatial development and housing about the conclusion of the agreement, indicating the data identifying the SRA, including its organisational form.

2. The municipality shall inform the minister competent for construction, planning and spatial development and housing about the following:

1) The number and total floor area of the residential premises or single-family residential buildings leased by SRA,

2) the number of persons using residential premises or single-family residential buildings leased by SRA under a tenancy agreement

- by 31 January of the year following the year to which the information refers.

Article 22i. 1. Support provided to the SRA in relation to the activities referred to in Article 22a(1):

1) in line with the rules set out in accordance with Article 22b(1)(2),

2) pursuant to Article 17(1)(44) of the Act of 15 February 1992 on income tax from legal persons

- constitutes compensation for public service within the meaning of the provisions of European Union law on public aid for the provision of services of general economic interest.

2. When granting the SRA the support referred to in paragraph 1, the municipality shall specify, in the cooperation agreement, the type and duration of the public service compensated by this measure.

3. The provisions of paragraphs 1 and 2 shall apply taking into account the provisions on public aid.

Article 22j. In issues not regulated in this Chapter, the provisions of the Act of 21 June 2001 on the protection of tenants' rights, the housing resource of the municipality, and on amendments to the Civil Code concerning tenancy and the provisions of the Act of 23 April 1964 - the Civil Code (Journal of Laws of 2020, item 1740 and 2320) concerning lease and rent shall apply respectively';

3) in Article 27(2)(5), the full stop shall be replaced by a semicolon and point 6) shall be added and read as follows:

'(6) leas residential premises to the SRA for the purpose of renting those residential premises to natural persons designated by the municipality under the terms of Chapter 3a where the construction of the residential premises was not accompanied by the conclusion of an agreement referred to in Article 29(1)-(2b) or Article 29a(1).';

4) in Article 28(2)(1), the words '(Journal of Laws 2019, item 1182 and 1309)' shall be deleted; Journal of Laws - 4 - item 1243

5) in Article 29a, paragraph 2a shall be added after paragraph 2 and shall read as follows:

'2a. In the event that the amount of participation constitutes at least 15% of the cost of construction of the premises, the provision of Article 7b(1) of the Act of 8 December 2006 on financial support for creation

of residential premises for rent, protected apartments, night shelters, shelters for homeless people, heating shelters, and temporary accommodation shall not apply;

6) in Article 30a(2)(3), the words '(Journal of Laws of 2020, item 1057)' shall be deleted;

7) in Article 32a the words '4a,' shall be deleted.

Article 2. In the Act of 26 July 1991 on personal income tax (Journal of Laws 2021, item 1128 and 1163), in Article 21(1), the following point 131a shall be added after point 131):

'131a) revenues from the tenant of residential premises or single-family residential buildings to social rental agencies referred to in Article 22a (1) of the Act of 26 October 1995 on certain forms of housing support (Journal of Laws of 2019, item 2195 and of 2021, item 11, 1177 and 1243).'

Article 3. In the Act of 15 February 1992 on corporate income tax (Journal of Laws 2020, item 1406 as amended³), in Article 17(1):

1) point 44) shall read as follows:

'44) income of housing cooperatives, housing communities, social housing initiatives, social housing societies, local government organizational premises conducting activity in the field of housing management and social rental agencies referred to in Article 22a paragraph 1 of the Act of 26 October 1995 on some forms of housing support (Journal of Laws of 2019, item 2195 and of 2021, item 11, 1177 and 1243), obtained from management of housing resources - in the part intended for purposes related to maintenance of such resources, excluding income obtained from other economic activity than management of housing resources;';

2) in point 60), the full stop shall be replaced by a semi-colon, and point 61) shall be added and shall read as follows:

'61) revenues from the lease of residential premises or single-family residential buildings to social rental agencies referred to in Article 22a (1) of the Act of 26 October 1995 on certain forms of support for residential construction.'

Article 4. In the Act of 20 November 1998 on lump sum income tax on some incomes attained by natural persons (Journal of Laws of 2020, item 1905, 2123, and 2320, and Journal of Laws of 2021, item 255 and 1163), Article 10 shall be read as follows:

'Article 10. The exemptions from income tax referred to in Article 21(1)(29b), (43), (46), (47a), (71a), (111), (114), (121), (122), (125), (125a), (129), (131a), (136) and (137) of the Income Tax Act shall apply accordingly to taxpayers paying lump sums on registered income.'

Article 5. In the Act of 21 June 2001 on the protection of tenants' rights, the housing resource of the municipality, and on amendments to the Civil Code (Journal of Laws of 2020, item 611, and Journal of Laws of 2021, item 11), in Article 4, paragraph 1a shall be added after paragraph 1 and shall read as follows:

'1a. The task referred to in paragraph 1 may be performed by the municipality by means of a social rental agencies referred to in Article 22a(1) of the Act of 26 October 1995 on certain forms of support for residential construction.'

³Amendments of the consolidated text of the referred Act were published in Journal of Laws of 2020, item 1492, 1565, 2122, 2123, and 2320, and Journal of Laws of 2021, item 11, 255, and 1163.

Article 6. In the Act of 5 December 2002 on subsidies to interest rates on housing loans with a fixed interest rate (Journal of Laws of 2019, item 1454) in Article 5(2), point 4b) shall be added after point 4a) and shall read as follows:

‘4b) funds of the Government Housing Development Fund transferred pursuant to Article 33la (1) of the Act of October 26, 1995 on certain forms of support for residential construction (Journal of Laws of 2019, item 2195, and Journal of Laws of 2021, item 11, 1177, and 1243);’.

Article 7. In the Act of 24 April 2003 on public benefit activity and voluntary work (Journal of Laws of 2020, item 1057, and Journal of Laws of 2021, item 1038), in Article 4(1), point 1aa) shall be added after point 1a) and shall read as follows:

‘1aa) creating conditions for meeting the housing needs of the local government community;’.

Article 8. In the Act of 11 March 2004 on value added tax (Journal of Laws of 2021, points 685, 694, 802, and 1163), in Article 43(1), point 36) shall read as follows:

‘36) services of renting or leasing of real estates of a residential nature or parts of real estates, on their own account, exclusively for residential purposes or to social rental agencies referred to in Article 22a(1) of the Act of 26 October 1995 on certain forms of support for residential construction (Journal of Laws of 2019, item 2195, and Journal of Laws of 2021, item 11, 1177 and 1243);’.

Article 9. In the Act of 21 February 2008 on supporting thermal modernisation and renovations and on the central register of building emissions (Journal of Laws 2021, item 554 and 1162), in Article 24(1) point 1b shall be added after point 1a and shall read as follows:

‘1b) funds of the Government Housing Development Fund transferred pursuant to paragraph 1 of Article 33lb of the Act of October 26, 1995 on certain forms of support for residential construction;’.

Article 10. The Act of 20 July 2018 on state aid in incurring housing expenses in the first years of flat rental (Journal of Laws of 2020, item 551 and of 2021, item 11 and 223) shall be amended as follows:

1) Article 7b shall read as follows:

‘Article 7b. Provisions referred to in Article 6(1)(2) and Article 7 shall not apply to tenants of:

1) residential premises or single-family residential buildings contributed as a contribution in kind to the company in accordance with Article 12(1) of the Act of 16 December 2020 on the settlement of the price of premises or buildings in the price of real estates sold from the municipal real estate resource (Journal of Laws of 2021, item 223), hereinafter referred to as ‘the ‘premises for land’ Act’;

2) residential premises or single-family residential buildings rented by a social rental agency referred to in Article 22a(1) of the Act of 26 October 1995 on certain forms of support for residential construction, hereinafter referred to as the ‘SRA.’;

2) in Article 8(2)(1), the words ‘a tenancy agreement’ shall be replaced by the words ‘a flat rental or sub-rental agreement’;

3) in Article 9:

a) paragraph 1b shall be added after paragraph 1a and shall read as follows:

‘1b. In the case of residential premises or single-family residential buildings rented by a SRA, the period referred to in paragraph 1 shall be counted from the month in which the first lease agreement between the owner of the residential premises or a single-family residential building and the SRA is concluded.’,

b) in paragraph (3), points (3) and (2) shall read as follows:

'2) termination or expiration of the flat rental or sub-rental agreement during the period of application of subsidies for reasons including the exchange of the flat for another one and concluding a new flat rental or sub-rental agreement,

3) a period shorter than 15 years for the application of subsidies due to the condition referred to in paragraph 1-1b, including in the case of a subsequent tenant of the flat';

4) in Article 12(2a), the introduction to enumeration shall read as follows:

'In the case of residential premises or single-family residential buildings contributed as a contribution in kind to the company in accordance with Article 12(1) of the 'premises for land' Act, or residential premises or single-family residential buildings rented by the SRA, the following shall be specified in the application referred to in paragraph 1:';

5) in Article 13(1a), the words 'Article 13(1)(2)(b)' shall be replaced by the words 'Article 13(1)(3)(c)';

6) in Article 15(11) and Article 18(1), the words 'flat rental' shall be replaced by the words 'flat rental or sub-rental agreement';

7) in Article 24, paragraph 2 shall read as follows:

'2. In cases referred to in Article 4(5) and (6), Article 15(4) and (8) to (10), Article 16(5) and (11), Article 17(2) and Article 19(5), the investor shall also be understood to mean:

1) the landlord of residential premises or single-family residential buildings contributed as a contribution in kind to a company in accordance with Article 12(1) of the 'premises for land' Act;

2) SRA.'.

Article 11. This Act shall enter into force 14 days after its publication.

President of the Republic of Poland: *A. Duda*