

Table of Contents

Preface	XIII
Glossary	XV
Chapter 1. Law and Sources of Law	1
I. Introduction to Law and Business Law	1
II. Sources of Law	1
1. Civil Law System Versus Common Law System	1
2. Constitution	2
3. Legislation	3
4. Executive	3
5. Judicial Power and Case Law in Poland	3
Chapter 2. An Entrepreneur, an Enterprise and Auxiliary Figures to the Entrepreneur	5
I. Introduction	5
II. An Enterprise and an Entrepreneur	6
1. Overview	6
2. Business Activity	6
3. Legal Forms	8
4. The “On Its Own Behalf” Criterion	9
5. “Registered Entrepreneur” Status	9
6. Commercial Entrepreneur and Registered Entrepreneur: Relationships	10
7. Definition of an Enterprise	11
III. Auxiliary Figures to the Entrepreneur	11
1. Dependant Auxiliary Persons	12
1.1. “Prokurent”	12
1.1.1. Nature, Capacity & Formal Requirements	12
1.1.2. Scope	13
1.1.3. Expiry of a <i>Prokura</i>	13
1.2. Persons Acting on the Premises of an Enterprise	14
2. Independent Auxiliary Persons	14
2.1. Agent	14
2.1.1. Introduction	14
2.1.2. Definition	15

2.1.3. Requirements for Creation of Principal – Agent Relationships	15
2.1.4. Duties of Agents (to the Principal)	16
2.1.5. Duties of Principals	17
2.1.6. Agent's Remuneration	17
2.1.6.a) Types of Remuneration	17
2.1.6.b) Types of Agents	18
2.1.6.c) Duty to Pay Commission	18
2.1.7. Termination of the Agency Relationship	18
2.1.7.a) By Mutual Agreement	18
2.1.7.b) By Unilateral Action	19
2.1.7.c) By Unilateral Action with Immediate Effect	19
2.1.7.d) Termination by Operation of Law	19
2.1.8. Consequences of Termination of an Agency Agreement from the Agent's Perspective	19
2.2. Distributor	21
2.3. Authorized Dealers	21
2.4. Franchisee	21
Chapter 3. Business Name	23
I. Introduction	23
II. Creation and Continued Usage of a Business Name: Rules	23
1. Principle of Business Name Honesty	24
2. Steadiness of the Business Name	24
3. Business Name Unity	25
4. Exclusivity of the Business Name	25
5. Publicity Principle of the Business Name	25
6. Inalienability of the Business Name	26
III. Protection of the Business Name	26
Chapter 4. Registration of Entrepreneurs: Rules	27
I. Basic Concepts	27
II. The Polish Court Register	27
1. Central Information Office	27
2. Structure	28
3. Registration Procedure	29
4. Consequences of Registration	30
III. The Business Activity Register	31
IV. One-Stop-Registration Principle	32
Chapter 5. Forms of Business Organizations	33
I. Introduction	33
II. Proprietorship	34

III. Partnership Law	34
1. The General Partnership	35
1.1. Characteristics	35
1.2. Formation	35
1.3. Operation	36
1.4. Dissolution and Liquidation	36
2. The Limited Partnership	37
2.1. Characteristics	37
2.2. Formation	37
2.3. Operation	38
2.4. Dissolution and Liquidation	38
3. The Professional Partnership	38
3.1. Characteristics	38
3.2. Formation	39
3.3. Operation	39
3.4. Dissolution and Liquidation	40
4. The Limited Joint-Stock Partnership	40
4.1. Characteristics	40
4.2. Formation	42
4.3. Operation	42
4.4. Dissolution and Liquidation	43
IV. Company Law	44
1. The Joint-Stock Company	44
1.1. Characteristics	44
1.2. Formation	45
1.3. Shares and Bonds	46
1.3.1. Shares	46
1.3.2. Bonds	48
1.3.3. Dealings and the Transformation of the Polish Capital Market	49
1.4. Operation	51
1.4.1. The Management Board	51
1.4.2. The Supervisory Board	51
1.4.3. The General Assembly	52
1.5. Dissolution and Liquidation	53
1.5.1. Dissolution	53
1.5.2. Liquidation	53
2. The Limited Liability Company	54
2.1. Characteristics	54
2.2. Formation	55
2.3. Operation	56

2.3.1. Introduction	56
2.3.2. The Management Board	56
2.3.3. The Supervisory Board	57
2.3.4. The General Meeting	58
2.4. Dissolution and Liquidation	59
V. Supranational Forms of Business Organizations	60
1. The European Economic Interest Grouping	60
1.1. Initial Considerations	60
1.2. Formation	61
1.3. Operation	62
1.3.1. Management by Members	62
1.3.2. Management by Managers	63
1.4. Dissolution and Liquidation	64
1.4.1. Winding Up	64
1.4.2. Liquidation	65
2. The European Company (SE)	65
2.1. Introduction	65
2.2. Advantages of the European Company	65
2.3. Fields of Applicability and Law Governing the European Company	66
2.4. Formation Process	66
2.4.1. Mergers	67
2.4.2. Formation of a Holding European Company	68
2.4.3. Formation of a Subsidiary European Company	69
2.4.4. Conversion of an Existing Public Limited Liability Company into a European Company	69
2.5. Structure of the European Company	70
2.6. Winding Up and Liquidation	71
Chapter 6. Foreign Entities Conducting Business in Poland: Legal Aspects	73
I. An Overview	73
II. Legal Framework and Definition of a Foreign Entrepreneur	73
III. Means of Conducting Business	75
1. Introduction	75
2. Representative Office	75
3. Branch	76
4. Subsidiary	77
IV. Registration Requirements	77
Chapter 7. Employment Law	79
I. General Characteristics of Employment Law	79
1. Introduction	79

2. History and Sources of Employment Law	79
3. Main Principles of Employment Law	80
4. Parties to the Employment Relationship, Enterprise and Its Transition	81
4.1. Parties	81
4.2. An Enterprise under Labor Law and Its Transition	81
5. Contract of Employment	83
5.1. General Principles	83
5.2. Terms of Contract of Employment	83
5.3. Form of Employment Contract	84
5.4. Kinds of Employment Contract	84
5.4.1. Contract for an Indefinite Period of Time	84
5.4.2. Contract for a Definite Period of Time	84
5.4.3. Contract for a Trial Period	85
6. Termination of an Employment Relationship	85
6.1. Introduction	85
6.1.1. Mutual Arrangement on the Termination	85
6.1.2. Unilateral Termination	85
6.2. Contract of Employment for an Indefinite Period of Time	86
6.3. Contract of Employment for a Definite Period of Time	86
7. Special Protection against Termination	87
7.1. An Employee being a Member of the Board of a Trade Union	87
7.2. An Employee being Sick / Unable to Work	87
7.3. A Female Employee on Maternity Leave	87
7.4. Retirement Age	88
8. Obligations of the Employer and the Employee	88
8.1. The Employer's Obligation	88
8.2. The Employee's Obligation	88
9. Remuneration for Work	89
10. Working Time	90
11. Disputes Resulting from the Employment Relationship / Labor Courts	90
11.1. Introduction	90
11.2. Labor Courts and the Uniqueness of Labor Court Proceedings	91
11.2.1. Court Structure	91
11.2.2. Favoring of Employees	92
11.2.3. Settling Disputes Amicably	92
11.2.4. Speeding Up of Court Proceedings	92
Chapter 8. Court Proceedings in Business Matters and Arbitration	
Legislation	93
I. Court Proceedings in Business Matters	93

1. Introduction	93
2. Court Proceedings in Business Matters	94
2.1. Business Matters “Sensu Stricto”	94
2.2. Business Matters “Sensu Largo”	95
3. Court Jurisdiction	96
4. Types of Court Proceedings	96
4.1. In General	96
4.2. Payment Order Proceedings	97
4.3. Writ of Payment Proceedings	97
4.4. Simplified Proceedings	97
4.5. Internet Writ of Payment Proceedings	98
5. Legal Representation	98
II. Arbitration Legislation	99
1. General Provisions	99
1.1. Scope of Application	99
1.2. Scope of Issues Submitted to the Arbitration Process (Arbitrability)	99
1.3. Receipt of Written Communication	100
2. Arbitration Agreement	100
2.1. Definition	100
2.2. Kinds of Arbitration Courts	101
2.3. Form of the Arbitration Agreement	102
3. Composition and Jurisdiction of the Arbitration Court	102
3.1. Number of Arbitrators	102
3.2. Appointment of Arbitrators	102
4. Jurisdiction of the Arbitration Court	103
5. Conduct of Arbitration Proceedings	103
5.1. General Rules of Proceedings	103
5.2. Place and Commencement of Arbitration Proceedings	104
5.3. Language and Course of Proceedings	104
6. The Award and Termination of Proceedings	105
7. Judicial Review of Arbitration Issues	106
Chapter 9. Criminal Law and Business	107
I. Introduction	107
II. Classification of Crimes	107
III. White Collar Crimes	109
IV. Collective Corporate Liability	112
V. Defense Against Criminal Prosecutions	113
Chapter 10. Insolvency and Restructuring Procedures	115
I. General Observations	115

Table of Contents

II. Introduction to Insolvency and Restructuring Law	116
III. Applicability of the Insolvency and Restructuring Law	117
IV. Insolvency	117
1. Reasons for the Announcement and Rejection of the Announcement of Insolvency Proceedings	117
1.1. Reasons for Announcement	117
1.2. Reasons for Rejection of an Announcement	118
2. Reasons for Commencing Restructuring Proceedings under the Previous Insolvency and Reorganization Law	119
3. Proceedings Regarding the Announcement of Insolvency and the Court's Decision Making Process	119
4. Consequences of the Announcement of Insolvency	120
5. Organs Involved in the Insolvency Proceedings	122
5.1. Main Characteristics	122
5.2. Common Regulations for the Trustee	122
5.3. Further Duties and Powers of the Trustee	122
5.4. Reciprocal Contracts, Unexpired Leases and Right of Set-off	123
6. Participants in Insolvency Proceedings	123
6.1. Insolvent Debtor	124
6.2. Creditors	124
6.2.1. Definition	124
6.2.2. Meeting of Creditors	124
6.2.3. Board of Creditors	125
7. Common Regulations for Insolvency Proceedings Including Composition Plan and Insolvency Proceedings of Liquidation	126
7.1. In General	126
7.2. Claims Required to be Filed	126
7.3. Filing Claims	126
7.4. List of Claims	127
8. Insolvency Proceedings on the Composition Plan	127
8.1. Introduction	127
8.2. Claims Included in the Composition Plan	128
8.3. Content of the Composition Plan	128
8.4. Proceedings Regarding the Concluding of a Composition Plan ..	129
9. Insolvency Proceedings Including Liquidation Proceedings	129
V. Restructuring Proceedings	130
1. General Characteristics and Purpose	130
2. Types of Proceedings – Main Characteristic Features	131
2.1. Restructuring Proceedings Directed at the Approval of a Plan	132
2.2. Accelerated Restructuring Plan Proceedings	132
2.3. Restructuring Plan Proceedings	132

2.4. Remediation Proceedings	133
3. Grounds for Opening Restructuring Proceedings	133
3.1. Over-Indebtedness	133
3.2. Filing for Restructuring	133
4. Restructuring Plan	134
4.1. Types of Restructuring Plans	134
4.2. Preliminary Restructuring Plan	134
4.3. Final Restructuring Plan	135
5. Restructuring Plan Supervisor, Court Supervisor and Administrator	135
5.1. General Information	135
5.2. Restructuring Plan Supervisor	135
5.3. Court Supervisor	136
5.4. Administrator	136
6. Participants Within Restructuring Proceedings and Confirmation of the Restructuring Plan	137