

Asset declarations

<https://oswiadczeniamajatkowe.cba.gov.pl/ome/legal-status-of-asset-declarat/material-scope-1/1156,Material-scope.html>
16.01.2025, 03:37

Material scope

As in other circumstances related to the issue of asset declarations, the material scope falls to be defined within a dispersed legal framework. Since there is no single act defining the categories of persons required to submit asset declarations, the requirement is imposed by individual acts listed in the section on the legal basis for the requirement. As a general principle it is assumed that asset declarations are submitted by persons who perform the most important functions and hold senior positions in the state or local government administration, as well as in the prosecutor's office, the judiciary or in individual service organisations. As the legal adviser Agnieszka Rzetecka-Gil accurately points out, the requirement to submit asset declarations *"applies to persons with very different status, scope and scope of competences, since it includes, on the one hand, the President of the Republic of Poland, the Marshal of the Sejm, the Prime Minister, ministers, judges of the Constitutional Tribunal, and on the other hand, a rank and file employee of a rural local government office, who has been authorised by the head of the authority to issue administrative decisions on her or his behalf"*.⁽¹⁾

It is estimated that under the current legal provisions some 500,000 thousand people are required to submit declarations on their financial status. It should be emphasised, however, that these are only estimates, and it will be possible to indicate the exact number of people who submit them only when regulations allowing for the submission of declarations electronically come into force.

The broadest definition of the groups of people required to submit asset declarations is set out in the Anti-Corruption Act. In accordance with Article 10 in conjunction with Article 2 of the Act, asset declarations are submitted by:

1. persons holding managerial state positions (President of the Republic of Poland, Marshal of the Sejm, Marshal of the Senate, Minister, Secretary and Undersecretary of State, Voivode, etc.) – to the First President of the Supreme Court;
2. employees of public offices, including members of the civil service corps

holding managerial positions (directors-general, department directors, their deputies, heads of departments, etc.), or holding positions equivalent in terms of pay;

3. members of the civil service corps employed in the office serving the minister competent for public finances;
4. the Director General of the Supreme Audit Office and employees of the Supreme Audit Office supervising or performing audit activities;
5. the President and Vice-Presidents and Senior Counsellors and Counsellors of the General Counsel to the State Treasury;
6. Chairman and Deputy Chairmen of the Polish Financial Supervision Authority;
7. employees of regional chambers of audit holding the following positions: president, member of the board, head of department and inspector for control;
8. employees of local government boards of appeal holding the following positions: chairman, deputy chairman and full-time member of the board;
9. employees of state-owned banks holding the following positions: president, vice-president, member of the management board and treasurer;
10. employees of state-owned enterprises holding the following positions: director of the enterprise, deputy director and chief accountant;
11. employees of wholly-owned companies of the State Treasury and companies in which the State Treasury's share exceeds 50% of the share capital or 50% of the number of shares, holding the positions of: president, vice-president and member of the management board;
12. employees of state agencies holding the following positions: president, vice-president, team director, director of the local branch and his deputy – or equivalent positions.

In addition, individual professional groups submit asset declarations on the basis of their own acts:

1. parliamentarians (deputies, senators, MEPs) – the *Act on the Exercise of the Mandate of a Member of Parliament and Senator*, the *Act on the Salary of Members of the European Parliament elected in the Republic of Poland*;
2. local government officials (councillors, board, persons issuing decisions on behalf of the head of the unit, secretary, treasurer, etc.) – *Act on Provincial Self-Government*, *Act on District Self-Government*, *Act on Municipal Self-Government*;

3. judges, prosecutors – the *Law on the System of Common Courts*, the *Law on the System of Military Courts*, the *Law on the Public Prosecutor's Office*;
4. soldiers, police officers, officers of the Internal Security Agency, the Central Anti-Corruption Bureau, the Military Intelligence Service on the basis of individual acts regulating the organisation and functioning of services – the *Act on the Central Anti-Corruption Bureau* and others;
5. Border Guard, State Fire Service – on the basis of individual acts regulating the organisation and functioning of services – the *Border Guard Act* and others;
6. employees of tax offices – the *Act on the National Tax Administration*;
7. Court bailiffs – the *Act on court bailiffs*.

The long-standing practice of the Central Anti-Corruption Bureau indicates that the current list of persons required to submit asset declarations is incomplete and does not cover all professional groups who may be vulnerable to corruption. In the opinion of the Bureau, the list needs to be expanded to include groups of people holding important positions in the state administration who are likely to be exposed to corrupt behaviour but are not currently covered by the requirement to submit asset declarations. These are, *inter alia*, the following:

the President, Deputy Presidents, members of the Management Board and of the Supervisory Board of the Social Insurance Institution (ZUS);

the president and deputy president of the National Health Fund and members of the National Health Fund council;

employees of the Polish Financial Supervision Authority;

rectors, vice-rectors, chancellors and quaestors of public universities;

national and regional consultants in health care;

certain persons participating in public procurement procedures in entities that are the contracting authority or the central contracting authority, in proceedings concerning the setting of negotiation limits, sureties and credit guarantees, if the value of the procedure exceeds the amounts specified on the basis of Article 11(8) of the *Public Procurement Law*.

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1. A. Rzetecka-Gil, *The Act on Restrictions on Conducting Business Activity by Persons Performing Public Functions. Commentary*, Wolters Kluwer Polska sp. z o. o., Warsaw 2009.