



„Registration of the Premises in 2D Cadastral System in Poland”

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Polish cadaster – registered objects

In Poland cadastral system is 2D based system. System is using 2D parcels in order to register rights to the land and another objects.

According to the cadastral law in polish cadastral system there are registered 3 types of cadastral objects:

- land parcels,
- buildings,
- premises.

Premises – definition

An individual habitable premises is a chamber or a group of chambers, separated by permanent walls within a building, designed for permanent stay of people; together with auxiliary facilities they serve for meeting housing demands of people.

That regulation is also applied to individual premises, used for purposes other than housing. Individual housing premises, as well as premises used for other purposes, may become separate properties.

The fact that requirements related to independence of premises are met is stated by the district authorities in the form of a written certificate.

(see Article 2, items 1-3 of the Act of June 24, 1994 on ownership of premises)

Premises – accessory rooms

The so-called, accessory rooms may belong to premises as their components. There is no obligation that such rooms directly adjoin premises; they may be located within a land property, outside a building in which given premises have been separated. Such accessory rooms are first of all, cellars, sheds, attics and garages.

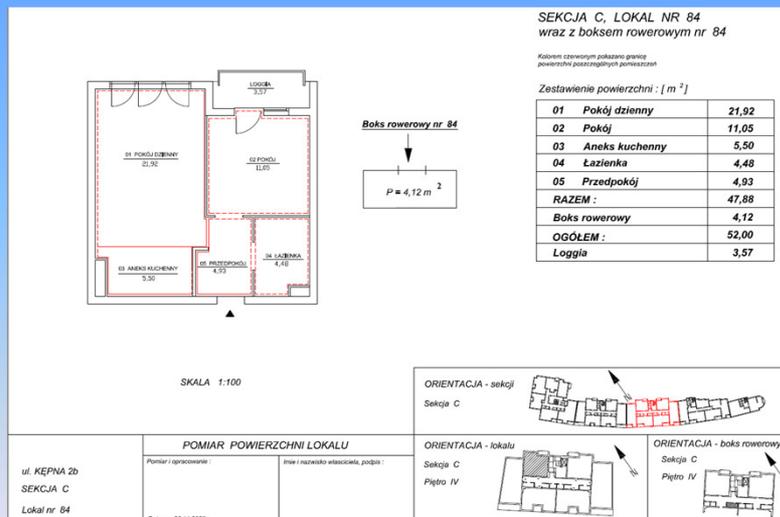
(see Article 2, item 4 of the Act of June 24, 1994 on ownership of premises)

Premises/accessory rooms - documents

Premises, together with accessory rooms, are marked on projections of appropriate storeys of buildings; in the case when accessory rooms are located outside a dwelling building, they are also marked on a copy of cadastral map. The above documents become an annex to an act which establishes a separate ownership of premises.

(see Article 2, item 5 of the Act of June 24, 1994 on ownership of premises)

An Example of Architectural and Building Inventory of Premises and Accessory Rooms (Section C of building 2b, premises No. 84 and a bicycle shed No. 84 belonging to the premises)



Source: Kloka (2011)

A common property

Together with separation of ownership of premises, the owner is entitled to share the common property, following the right related to ownership of premises. Besides, until separate ownership of premises exists, it is not possible to apply for elimination for the common ownership of the common property. The common property consists of lands and parts of a building and installations, which do not exclusively serve for owners of premises.

If a building was built on lands used under the leaseholds conditions, this right is a subject of the common property

(see Article 3 and 4 of the Act of June 24, 1994 on ownership of premises)

Calculation of shares of the owners of separated premises in a common property

The share of an owner of separated premises in a common property corresponds to the ratio of the living space of premises, including the size of accessory rooms, to the total living space of all premises, including accessory rooms.

The share of the owner of individual premises (those which have not been separated) in a common property, corresponds to the ratio of the living space of those premises including the size of accessory rooms, to the total living space of all premises, including accessory rooms.

(see Article 3 of the Act of June 24, 1994 on ownership of premises)

Calculation of shares of the owners of separated premises in a common property

In order to determine that ratio (share) it is necessary to determine, separately for each individual premises, the living space of premises, including the size of accessory rooms.

(see Article 3 of the Act of June 24, 1994 on ownership of premises)

An exception to those rules is introduced by Art. 3, item 6 of the Act on Ownership of Premises:

If – basing on a legal operation performed by an owner or by all owners of a property, all premises are separated, the shares of the owners of particular premises in a common property, are respectively determined by an owner or by owners, in an agreement.

An example of calculation of shares of the owners of separated premises in a common property

SEKCJA	PIĘTRO	NR SAMODZIELNEGO LOKALU	ILOŚĆ IZB	POW. MIESZKANIA	NR POM. PRZYB. (bicyklowe)	POW. POM. PRZYB. (bicyklowe)	POW. RAZEM (kol. 5+7)	UDZIAŁ	
1	2	3	4	5	6	7	8	9	
C	I	61	2	47.19	61	2.86	50.05	5005/1237120	
		62	3	78.33	62	2.86	81.19	8119/1237120	
		63	3	57.20	63	4.10	61.30	6130/1237120	
		64	3	57.11	64	4.14	61.25	6125/1237120	
		65	3	77.71	65	2.86	80.57	8057/1237120	
	66	2	47.68	66	2.86	50.54	5054/1237120		
	67	2	47.26	67	2.86	50.11	5011/1237120		
	68	3	78.99	68	2.85	81.84	8184/1237120		
	69	3	57.36	69	4.13	61.49	6149/1237120		
	70	3	57.27	70	4.13	61.40	6140/1237120		
	71	3	78.58	71	2.85	81.43	8143/1237120		
	72	2	47.76	72	2.85	50.61	5061/1237120		
	73	2	47.14	73	2.84	49.98	4998/1237120		
	74	3	79.21	74	2.84	82.05	8205/1237120		
	75	3	57.31	75	4.13	61.44	6144/1237120		
	76	2	57.88	76	4.11	61.99	6199/1237120		
	77	3	78.41	77	2.84	81.25	8125/1237120		
	78	2	47.87	78	2.86	50.73	5073/1237120		
	79	2	47.19	79	2.85	50.04	5004/1237120		
	80	3	79.03	80	2.86	81.89	8189/1237120		
81	3	57.47	81	4.13	61.60	6160/1237120			
82	2	57.65	82	2.84	60.49	6049/1237120			
83	3	78.40	83	2.86	81.26	8126/1237120			
84	2	47.88	84	4.12	52.00	5200/1237120			
85	2	47.12	85	2.85	49.97	4997/1237120			
86	3	78.83	86	2.85	81.68	8168/1237120			
87	2	57.29	87	4.13	61.42	6142/1237120			
88	2	57.27	88	4.14	61.43	6143/1237120			
89	3	78.32	89	2.85	81.17	8117/1237120			
90	2	47.85	90	2.86	50.71	5071/1237120			
RAZEM							1 834.56	1 932.86	193286/1237120

Source: Kloka (2011)

Individual columns are: number of section of building, number of floor, number of premises, number of rooms in a premises, living space of premises (area), number of a bicycle shed belonging to the premises, size of bicycle shed (area), sum of areas, shares of the owners of separated premises in a common property.

Calculation of the living space of rooms and entire premises - regulations

- Decree of the Minister of Regional Development and Building Industry of March 29, 2001 on cadastre,
- Act of June 21, 2001 on protection of inhabitants' rights, municipal housing resources and on changes of the Civil Code.

Should be used for calculations for registration the objects in cadastre and land register.

Specify:

- which space should be calculated into living space,
- ways of inclusion of rooms with slanted ceilings, of diversified heights, in the living space,
- conditions of rooms, which should occur when surveys are made.

Other rules concerning calculation of space should be assumed in accordance to the Polish Norm, respective for determination and calculation of space and volumetric indexes applied in building industry.

Calculation of the living space of rooms and entire premises – regulations

Two different norms concerning calculation of space indexes in building industry exist in Poland.

- **The Polish Norm PN-70/B-02365 „Areas of buildings, Division, determination and rules of surveys”** (Since October 28, 1997, has been substituted by the Norm PN-ISO 9836:1997)

- **The Norm PN-ISO 9836:1997 „ Useful characteristics in building industry. Determination and calculation of volumetric indexes.”**

(Since the date of coming into force the act of September 12, 2002 on normalisation application of this norm is not obligatory, although the norm is still valid)

Comparing of the rules of calculation of the living space of rooms and entire premises following the norms PN-70/B-02365 and PN-ISO 9836:1997

Subject of surveys	PN-70/B-02365	PN-ISO 9836:1997
Level, where a given room is surveyed	1.00 m above the floor	At the floor level
Conditions of rooms, which should occur when surveys are made	At the raw state, no plasters or coverings	Completely finished
Accuracy of linear surveys	to 0.01m	to 0.01 m
Accuracy of space calculation	to 0.1 sq.m	to 0.01 sq.m
Inclusion of recesses in walls of the size up to 0.1 sq.m in the living space	Not added to the size of a given room	Not added to the size of a given room
Inclusion of recesses in walls of the size greater than 0.1 sq.m in the living space	Added to the size of a given room	Not added to the size of a given room
Inclusion of pilasters and overhangs in walls of the size up to 0.1 sq.m in the living space	Not subtracted from the room size	Not subtracted from the room size
Inclusion of pilasters and overhangs in walls of the size greater than 0.1sq.m in the living space	Subtracted from the room size	Not subtracted from the room size
Inclusion of doorways, doors in rooms, balcony doors in the living space	Not added to the size of a given room	Not added to the size of a given room
Ways of inclusion of rooms with slanted ceilings, of diversified heights, in the living space	<ul style="list-style-type: none"> - parts of a room, of the height greater than 2.20 m are added to the living space in 100%, - parts of a room, of the height between 1.40 and 2.20 m are added to the living space in 50%, - parts of a room, of the height below 1.40 m is not added to the living space 	The total room size is calculated, according to the size of its floor and it is divided into two parts: a part of the height of 1.90m and more and a part of the height below 1.90, which may be added only to the accessory space.
Way of inclusion of outer spaces, not closed on all sides, which are accessible from given premises (balconies, terraces, loggias etc.) in the living space	Outer spaces are not added to the size of a room, an apartment or other useful premises	They are added to the size of premises (an apartment, useful premises) and uncovered surfaces (balconies, terraces) and covered surfaces (loggias) are listed separately

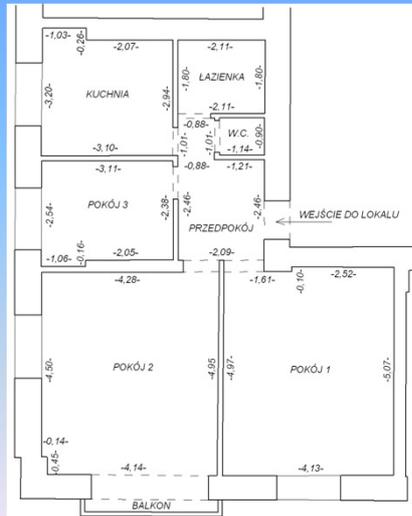
Source: basing on the PN-70/B-02365 and PN-ISO 9836:1997 norms, listed by the author

Calculation of the living space of rooms and entire premises, following the norms PN-70/B-02365 and PN-ISO 9836:1997

Considerable differences existing in the rules of surveys in both norms, do not allow for their interchangeable application. It is also not possible to determine a universal (possible to be applied for each premises) coefficient, serving for automatic calculation of the living space of premises, calculated basing on one of the discussed norms, to the values obtained following the rules of the second norm.

In the case of the necessity to calculate the living space of premises, according to the second norm, it means that size of all rooms included in given premises, must be calculated from the beginning.

Calculation of the living space of rooms and entire premises following the norms PN-70/B-02365 and PN-ISO 9836:1997



Source: author

PN-70/B-02365

69,71m²

Due to accuracy of linear surveys result should be included in range between 69,19m² - 70,24m²

PN-ISO 9836:1997

67,90m²

Due to accuracy of linear surveys result should be included in range between 67,32m² - 68,41m²

Premises in the cadastre – registered data

Data, concerning premises registered in the cadastre:

- 1) The number of premises, as a part of the premises identifier,
- 2) The building cadastral number, in which premises are located,
- 3) Designation of useful functions of premises,
- 4) The number of rooms included in premises and the number and types of accessory rooms,
- 5) The size of the living space (expressed in m²) of premises and the size of accessory rooms.

Premises in the cadastre – registered data

Additionally and besides the above data, the following data are registered for premises, being and independent property:

- 1) Number of the property in land register,
- 2) Designation of documents which specify rights to premises, other than the ownership rights,
- 3) The cadastral number of the premises cadastral unit, to which premises have been assigned,
- 4) The value of premises and date when that value was specified.

Premises in the cadastre - problems

- Cadastral data registered for a premises property

Includes the size of the living space (expressed in m²) of premises and the size of accessory rooms. Unclear legal regulations concerning the rules of surveys of rooms in premises, and surveys of entire premises, and calculation of the size of the living space of rooms and premises. The described standards presents various rules concerning the surveys and calculation of sizes of living space of rooms and entire premises.

- Cadastral data registered for the common property

Includes entries concerning the shares of the owners of separated premises in the common property, together with specification of the volumes of those shares
This share relates with the size of living space of all premises, separated within a given building.

Premises in the land register - problems

- land register, maintained for a premises property

„burdened” with an entry of the share of the owner of separate premises in the common property, together with specification of the volume of that share and specification of the land register maintained for the common property

- land register, maintained for a property, where a building located, in which the separate ownership of premises has been established (a common property)

includes entries concerning the share of the owners of separated premises in the common property, together with specification of the volumes of those shares and specification of the land register, maintained for the given premises

following provisions of Art. 3, item 7 of the Act on Ownership of Premises may cause many difficulties, since modification of that share is not possible if an agreement between the owners of premises, in the form of a notarial deed is not concluded !!!

Conclusions

- The rules concerning calculation of the living space basing on principles included in one of the sectoral norms should be strictly determined and they should be used in the process of disclosing the living space of premises in the cadastre and in property registers. /First author’s proposition/

- Introduction of such rules of calculating the living space of premises, in which the change of the system of rooms (e.g. as a result of demolition of partition walls) would not result in the change of the size of the living space. /Second author’s proposition/

It the principle saying, that the living space of premises is the room size calculated in the clearance of construction walls, should be introduced. In this case the living space of premises would contain spaces under the partition walls, but – with such approach – any changes in the system of rooms, would not result in modification of that parameter.

Conclusions

- While there is no doubt about the registration of premises on the cadastre, in the author's opinion the way of registering premises in land register should be modified.

- In the author's opinion, it is disadvantage to specify the share of the owner of separate premises in the common property in both land register records.

- Introduction of a rule to enter "the association of owners", which members would be owners of all separated premises in the property register, could be considered.

/Third author's proposition /

Therefore, shares in costs and benefits and other incomes from the common property, would be established at the meeting of the co-owners. Each modification of a parameter of individual premises would not result in the necessity to modification of shares in property registers; only the entry concerning the size of given premises would be corrected and the new share in costs would be established on the above discussed meeting.

**THANK
YOU
FOR
YOUR
ATTENTION**