

「Administrative Procedure Act」

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Chapter I General Provisions

Section 1 Rules of Application

Article 1

This Act is enacted to ensure that all administrative acts are carried out in pursuance of a fair, open and democratic process based on the principle of administration by law so as to protect the rights and interest of the people, enhance administrative efficiency and further the people's reliance on administration.

Article 2

The term "administrative procedure" used in this Act means the procedure to be followed by administrative authorities in performing such acts as rendering administrative dispositions, entering into administrative contracts, establishing legal orders and administrative rules, deciding on administrative plans, employing administrative guidance and dealing with petitions.

The term "administrative authority" used in this Act means an organization representing the State, any local self-governing body or any other subject of administration with an independent legal status, in declaration of its intention and carrying on public affairs.

An individual or entity commissioned to exercise public authority shall be deemed to be an administrative authority within the scope of commission.

Article 3

Unless otherwise prescribed by law, all administrative authorities shall follow the procedure herein provided in performing administrative acts. The procedure provided in this Act is not applicable to administrative acts carried on by any of the following organizations:

1. People's representative bodies at various levels;
2. Judicial authorities; and
3. Supervisory authorities;

The procedure herein prescribed is not applicable to the following matters:

1. Acts in relation to matters concerning diplomacy, military and safeguard of the national security;
2. Acts in relation to the exit and entry permits for foreign nationals, recognition of refugees and naturalization;
3. Criminal investigation procedures;
4. Actions taken by correctional institutions and other custodial houses for achieving the purposes of custody;
5. Procedure for making administrative decisions in cases of disputes over private rights;
6. Internal procedures established by schools and other educational institutions for educational purposes;
7. Actions of personnel management of government officers; and

8. Actions taken by the Examination Yuan in relation to subjects of test and grading of test results for the purpose of examinations.

Article 4

All administrative acts shall be governed by law and the general principles of law.

Article 5

The substance of administrative acts shall be clear and definite.

Article 6

No differential treatment is permitted for administrative acts without a good cause.

Article 7

Administrative acts shall be performed in pursuance of the following principles:

1. The method adopted must be helpful to the achievement of the objectives thereof;
2. Where there are several alternative methods which will lead to the same result in achievement of the objectives, the one with the least harm to the rights and interest of the people shall be adopted; and
3. The harm that may be caused by the method to be adopted shall not be clearly out of balance against the interest of the objectives anticipated to be achieved.

Article 8

All administrative acts shall be performed in good faith and shall be aimed at the protection of the legitimate and reasonable reliance of the people.

Article 9

An administrative authority shall take into consideration all circumstances advantageous and disadvantageous to the parties to the administrative procedure in its charge.

Article 10

In exercising administrative discretion, an administrative authority shall not transgress the scope of its power of discretion set forth by law and shall comply with the purposes of the authority conferred by law or regulations.

Section 2 Jurisdiction

Article 11

The jurisdiction of an administrative authority shall be determined according to the organic law or regulation thereof or other administrative law and/or regulations, as applicable.

Where the jurisdiction of an administrative authority has undergone change as a result of amendment to its organic law or regulation, but no corresponding amendment has been made to the relevant administrative law or regulation to specify the competent authority, the fact of such change of jurisdiction may be publicly announced either by the authority having jurisdiction previously in conjunction with the authority conferred with jurisdiction in consequence of the amendment to such organic law or regulation or by the common superior authority of both authorities.

Where an administrative authority has been dissolved or merged with another authority, the public announcement required by the preceding paragraph may be made solely by the authority conferred with jurisdiction as a result of amendment to such organic law or regulation.

The public announcement made under the two preceding paragraphs shall

become effective for the purpose of transfer of jurisdiction as of the third day from the date of announcement, unless otherwise specified in such announcement, in which case the transfer of jurisdiction shall become effective as of the effective date therein specified.

No jurisdiction may be created or changed without authorization by law or regulation, as applicable.

Article 12

Where territorial jurisdiction cannot be determined pursuant to paragraph 1 of the preceding article, it shall be determined in the following manners, in the order as set forth below:

1. Jurisdiction over matters relating to real property shall be exercised by the authority at the place where the property is situated;
2. Jurisdiction over matters relating to the operation of enterprises or other businesses of continuing operation shall be exercised by the authority at the place of operation of such enterprises or the place where the business activities take place or the place where the business operation or activities ought to be carried on;
3. Jurisdiction over other matters involving a natural person shall be exercised by the authority at the place of his domicile, or the place of his residence if the person has no domicile or his domicile is not ascertainable, or the place of his last presence. Jurisdiction over matters involving a juristic person or entity shall be exercised by the authority at the place of its principal office or business address; and
4. If jurisdiction cannot be determined in pursuance of any of the three preceding subparagraphs or if there exists a state of emergency, it shall be determined according to the cause of occurrence of the event.

Article 13

Where one and the same matter falls under the jurisdiction of two or more administrative authorities pursuant to the two preceding articles, the authority taking cognizance of the matter first shall have jurisdiction. If it is not ascertainable which one of those authorities took cognizance of the matter first, jurisdiction shall be determined by an agreement between or among them. If the authorities cannot reach an agreement or if it is necessary to exercise unified jurisdiction, the jurisdiction shall be taken up by the authority designated by the common superior authority thereof. In the absence of a common superior authority, jurisdiction shall be determined by an agreement between or among the respective superior authorities of all authorities that have taken cognizance of the matter.

Where necessary, each of the authorities referred to in the preceding paragraph shall perform acts to the extent necessary for the discharge of its duties and notify other authorities accordingly.

Article 14

In the event of any controversy between or among different administrative authorities over the issue of jurisdiction, it shall be determined by the common superior authority thereof. In the absence of a common superior authority, the jurisdiction shall be determined by an agreement between or among the respective superior authorities of all authorities that have taken cognizance of the matter.

In the circumstances described in the preceding paragraph, a person may apply to the common superior authority for designating an authority to exercise the jurisdiction over the matter for which he has filed an application under law or regulation. In the absence of such a common superior authority, an application for designating a competent authority may be filed with one of the superior

authorities. The authority taking cognizance of such application shall make a decision within ten days from the date of receipt of the application.

In the event where, pending a decision to be made under any of the circumstances described in the two preceding paragraphs, substantial and irreparable damage is likely to be caused to the State or any person, the authority, as a party to the controversy over jurisdiction, shall take urgent interim measures *ex officio* or upon application of the party to the matter and shall report to the common superior authority thereof and notify the other party to the controversy accordingly.

No objection may be raised by any person against the decision on designated jurisdiction made by an administrative authority under this article.

Article 15

An administrative authority may delegate under law one or more of its subordinate authorities to exercise a part of its powers.

An administrative authority may commission under law another administrative authority with no relationship of administrative subordination thereto to exercise a part of its powers if it is necessary to do so for the purpose of its business operation.

The matter delegated or commissioned pursuant to the two preceding paragraphs and the legal basis for such delegation or commission shall be publicly announced and published in a government gazette or newspaper.

Article 16

An administrative authority may commission under law a private entity or individual to perform a part of its duties.

The matter commissioned pursuant to the preceding paragraph and the legal basis for such commission shall be publicly announced and published in a

government gazette or newspaper.

The expenses required for performance of the duties commissioned under the first paragraph hereof shall be paid by the administrative authority, unless otherwise agreed upon.

Article 17

An administrative authority shall conduct an investigation *ex officio* on the issue whether or not it has jurisdiction over the matter; if the authority finds that it has no jurisdiction, it shall refer the matter to the competent authority and give the party a notice thereof.

An application filed by a person within the statutory period but is referred to a competent authority under the preceding paragraph shall be deemed to have been filed with the competent authority within the statutory period.

Article 18

An administrative authority which is divested of its power to exercise jurisdiction as a result of change of law or facts shall refer the matter to the competent authority and give the party a notice thereof; provided that, the authority which had jurisdiction previously may continue to deal with the matter with the consent of the party and the competent authority.

Article 19

Administrative authorities shall provide each other with assistance within the scope of their respective powers to bring about unity in administrative functions. In any of the following circumstances, an administrative authority may request the assistance of another authority with no relationship of administrative subordination thereto in the performance of its functions:

1. Where the authority is unable to perform its functions independently due to

reasons in law;

2. Where the authority is unable to perform its functions independently due to factual reasons such as inadequacy of staff or equipment;
3. Where the authority is unable to carry on independent inquiry into the facts which must be ascertained for the performance of its functions;
4. Where the documents or other materials required for the performance of its functions are being held by the authority whose assistance is requested;
5. Where it would be desirable in terms of cost that the functions be performed by the authority whose assistance is requested; or
6. Where there are other proper reasons making it necessary to request assistance in the performance of its functions.

A request under the preceding paragraph shall be made in writing, except in a state of emergency.

In any of the following circumstances, the requested authority shall refuse to provide assistance:

1. Where the assistance requested is beyond the scope of its powers or is not legally permitted; or
2. Where the provision of assistance will result in serious interference with the performance of its own functions.

The authority requested may refuse to provide assistance if it believes that there is a good reason that it cannot give assistance.

Where the authority requested believes that it has no obligation to provide administrative assistance or there is a reason for it to refuse, it shall notify the authority requesting assistance of the reason for its refusal. In the case of opposition by the authority requesting assistance to the refusal, a decision shall be made by the common superior authority. In the absence of such a common superior authority, a decision shall be made by the superior authority of the requested authority.

The requested authority may demand that the authority requesting assistance pay all cost and expenses necessary for the administrative assistance. The amount and payment of such cost and expenses shall be determined by agreement between the authority requesting assistance and the requested authority, or by the common superior authority if no such agreement can be reached.

Section 3 Parties

Article 20

The term "party " used in this Act denotes the following persons:

1. An applicant and the adverse party to an application;
2. A person subject to the administrative disposition rendered by an administrative authority;
3. The opposite party to an administrative contract signed with an administrative authority;
4. A person for whom administrative guidance is employed;
5. A person filing a petition with an administrative authority; and
6. Any other person intervening into administrative procedures under this Act.

Article 21

The following persons shall have the capacity to be parties to administrative procedures:

1. Natural persons;
2. Juristic persons;
3. Unincorporated bodies with representatives or managers;
4. Administrative authorities; and
5. Persons who may be subjects of rights and obligations under law.

Article 22

The following persons shall have the disposing capacity for administrative procedures:

1. Natural persons who have disposing capacity under the Civil Code;
2. Juristic persons;
3. Unincorporated bodies represented by their representatives or managers to act in administrative procedures;
4. Administrative authorities represented by their head officers or agents or authorized persons to act in administrative procedures; and
5. Persons specified as such by other laws.

A person who has no disposing capacity for administrative procedures shall be represented by his statutory agent to act for and on behalf of him in administrative procedures.

An alien who has no disposing capacity for administrative procedures under the law of his own country but has disposing capacity for administrative procedures under the law of the Republic of China shall be deemed to have disposing capacity for administrative procedures.

Article 23

Where the conduct of a procedure will affect the right or legal interest of a third person, the administrative authority may ex officio or upon application give such person a notice of intervention into the procedure as a party thereto.

Article 24

A party may appoint an agent, unless the appointment of an agent is not permitted by law or regulation or by reason of the nature of the administrative procedure.

Each party may appoint no more than three agents.

The authority conferred upon an agent shall be effective in respect of all procedural acts done in connection with the administrative procedure for which the agent is appointed; provided that special authorization is required for revocation of application.

An agent in an administrative procedure shall produce a power of attorney at the time when he first acts in the administrative procedure.

The revocation of power of authority shall be effective with respect to an administrative authority only after a notice thereof has been filed with such authority.

Article 25

Where there are two or more agents, each of them may act severally and independently for and on behalf of the party .

Notwithstanding an appointment made in contrary to the preceding paragraph, the agent so appointed may act severally and independently for and on behalf of the party.

With the consent of the principal, an agent may appoint another person as his sub-agent.

Article 26

A power of agency is not extinguished by reason of death of the principal or as a result of the principal having been deprived of his disposing capacity for administrative procedure. The same applies in the event of change of the statutory agent or the dissolution, merger or change of the administrative authority.

Article 27

In the case of a multiple number of parties with common interest, who have not

made a joint appointment of agents, they may elect from among them one to five parties to act for and on behalf of all of them in the administrative procedure.

If no such a party or parties are elected, and the administrative authority believes that the normal process of the procedure will thus be hampered, it may order that such a party or parties be elected within a specified time limit; failure to do so upon the lapse of the time limit shall entitle the administrative authority to assign ex officio one or more parties.

An elected or assigned party may not resign or give up the post without a good cause.

Where there are one or more elected or assigned parties, only such party or parties shall have the power to act in the administrative procedure, and all other parties shall secede from the administrative procedure; provided, however, that withdrawal of application, waiver of any right or assumption of any obligation may be made only with the unanimous consent of all persons having common interest.

Article 28

Where there are two or more elected or assigned parties, each of them may act severally and independently in administrative procedure for and on behalf of all parties.

Article 29

Notwithstanding that parties with common interest have elected a party or parties or have had a party or parties assigned for them, they are entitled to replace any of such party or parties or increase or decrease the number thereof.

An administrative authority shall be entitled to replace any party or parties assigned by it or increase or decrease the number thereof if necessary for the

interest of the parties with common interest.

In the case of disqualification of any party or parties under any of the two preceding paragraphs, the other elected or assigned party or parties shall be entitled to act in administrative procedure for and on behalf of all parties.

Article 30

Any election or replacement, or the increase or decrease of the number, of a party or parties, shall have no effect without giving the administrative authority a written notice thereof.

Any assignment or replacement, or the increase or decrease of the number, of a party or parties made by an administrative authority shall have no effect without a written notice thereof served upon all parties with common interest; provided that a public announcement may be made in lieu of the notice if it is evidently difficult to give such notice.

Article 31

A party or agent may, with the permission of the administrative authority, appear in the company of an assistant.

An administrative authority may order that a party or agent appear in the company of an assistant if the administrative authority deems it necessary.

Where an assistant referred to in any of the two preceding paragraphs is considered unsuitable by the administrative authority, the administrative authority may revoke the permission given before or forbid such assistant to make statements.

Any statement made by the assistant, unless an opposition thereto is raised instantly by the party or agent, shall be deemed to have been made by the party or agent himself, as the case may be.

Section 4 Recusal

Article 32

In any of the following circumstances, a government officer shall recuse himself from the administrative procedure:

1. Where the government officer himself or his spouse, former spouse, any of his relative by blood within the fourth degree or relative by marriage within the third degree, or a person having previously such relationship with the government officer, is a party to the matter;
2. Where the government officer himself or his spouse or former spouse is connected with the party in a relationship of joint holders of rights or co-obligors in the matter;
3. Where the government officer is currently or was once an agent for or assistant to the party in the matter; or
4. Where the government officer was once a witness or expert witness in the matter.

Article 33

In any of the following circumstances, the party may apply that a government officer recuse himself:

1. Where the government officer fails to recuse himself in spite of the existence of any of the circumstances specified in the preceding article; or
2. Where there are concrete facts to support sufficiently the belief that the government officer is likely to be biased in the exercise of his functions.

An application under the preceding paragraph shall be made, with a statement of grounds and facts, to the authority with which such officer serves, and shall be duly explained. The government officer whose recusal has been applied for may give his view in writing with respect to such application.

In the case of dissatisfaction to the decision of the administrative authority to

reject the application, the matter may be brought to the superior authority within five days for review, and the administrative authority entertaining this matter shall take an appropriate action within ten days unless there is a good reason for it not to do so.

The government officer whose recusal has been applied for shall cause the administrative procedure to be stayed before the authority with which such officer serves makes a decision to either approve or reject the application; provided, however, that a necessary action shall be taken in emergency situation. Where a government officer falls into any of the circumstances specified in the preceding

Article but fails to recuse himself, and no application for his recusal has been filed by any party, the authority with which such officer serves shall order ex officio that he recuse himself.

Section 5 Commencement of Procedure

Article 34

The commencement of an administrative procedure is subject to determination to be made by the administrative authority ex officio; provided that, this shall not apply where the administrative authority is bound by this Act or any other law to commence the administrative procedure or where an application therefor has been filed by the party under law or regulation.

Article 35

Unless otherwise prescribed by law or regulations, an application filed under law with an administrative authority may be in writing or oral. In the case of an oral application, the administrative authority entertaining the application shall keep a record thereof and shall cause it to be signed by or affixed with the personal seal of the applicant after it is read aloud to or examined by and

confirmed to be free of errors by the applicant.

Section 6 Inquisition Into Facts and Evidence

Article 36

An administrative authority shall conduct inquisition *ex officio* into evidence regardless of any allegation which may have been made by the party, and shall take into consideration circumstances both advantageous and disadvantageous to the party.

Article 37

During the administrative procedure, the party may, in addition to producing evidence on his own initiative, file an application to the administrative authority for inquisition into facts and evidence; provided that, if the administrative authority believes that no inquisition is necessary, it may choose not to conduct inquisition but shall give its explanation in the part of the notice dealing with reasons as required by

Article 43 hereof.

Article 38

In the course of inquisition into facts and evidence, an administrative authority may keep truthful records in writing if necessary.

Article 39

Where it is necessary for the purpose of inquisition into facts and evidence, an administrative authority may give any related person a written notification, requiring that he appear to give his opinions.

The notification shall give such details as the purpose of the inquiry, the time and place where the person notified is required to appear, whether or not he is

allowed to appoint another person to appear on his behalf, and the consequence for failure to appear.

Article 40

An administrative authority may request the party or a third person to provide documents, information and/or other articles as may be necessary for the purpose of inquisition into facts and evidence.

Article 41

An administrative authority may select and appoint suitable persons to conduct expert inspection.

In the case of expert inspection conducted of documents, the expert witness who conducted such inspection may be required to appear to give explanations if necessary.

Article 42

An administrative authority may take evidence by inspection for the purpose of finding the true facts.

The party shall be notified of the taking of evidence by inspection and requested to be present, unless it is impossible to give such notice.

Article 43

In rendering an administrative disposition or carrying out other administrative acts, an administrative authority shall make a judgment of the truthfulness of the facts based on logical reasoning and the empirical doctrine after taking into consideration the statements presented and the conclusion reached upon the facts found and the evidence obtained, and shall then give the party a notice of its decision and reasons therefor.

Section 7 Making Information Public

Article 44

(Deleted)

Article 45

(Deleted)

Article 46

The party or an affected person may apply to an administrative authority for examining, transcribing, copying or taking photographs of relevant materials or records; provided that the materials or records are necessary for claiming or protecting his legal interest.

An application made under the preceding paragraph to an administrative authority may not be denied except for information specified as follows:

1. Drafts and other preliminary operational documents prepared before an administrative decision is made;
2. Information relating to national defense, military, diplomacy and any other general official secrets, which is legally required to be kept in confidence;
3. Information relating to personal privacy, occupational secrets and trade secrets, which is legally required to be kept in confidence;
4. Information [the disclosure of which] is likely to result in infringement of the right of any third party; and
5. Information [the disclosure of which] is likely to result in serious impairment to the social security, public safety or the normal performance of any function in connection with the public interest.

Examination shall be permitted of the part of the information specified under sub-paragraphs 2 and 3 of the preceding paragraph, if no confidentiality is

necessary therefor.

Where a party finds any error in the materials or records referred to in paragraph 1, concerning the party himself, he is entitled to request the administrative authority to make correction upon producing proofs of the facts.

Article 47

In the course of an administrative procedure, a government officer shall not enter into contact with a party thereto or any person representing the interest thereof for any purpose other than that of the administrative procedure, unless it is necessary for the performance of his duties.

A government officer who has contacted a party or any person representing the interest thereof for any purpose other than that of the administrative procedure shall place in the file all written documents in connection with his communication with such party or person and shall make such documents open to all other parties, if any.

Where the contact referred to the preceding paragraph was not made in writing, a written record thereof shall be kept, describing therein the person contacted, the time and place where the contact was made, and the contents thereof.

Section 8 Dates and Periods

Article 48

A period fixed by hours shall commence immediately.

Where a period is fixed by days, weeks, months or years, the first day does not count for the purpose of calculation, unless it is prescribed by law that the period shall commence as of the immediate day.

If a period does not run from the beginning day of a week, month or year, it ends with the expiration of the day preceding the day of the last week, month or year which corresponds to that on which it began to run; provided that, if a

period is fixed by months or years and there is no corresponding day in the last month, the period ends with the expiration of the last day of the last month.

If the last day of a period falls on Sunday, national holiday or any other holiday, the day following that day shall take its place, and if the last day of a period falls on Saturday, its last day shall be the Monday morning of the following week.

If a period has to do with any punishment to be imposed upon or any adverse administrative disposition to be rendered against a person, the beginning day shall be the whole day thereof regardless of any hour of the day; and if the last day falls on Sunday, national holiday or any other holiday, it shall end on that day, unless it is more advantageous to the person if calculated in the manner set forth in paragraphs 2 and 3 hereof.

Article 49

Where an application based on law or regulation is submitted to an administrative authority by registered mail, it shall be deemed to have been duly filed on the day it is posted as shown by the postmark

Article 50

Where an application based on law or regulation can not be filed within the statutory period by reason of an act of God or any event not attributable to the applicant, the applicant may apply for restoration to the status quo ante within ten days after the cause [preventing the filing] vanishes. If the statutory period is less than ten days, an application for restoration to the status quo ante may be made within the corresponding number of days.

When applying for restoration to the status quo ante, the administrative procedural act that should have been done within the statutory period shall be carried out at the same time.

No application for restoration to the status quo ante may be made upon the lapse of the statutory period for one year or more.

Article 51

Unless otherwise provided by law, an administrative authority shall establish and announce by a public notice the time periods required for processing various categories of applications filed by the people under law and regulations.

In the absence of processing time period established and announced under the preceding paragraph, the processing time period shall be two months.

Where an administrative authority is unable to complete the process within the time period established in pursuance of the two preceding paragraphs, the process may be extended to the extent of the original processing time period, but for once only.

In the circumstance referred to in the preceding paragraph, the applicant shall be notified of such extension prior to the expiration of the original processing time period.

Where an administrative authority is prevented from processing its business by an act of God or any other event not attributable to it, the processing time period shall stop running until the discontinuation of such event.

Section 9 Cost and Expenses

Article 52

All cost and expenses arising out of an administrative procedure shall be borne by the administrative authority, with the exception of cost and expenses incurred solely for the benefit of the party or an affected person.

Where the procedure has had obvious delay caused by the occurrence of any event attributable to the party or an affected person, the cost and expenses incurred as a result of such delay shall be borne by such party or person.

Article 53

A witness or expert witness is entitled to claim payment by the administrative authority of per diem allowance and traveling expenses as specified by law, and an expert witness is entitled to claim, in addition thereto, a reasonable amount of remuneration.

A witness or expert witness may request that the administrative authority make advance payment of the expenses and remuneration payable under the preceding paragraph, in such amount as the administrative authority may determine at its discretion.

Unless otherwise provided by law, the schedule of standard cost and expenses payable under paragraph 1 hereof shall be established by the Executive Yuan.

Section 10 Hearing Proceeding

Article 54

The provisions of this Section shall apply to hearings held under this Act or other laws and regulations.

Article 55

Before holding a hearing, the administrative authority shall serve upon the party and any other known affected person a written notice, giving therein the following details, and shall cause the notice to be published if necessary:

1. Subject matter of and grounds for the hearing;
2. Name or trade name and the domicile or residence, office or business location of the party;
3. Date and location of the hearing;
4. Basic procedure of the hearing;
5. That the party may appoint an agent;

6. The rights to which the party is entitled under Article 61 hereof;
7. Date and location of preliminary hearing, if any, intended to be held;
8. The manner in which failure to appear before the hearing will be dealt with; and
9. The name of the authority holding the hearing.

Where it is required by law or regulation that the hearing must be announced in advance by a public notice before it is held, the administrative authority shall cause the details required by the preceding paragraph to be published in a government gazette or made known to the public by other appropriate means.

The date and location of the hearing shall be determined, depending on the nature of the matter, in such a manner that a reasonable amount of time must be allowed to make it possible for the party or his agent to participate in the hearing.

Article 56

An administrative authority may, either *ex officio* or upon application by the party, change the date and location of the hearing, provided that it has a good reason to do so.

In the case of any change made by an administrative authority under the preceding paragraph, it shall give a notice thereof and cause it to be published as required by the preceding article.

Article 57

A hearing shall be presided over by the head officer of the administrative authority or an officer appointed by him for that purpose, who may be assisted at the hearing, if necessary, by attorneys, professionals in other related fields and/or other persons knowledgeable in law.

Article 58

To facilitate the unobstructed progression of the hearing proceeding, the administrative authority may hold before the date scheduled for the hearing a preliminary hearing if it deems necessary to do so.

A preliminary hearing may be held for the purposes of:

1. Discussing on the process of the hearing proceeding;
2. Defining the issues;
3. Presenting relevant documents and evidence; and
4. Changing the date and place of the hearing and replacing the hearing officer [if necessary].

Minutes shall be taken of the preliminary hearing.

Article 59

The hearing shall be held orally and in public, unless it is otherwise required by law.

In any of the following circumstance, the hearing officer may determine ex officio or upon application of the party not to make the entire or a part of the hearing proceeding open to the public:

1. Where making the hearing open to the public is likely against the public interest; or
2. Where making the hearing open to the public is likely to cause material harm to the interest of the party.

Article 60

The hearing proceeding shall begin with a statement of the subject matter by the hearing officer.

At the beginning of the hearing, the hearing officer or a person appointed by the

hearing officer shall state the essence of the matter.

Article 61

During the hearing, the party is entitled to present his opinions and produce evidence and, if the hearing officer permits, may also put questions to officers designated by authorities, witnesses, expert witnesses, and other parties or agents thereof.

Article 62

In conducting the hearing, the hearing officer shall maintain an unbiased and fair position.

The hearing officer may exercise the following powers during the hearing:

1. To inquire of the party and other persons present at the hearing with respect to questions of fact or law or to demand the production of evidence;
2. To delegate ex officio or upon application of the party any other related authority to carry out necessary inquisition;
3. To require by notification the appearance of any witness or expert witness;
4. To require by notification or to allow ex officio or upon application the intervention by any affected party into the hearing proceeding;
5. To permit the party or any other person present at the hearing to raise questions or to make statement;
6. To forbid the party or any other person present at the hearing to make statement in order to avoid delay of the hearing proceeding and to order the expulsion of any such person if the hearing proceeding is seriously obstructed thereby;
7. To begin, postpone or conclude the hearing proceeding as the case may require notwithstanding the failure of all or some of the parties to appear without good cause;

8. To admit the statement contained in the relevant documents presented by the party at the preliminary hearing as his statement made at the hearing;
9. To determine before the end of the hearing the date and place where further hearing will be held if he deems it necessary;
10. To suspend the hearing *ex officio* or upon application by the party in the event of the occurrence of an act of God or other incident preventing the conduct of the hearing; and
11. To take any other actions as may be necessary for the unobstructed progression of the hearing proceeding.

Upon determining the date and place where further hearing will be held under sub-paragraph 9 of the preceding paragraph, the hearing officer shall give a notice thereof to any party and known affected person who might be absent from the hearing.

Article 63

Where a party considers the action taken by the hearing officer during the hearing to be contrary to law or improper, he may raise instantaneously an objection thereto.

If the hearing officer considers the objection well grounded, he shall revoke the action taken by him. If the objection is considered groundless, it shall be denied.

Article 64

Minutes shall be taken of each session of hearing.

The minutes required by the preceding paragraph shall spell out the essence of the statements made or questions raised by all persons appearing at the hearing, together with the documents and/or evidence as may be produced thereby, and shall note the matters relating to which objection was raised by the party in the course of the hearing and the action taken by the hearing officer to deal with

such objection.

Audio and/or video recordings may be used to assist the taking of hearing minutes.

Hearing minutes taken and completed instantly at the hearing shall be signed by or affixed with the personal seals of the persons making statements and/or raising questions. Minutes not completed instantly at hearing shall be made available at a date and place designated by the hearing officer for examination by the persons who made statements and/or raised questions during the hearing and shall thereupon cause their signatures or personal seals to be affixed thereon. In the situation described in the preceding paragraph, if a person who made any statement and/or raised any question during the hearing refuses to put on the minutes his signature or personal seal or fails to examine the minutes at the date and place designated for such purpose, the fact of such refusal or failure shall be specifically noted.

Where a person who has made statement or raised question desires to raise any objection to the entries in the hearing minutes, he may do so instantaneously. If the hearing officer considers the objection well grounded, he shall make corrections and/or additions to the minutes. If the objection is considered groundless, it shall be noted accordingly.

Article 65

When the hearing officer is satisfied that the party has fully expressed his views and that the case has come to the stage where a decision can be made, he shall close the hearing.

Article 66

After a hearing is closed and before a decision is made, the administrative authority may order to have the hearing re-opened if necessary.

Section 11 Service of Process

Article 67

Unless otherwise prescribed by law, service shall be executed ex officio by the administrative authority.

Article 68

Service may be executed either by the administrative authority itself or through the post office.

A document of an administrative authority duly sent by exchange of telegraphs, telex, facsimile or other electronic means shall be deemed to have been served by the administrative authority itself.

Service to be executed through the post office shall be sent by regular mail services; provided that documents with material impact on the right or obligation of the person upon whom service is made shall be posted by registered mail.

In the case of service of a document executed by the administrative authority itself, the officer in charge of the business or the officer responsible for service of process shall be the process server; and in the case of service executed through the post office, the postman shall be regarded as the process server.

The Enforcement Rules Governing Service of Process by Post Office established under

Article 3 of the Enforcement Law of the Code of Civil Procedure shall apply mutatis mutandis to service executed through the post office in pursuance of the preceding paragraph.

Article 69

Service upon a person having no disposing capacity for administrative

procedure shall be executed on his statutory agent.

Service upon a government authority, juristic person or unincorporated body shall be executed on its representative or manager, as the case may require.

Where there are two or more statutory agents, representatives or managers, service may be executed on any one of them.

Where a person having no disposing capacity for administrative procedure does an act in an administrative procedure without having informed the administrative authority of his appointment of a statutory agent, the administrative authority may, before an amendment is filed, effect service upon such a person [notwithstanding his lack of disposing capacity].

Article 70

Service on a foreign juristic person or entity having a business office or business establishment within the Republic of China shall be executed on its representative or manager residing in the Republic of China.

Paragraph 3 of the preceding

Article shall apply *mutatis mutandis* to service effected in pursuance of the preceding paragraph.

Article 71

Where the power of an agent in an administrative procedure to accept service is not subject to restriction, service shall be directed to such agent, unless the administrative authority deems it necessary to serve on the party personally.

Article 72

Service shall be executed at the domicile, residence, business office or business establishment of the person to be served upon; provided that, if the person to be served upon is met at the office of the administrative authority or elsewhere,

service may be executed at the place where he is met.

Service upon the representative or manager of a government authority, juristic person or unincorporated body shall be executed at the location of such authority or the business office or business establishment [of such person or body]; provided, however, that service may also be carried out at the place where such representative or manager is met or at the place of his domicile or residence wherever necessary.

Service may also be executed at the workplace, if any, of the person to be served upon.

Article 73

If the person to be served upon is not found at the location where the service is supposed to be effected, the document for the service may be left with a person of discernment residing in the same dwelling house or his employee or the person hired for receiving mails at the place of service.

The provision of the preceding paragraph shall not apply where any of the persons referred to in the preceding paragraph happens to be a person with the opposite interest in the administrative procedure.

Where the person to be served upon or a person residing in the same dwelling house, or his employee or the person hired for receiving mails refuses to accept service of the document without a good cause, the service may be effected by leaving the document at the place of service.

Article 74

Where service cannot be executed in the manner prescribed by the two preceding articles, it may be effected by leaving the document for service with the local self-governing authority or police authority of the place where the service is intended to be executed, and preparing a notice of service in duplicate,

one of which shall be posted on the door at the domicile, residence, business office, business establishment or workplace of the person to be served upon and the other shall be either delivered to one of his neighbors for forwarding to the person to be served upon or placed in the mailbox or at a suitable location of the place where service is intended to be executed.

In the circumstance referred to in the preceding paragraph, if the service is carried out through the post office, the document for service may be left with the post office at the place where service is intended to be executed.

The office with which a document is left shall keep the document in custody for three months from the date of receipt thereof.

Article 75

Service to be executed by an administrative authority upon unspecified persons may be carried out by way of public notice or publication in a government gazette or newspaper in lieu of actual service.

Article 76

The process server may prepare a certificate of service as may be necessary for the purpose of proof, and specify therein the following particulars and affix thereon his signature:

1. The authority ordering the service to be made;
2. The person to be served upon;
3. The title of the document for service;
4. The place where and the date and time when service was made; and
5. The manner in which service was executed.

With the exception of service effected by electronic transmission, the certificate of service shall be signed by or affixed with the seal of the person accepting the service; if the person refuses or is unable to sign or affix his seal thereon, the

process server shall have such facts noted down in the certificate.

The certificate of service shall be presented to the administrative authority for the file.

Article 77

Where service of process is executed by an administrative authority upon a third party out of an application made by the party, the administrative authority shall notify the party of the successful execution of the service or the reason for non-execution thereof.

Article 78

In any of the following circumstances, an administrative authority may, upon application, permit service by publication:

1. If the place of service is unascertainable;
2. If service has been attempted at the place of domicile or residence or business office of a person entitled to extraterritorial privileges, and is of no avail; or
3. If service is intended to be executed in a foreign nation or outside the Republic of China but cannot be done so in the manner required by

Article 86 hereof or it is foreseeable that in spite of efforts to be made in accordance with said

Article such efforts would be rendered abortive.

Where no application for service by publication has been made by any person under any of the circumstances specified in the preceding paragraph, the administrative authority may order ex officio that service be executed by publication if it deems necessary to do so in order to avoid possible delay of the administrative procedure.

If any of the circumstances specified in the preceding paragraph occurs as a result of the failure of the party to give the administrative authority a notice of

change of the location where service upon him should be made, the administrative authority may order ex officio that the service be executed by publication.

Article 79

If, after service has been effected by publication under the preceding article, subsequent service upon the same party shall continue to be made by publication, it may be done so ex officio.

Article 80

In executing service by publication, the administrative authority shall keep in custody the document for service and post on its notice board a public notice, making it known to the person to be served upon that the document is available for claim at any time, and the administrative authority may additionally publish such document or an excerpt thereof in a government gazette or newspaper.

Article 81

Service by publication takes effect as of the date of expiry of a period of twenty days from the date on which the public notice is posted as required by the preceding

Article or from the last date of publication in the government gazette or newspaper as the case may be; service by publication effected pursuant to Article 78, paragraph 1, sub-paragraph 3, takes effect as of the sixtieth day from the date of publication; provided, however, that service by publication under Article 79 shall become effective as of the date following the date of posting on the notice board.

Article 82

With respect to service by publication, the administrative authority shall prepare and keep on file a certificate, giving therein such details as the subject matter and the date and hour of the service.

Article 83

Where the party or his agent has appointed a person to accept service for him and a notice thereof has been given to the administrative authority, service shall be executed on the person so appointed.

In the case of an application filed with the administrative authority by post, the administrative authority may order that the party appoint within a specified time limit a person to accept service for him if he maintains no domicile or residence, or business office or business establishment, at the place where the application was posted.

If the party fails to appoint a person to accept service within the time limit specified under the preceding paragraph and notify the administrative authority accordingly, the administrative authority may note down on the document for service the domicile or residence, or the place of business office or business establishment, of the party or his agent, and deliver the same to a post office to be sent by a registered mail. The service shall be deemed to have been duly effected at the time when the document is so delivered to the post office.

Article 84

Except where service is carried out by delivering the document to the post office in pursuance of

Article 68, paragraph 1, or is made in pursuance of paragraph 2 thereof, no service may be executed on Sundays or any other holidays, nor before sunrise or after sunset, unless the person to be served upon does not refuse to accept the service executed at such times.

Article 85

Where service is rendered non-executable, the process server shall prepare a report of the fact and present the same to the administrative authority for the file and shall return the document intended to be served.

Article 86

Service in a foreign nation shall be executed by request for such purpose to be addressed to the competent government agency of that nation or the embassy, minister, consulate or any other institution or organization of the Republic of China residing in that nation.

If no service can be effected as required by the preceding paragraph, the document may be served by delivering it to a post office to be sent by a registered mail, return receipt requested, and the return receipt shall be filed.

Article 87

Service upon an ambassador, minister, consul or any other government official of the Republic of China residing in a foreign nation shall be carried out by requesting the Ministry of Foreign Affairs for such purpose.

Article 88

Service upon a serviceman on active service in the armed forces or on a military vessel shall be executed by requesting the competent military organization or the commanding officer thereof for such purpose.

Article 89

Service upon an inmate in a prison or detention house shall be executed by requesting the head officer of the prison or detention house for such purpose.

Article 90

For service to be executed at the domicile or residence or business office of a person enjoying extraterritorial privileges, request may be addressed to the Ministry of Foreign Affairs for such purpose.

Article 91

Where the government authority or officer requested to execute service of process has notified the administrative authority of the successful execution of or non-execution of the service, the administrative authority shall put such notification on the file.

Chapter II Administrative Disposition

Section 1 Formation of Administrative Dispositions

Article 92

The term "administrative disposition" in this Act denotes a unilateral administrative act with direct external effects, rendered by an administrative authority in making a decision or taking other actions within its public authority, in respect of a specific matter in the area of public law.

Where the persons subject to a decision or actions referred to in the preceding paragraph, although unspecified, are definable in light of their general characteristics, such a decision or action constitutes a general disposition, to which the provisions herein set forth with respect to administrative dispositions shall apply. The same applies to the creation and abolishment of and alteration to public property.

Article 93

Where an administrative authority is conferred with the power of discretion in

rendering an administrative disposition, it may add provisions incidental thereto. If it has no discretion, incidental provisions may be added only if the addition of such provisions is explicitly permitted by law or if they are added for the purpose of ensuring that the legal requirements of the administrative disposition will be fulfilled, provided that such legal requirements are taken as terms of the incidental provisions.

The incidental provisions referred to in the preceding paragraph are:

1. Time limit;
2. Conditions;
3. Burden;
4. Reservation of the right to revoke the administrative disposition; and
5. Reservation for subsequent imposition of additional burdens or modifications thereto.

Article 94

No incidental provisions added pursuant to the preceding paragraph shall be contrary to the purpose of the administrative disposition rendered. In stead, they shall be properly and reasonably relevant to the purpose of the administrative disposition to which they pertain.

Article 95

An administrative disposition may be rendered in writing, orally or in any other form, unless the law requires that it must be formal.

In the case of an administrative disposition rendered other than in writing, the authority rendering the disposition may not refuse to have it made in writing if the person subject to it or a person affected thereby has a good cause to request so.

Article 96

An administrative disposition rendered in writing shall give the following particulars:

1. The name, date of birth, sex, identification number, domicile or residence, and any other features for identification of the person subject to the disposition; if the person subject to the disposition is a juristic person or a body with a manager or representative, the name, business office or business establishment of such body, and the name, date of birth, sex, identification number, and domicile or residence of such manager or represent;
2. The subject matter, facts, reasons and legal basis of the disposition;
3. Contents of the incidental provisions, if any;
4. The name of the authority rendering the disposition, with the signature and personal seal of its head officer, and also counter-signed by the agent or appointee, if any, of the authority; provided that, an administrative disposition made en masse by means of automatic machine may bear only the seal in lieu of the signature;
5. Reference number and date of the document; and
6. The statement to the effect that it is an administrative disposition and the means of remedy available in case of dissatisfaction with the administrative disposition, the time period within which remedy may be sought and the authority with which application for remedy must be filed.

The requirement set forth in the preceding paragraph shall apply *mutatis mutandis* to written dispositions made under paragraph 2 of the preceding article.

Article 97

In any of the following circumstances, no statement of reasons is required for an administrative disposition rendered in writing:

1. Where no restraint is imposed upon the right or interest of any person;
2. Where the reasons supporting the administrative disposition is known or knowable to the person subject to the disposition or the person affected thereby without the necessity for the authority rendering the disposition to make further explanations;
3. Where the administrative disposition is one of the same kind rendered en masse or by means of automatic machine, for which no statement of reasons is needed in light of the situation involved;
4. Where the disposition is a general disposition which has been announced by a public notice or has been published in a government gazette or newspaper;
5. Where the disposition is one that relates to examination, qualifying and appraisal procedure in respect of specialized knowledge, skills or qualification; and
6. Where it is prescribed by law that no statement of reasons is necessary.

Article 98

If the time period within which remedy may be sought as informed by the authority rendering the disposition is erroneous, the authority shall make a correction by way of a notice, and the statutory period therefor shall begin to run from the date following the date on which such notice is served.

If the time period within which remedy may be sought as informed by the authority rendering the disposition is longer than the statutory period, and the person subject to the disposition or a person affected thereby, having failed to file an application for remedy within the statutory period, has nevertheless done so within the period as informed by the authority in reliance upon the information given thereby despite a notice of amendment given by the authority, such application for remedy shall be deemed to have been filed within the statutory period.

If the authority rendering the disposition fails to give information of the time period within which remedy may be sought or the time period informed thereby is erroneous but has never been corrected, thereby resulting in delay in seeking remedy by the person subject to or any person affected by the disposition, a statement of dissatisfaction made thereby within one year after the written disposition was served shall be deemed to have been made within the statutory period.

Article 99

A statement of dissatisfaction with an administrative disposition filed with an authority without jurisdiction over the matter as a result of failure of the authority rendering the disposition to give information or the information given by such authority is erroneous, the authority [without jurisdiction] shall refer the matter to the competent authority within ten days and notify the party accordingly.

In the situation described in the preceding paragraph, the statement of dissatisfaction shall be deemed to have been filed ab initio with the competent authority.

Article 100

A written administrative disposition shall be served upon the person subject to the disposition and any person known to be affected thereby. For an administrative disposition in a form other than written, other appropriate means shall be taken to cause such persons to be notified or to make the disposition known to them.

Service of a general disposition may be effected by way of a public notice or publication in a government gazette or newspaper in lieu of actual service.

Article 101

In the case of any handwriting or typing error, miscalculation or any other similar apparent error occurring in an administrative disposition, the authority rendering the disposition may make amendment thereto at any time either on its own initiative or upon application therefor.

An amendment made under the preceding paragraph shall be marked down in the original copy of the written disposition and the authentic copy thereof. If it is impossible to do so, a written statement of amendment shall be made, and the person subject to the disposition and any person known to be affected thereby shall be notified in writing of such amendment.

Section 2 Statement of Opinions; Hearing

Article 102

An administrative authority shall, before rendering an administrative disposition to impose restraint on the freedom or right of a person or to deprive him of the same, give the person subject to the disposition an opportunity to state his opinions, unless a notice has been given to the person subject to the disposition under

Article 39 hereof to enable him to state his opinions or it has been decided that a hearing will be held, except where it is otherwise prescribed by law.

Article 103

No opportunity for statement of opinions is required to be given by an administrative authority in any of the following circumstances:

1. Where the disposition is one of the same kind rendered en masse;
2. Where the situation is so pressing that offering of an opportunity to state opinions will obviously be against the public interest;
3. Where limitation of the statutory period would make it obviously impossible

- to act accordingly even if an opportunity to present opinions were given;
4. Where the actions are taken in the course of administrative enforcement proceedings;
 5. Where the facts based on which the administrative disposition is rendered are objectively clear enough to be firmly established;
 6. Where the degree and extent to which freedom or right is restrained are obviously minor to the extent that there is no need to hear in advance the opinions of the person subject to the disposition;
 7. Where the person subject to the disposition is required by law to file an application to an administrative authority for review, opposition, reexamination, reconsideration or any other prior proceeding before an administrative appeal may be instituted; or
 8. Where the disposition is a preventive junction or a ne exeat republica issued legally for the purpose of preventing the person subject to the disposition from concealing or transferring his assets or absconding from the nation.

Article 104

When offering the person subject to the disposition an opportunity to state his opinions, the administrative authority shall give such person a written notice containing the following particulars and shall cause it to be published if necessary:

1. The name of the person subject to the disposition and his place of domicile or residence and business office or business establishment;
2. The cause in fact for and the legal basis on which the administrative disposition restraining or taking away particular freedom and right is rendered;
3. Explanation to the effect that a written statement may be presented under Article 105 hereof;
4. The time limit within which the written statement, if any, must be presented

and the consequence of non-presentation of statement;

5. Other matters as may be necessary.

The administrative authority may notify orally the person subject to the disposition of the particulars required by the preceding paragraph and keep a record thereof, which shall be read to or by the person subject to the disposition and then signed by or affixed with the personal seal of the person. If the person subject to the disposition refuses to sign or affix his personal seal on the record, it shall be so noted.

Article 105

A person subject to the administrative disposition who presents a written statement under the preceding

Article shall state therein the facts and his point of law.

An affected person is likewise entitled to present a written statement of the facts and his point of law; provided that he shall give full explanation of his interest in the administrative disposition for which he is related.

Failure to produce written statement within the specified period shall be deemed to be a waiver of the opportunity to make statement.

Article 106

The person subject to an administrative disposition or a person affected thereby may present to the administrative authority within the time limit specified by Article 104, paragraph 1, subparagraph 4, an oral statement of his opinions in lieu of written statement.

The administrative authority shall enter into record the opinions presented orally, which shall be read to or by the person making the statement and then signed by or affixed with the personal seal of such person upon his confirmation that the record is free of errors. If the person refuses to sign or affix his seal on the

record, it shall be so noted. In the case of any objection raised by the person making the statement, the record shall be corrected.

Article 107

In any of the following circumstances, the administrative authority shall hold a hearing:

1. Where the law requires explicitly the holding of a hearing; and
2. Where the administrative authority considers it necessary to hold a hearing.

Article 108

In rendering an administrative disposition based upon a hearing, the administrative authority shall, in addition to acting in compliance with Article 43 hereof, take into consideration the entire result obtained from such hearing; provided that a disposition shall be rendered according to the minutes of the hearing if it is expressly required so by law.

An administrative disposition rendered pursuant to the preceding paragraph shall be made in writing, and the party thereto shall be notified accordingly.

Article 109

In the case of dissatisfaction having been raised against the administrative disposition rendered pursuant to the preceding article, no administrative appeal or other prior proceedings are required for the purpose of institution of an administrative remedial proceeding in relation thereto.

Section 3 The Effect of Administrative Disposition

Article 110

An administrative disposition in writing shall take effect with respect to the person subject to the disposition and any known affected person, and an

administrative disposition rendered other than in writing shall take effect with respect to such persons, as of the time when served upon or otherwise notified or made known to them, as the case may be, to the extent of the contents of the administrative disposition as served or otherwise notified or made known to them.

A general disposition shall take effect as of the date of announcement by public notice or the last day of its publication in a government gazette or a newspaper, unless a different date is specified in the disposition.

An administrative disposition shall remain to be effective until it is withdrawn or annulled or is made ineffective by any other reason.

A void administrative disposition shall have no force and effect ab initio.

Article 111

An administrative disposition shall be void under any of the following circumstances:

1. Where the authority rendering the disposition is not known from the disposition in writing;
2. Where no certificate is issued despite the requirement that the disposition be rendered in the form of a certificate;
3. Where the contents of the disposition is impossible to be materialized for anybody;
4. Where the act demanded or permitted by the disposition constitutes the commission of an offense;
5. Where the contents of the disposition are against the public order or good morals;
6. Where the disposition is rendered without authorization to the extent of violation of law or regulation with respect to exclusive jurisdiction or is rendered without the power of managing affairs; and

7. An administrative disposition with other material and apparent defects.

Article 112

An administrative disposition that is partly void does not affect the validity of the remaining part; provided that, if the administrative disposition would not have been made without the part that is void, it shall be null and void in its entirety.

Article 113

An administrative authority is entitled to determine *ex officio* the invalidity of an administrative disposition.

Where the person subject to the administrative disposition or a party affected thereby applies with a good cause for the determination on the invalidity of an administrative disposition, the administrative authority rendering the disposition shall determine whether the disposition is effective or ineffective.

Article 114

An administrative disposition rendered in contrary to the required procedure or form is amendable by the taking of one of the following actions unless it is void under

Article 111 hereof:

1. Where the party has subsequently filed an application with respect to an administrative disposition which may be rendered only upon application;
2. Where the reasons required to be given has been stated subsequently;
3. Where the party has been given subsequently the opportunity to present his opinions as required;
4. Where the committee required to participate in the rendering of the administrative disposition has subsequently adopted a resolution thereon; and

5. Where the other authorities required to participate in the rendering of the administrative disposition have subsequently taken part therein.

The acts of amendment under subparagraphs 2 through 5 of the preceding paragraph may be done only before the administrative appeal procedure is concluded; if no administrative appeal procedure is required, such acts of amendment may be effected only before a suit is filed at the administrative court. Where a party is rendered impossible of filing a statement of dissatisfaction within the statutory period as a result of such acts of amendment, the delay so caused shall not be deemed to be an event attributable to the party, and the period for restoration to the status quo ante shall run from the time the defect was amended.

Article 115

An administrative disposition contrary to the provision with respect to territorial jurisdiction does not need to be withdrawn if the authority having jurisdiction would have to render the same disposition on the matter, unless it is void per se under subparagraph 6 of

Article 111.

Article 116

An administrative authority may convert an unlawful administrative disposition into another administrative disposition that meets the same substantive and procedural requirements as the original administrative disposition; provided that, no conversion may be made if the administrative disposition comes under any of the following circumstances:

1. Where the unlawful administrative disposition is irrevocable under the proviso to

Article 117;

2. Where conversion is inconsistent with the purposes for which the original administrative disposition is rendered;
3. Where conversion would result in legal consequences even more disadvantageous to the party.

A strict disposition may not be converted into a discretionary disposition.

The administrative authority shall offer the party an opportunity to state his opinions before conversion of a disposition, unless there exists any of the circumstances specified in

Article 103 hereof.

Article 117

The authority rendering an unlawful administrative disposition may withdraw ex officio the disposition in whole or in part upon the lapse of the statutory period of remedy; the same may be done by its superior authority; provided, however, that no withdrawal may be made under any of the following circumstances:

1. Where withdrawal will result in serious jeopardy to the public interest;
2. Where the beneficiary has not done any of the acts specified in

Article 119 hereof, making him deserves no protection of his reliance, and the benefit granted him by the administrative disposition because of his reliance is obviously greater than the public interest intended to be protected by way of withdrawal of the disposition.

Article 118

An unlawful administrative disposition shall become null and void retroactively upon withdrawal; provided that, a different date of annulment may be specified by the authority ordering the withdrawal for the purpose of protecting the public interest or preventing property loss of the beneficiary.

Article 119

A beneficiary who has done any of the following acts deserves no protection of his reliance:

1. Causing the administrative authority to render an administrative disposition by way of fraud, coercion or bribery;
2. Furnishing incorrect information or making incomplete statement, thereby causing the administrative authority to render an administrative disposition based on such information or statement; and
3. Having knowledge that the administrative disposition is unlawful or failing to know that it is unlawful due to his gross negligence.

Article 120

Where an unlawful administrative disposition granting benefits is withdrawn and the beneficiary granted such benefits has not done any of the acts specified in the preceding

Article to make him deserves no protection of his reliance, he is entitled to a compensation to be paid by the authority ordering the withdrawal for his property loss which he has suffered as result of his reliance upon the disposition. The amount of compensation to be paid under the preceding paragraph shall not exceed the amount of the benefits obtainable by the beneficiary should the disposition survive.

In the case of a dispute arising out of or in connection with the compensation or if the person subject to the disposition is dissatisfied with the amount of compensation, he may file with the administrative court an action for performance.

Article 121

The power to withdraw under

Article 117 hereof is exercisable within two years from the date on which the authority rendering the disposition or its superior authority becomes aware of the existence of a reason for withdrawal.

The right to claim for compensation under the preceding

Article is extinguished by prescription if not exercised within two years from the date the [beneficiary] is informed by the administrative authority of such matter; the same applies if not exercised within five years from the date the disposition is withdrawn.

Article 122

A lawful, non-beneficial administrative disposition may be revoked in whole or in part by the authority rendering the disposition by virtue of its powers, except where an alternative disposition of the same substance shall be rendered or the disposition is irrevocable by law.

Article 123

A lawful, beneficial administrative disposition coming under any of the following circumstances may be revoked in whole or in part by the authority rendering the disposition by virtue of its powers:

1. Where revocation is permitted by law or regulation;
2. Where the authority rendering the disposition has made a reservation of the power to revoke the administrative disposition;
3. Where the beneficiary fails to perform his burden imposed by the administrative disposition;
4. Where the law or regulation or the facts based on which the administrative disposition was rendered has undergone changes to the extent that the disposition would result in detriments to the public interest if not revoked; and

5. Where revocation is intended to prevent or eliminate material detriments to the public interest.

Article 124

Revocation under the preceding

Article shall be made within two years from the occurrence of the cause of revocation.

Article 125

A lawful administrative disposition shall become ineffective as of the date of its revocation or a later day as may be specified by the authority ordering the revocation; provided that, revocation of a disposition as a result of the failure of the beneficiary to perform his burden may be rendered ineffective retrospectively.

Article 126

Where a lawful, beneficial administrative disposition is revoked by the authority rendering the disposition under subparagraphs 4 and 5 of Article 123, the authority shall pay the beneficiary a reasonable compensation for his property loss which he has suffered due to his reliance upon such disposition.

The provisions of

Article 120, paragraphs 2 and 3, and

Article 121, paragraph 2, shall apply *mutatis mutandis* to the compensation payable under the preceding paragraph.

Article 127

Where an administrative disposition which grants benefits by providing one-

time or consecutive payment of money or delivery of divisible things becomes ineffective retroactively in consequence of withdrawal, revocation or fulfillment of specific condition, the beneficiary is obligated to return anything and everything he has received by virtue of the disposition. The same applies where the administrative disposition is firmly determined to be of no effect.

With respect to the extent of restitution to be made under the preceding paragraph, the provisions set forth in the Civil Code relating to unjust enrichment shall apply *mutatis mutandis*.

When an administrative authority requests restitution under the preceding two paragraphs, it shall specify the scope of the restitution in a written administrative disposition, and order the beneficiary to comply within a prescribed period.

The administrative authority shall not refer the case for administrative execution before the preceding administrative disposition is final and irreversible.

Article 128

In any of the following circumstances, the person subject to an administrative disposition or a person affected thereby is entitled to apply to the administrative authority after the lapse of the statutory period of remedy, for withdrawal or revocation of or amendment to the administrative disposition; provided that, this does not apply where the person subject to the disposition or the affected person has failed to make a statement of his causes therefor during the administrative procedure or the remedial proceeding due to his gross negligence:

1. Where the facts on which an administrative disposition with continuous force was based has subsequently undergone changes to the advantage of the person subject to the disposition or the person affected thereby;
2. Where new facts have occurred or fresh evidence has been discovered; provided that, upon consideration, a more advantageous disposition is available

[for the person subject to the disposition or the person affected thereby]; or

3. Where there are other causes similar to those set forth in the Administrative Proceedings Act for new trial, with sufficient impact on the administrative disposition.

An application under the preceding paragraph shall be filed within three months after the lapse of the statutory period of remedy. If the cause occurs or is known thereafter, the period shall begin from the time it occurs or is known; provided, however, that no application may be made upon the lapse of the statutory period of remedy for five years.

Article 129

If the administrative authority considers the application filed pursuant to the preceding

Article to be legally grounded, it shall withdraw, revoke or amend the disposition as the case may require; if it considers the application to be groundless or if, notwithstanding any cause for re-opening the procedure, the disposition is deemed to be appropriate, it shall reject the application.

Article 130

After an administrative disposition is firmly withdrawn or revoked or is nullified by any other reasons, if it is necessary to call back any certificate issued or

Article furnished by virtue of the disposition, the administrative authority is entitled to order that such certificate or

Article be returned by the owner or possessor thereof.

In the situation described in the preceding paragraph, the owner or possessor may request that the certificate or

Article be marked as cancelled by the administrative authority and returned to

the owner or possessor, unless the

Article is of such a nature that no cancellation mark can be affixed thereon or such a cancellation mark will not be legible or long-lasting.

Article 131

Unless otherwise provided by law, where the claimant is an administrative authority, a right of claim under public law is extinguished by prescription if not exercised within five years; unless otherwise provided by law, where the claimant is the people, a right of claim under public law is extinguished by prescription if not exercised within ten years.

A right of claim under public law is extinguished ipso facto upon completion of the prescription.

The prescription mentioned in the preceding paragraph is interrupted by an administrative disposition rendered by the administrative authority for the purpose of exercising such a right.

Article 132

Where an administrative disposition is made ineffective retroactively in consequence of withdrawal, revocation or by any other reasons, the prescription that was interrupted [by the rendering of such administrative disposition] shall be deemed not to have been interrupted as of the time when the disposition is made ineffective.

Article 133

The prescription which was interrupted by the rendering of an administrative disposition shall recommence to run from the time when the administrative disposition is finalized without any right to apply for withdrawal or is made ineffective by any other reason.

Article 134

In the case of a claim of which the prescription was interrupted by the rendering of an administrative disposition, if the period of prescription left over after the administrative disposition is finalized without any right to apply for withdrawal is less than five years, the period of prescription that shall recommence to run because of the interruption shall be five years.

Chapter III Administrative Contracts

Article 135

Legal relations under public law may be created, altered or extinguished by contracts, except where no contract may be made by the nature of the relations or under law or regulation.

Article 136

Where an administrative authority is unable to determine the facts or the legal relations as the basis for an administrative disposition notwithstanding an inquisition process having been conducted *ex officio*, it may enter into a compromise or an administrative contract with a citizen in lieu of administrative disposition in order to settle the dispute and to effectively achieve the purpose of administration.

Article 137

An administrative contract made by an administrative authority with a citizen, whereby both are obligated to render performance, shall meet the following requirements:

1. The contract shall include a stipulation setting out the specific purpose for which payment made by the citizen will be used;

2. The payment made by the citizen shall be helpful to the administrative authority in the performance of its functions; and
3. The payment made by the citizen shall be comparable and reasonably related with the performance to be rendered by the administrative authority.

Where an administrative authority has no discretion in rendering the administrative disposition, the payment of the citizen as stipulated in the administrative contract signed by the administrative authority in lieu of administrative disposition shall only be of the type that may be stipulated as an incidental provision under

Article 93, paragraph 1, hereof.

The contract referred to in the first paragraph shall describe explicitly the specific purposes for which payment made by the citizen will be used and state to the effect that the payment will be used only for such specified purposes.

Article 138

Where one of the parties to an administrative contract is a citizen and it is required by law that such party be determined by way of evaluation and selection or any other type of competition, the administrative authority shall publish in advance the qualifications required and the procedure for making decision. Additionally, the candidates shall be given the opportunity to express their views before a decision is made.

Article 139

All administrative contracts shall be made in writing, unless other different forms are prescribed by law or regulation.

Article 140

An administrative contract with stipulations which, if performed, may cause

encroachment upon any right of a third party , shall be of no force and effect without the written consent of such third party .

An administrative contract made in lieu of an administrative disposition which, as required by law or regulation, may only be rendered with the approval or consent of or the joint efforts with another administrative authority, shall be of no force and effect without the approval and consent of or joint efforts with such administrative authority.

Article 141

An administrative contract shall be of no force and effect if it is null and void by mutatis mutandis application of provisions of the Civil Code.

An administrative contract shall be null and void if it is contrary to the proviso to

Article 135 or the provision of
Article 138 hereof.

Article 142

In any of the following circumstances, an administrative contract in lieu of administrative disposition shall be null and void:

1. Where an administrative disposition with the similar contents would be null and void;
2. Where an administrative disposition with the similar contents would be voidable by reason of being contrary to law and the fact is known to both parties to the contract ;
3. Where the conclusion of a compromise agreement does not meet the requirement set forth in
Article 136 hereof; and
4. Where the conclusion of a bilateral contract does not meet the requirement set

forth in

Article 137 hereof.

Article 143

A partly void administrative contract shall be void in its entirety; provided that, if the parties can be deemed to be prepared to sign the contract leaving out the part that is void, the remaining part of the contract shall be valid.

Article 144

Where one of the parties to an administrative contract is a citizen, the administrative authority may provide, in the manner as agreed in writing, necessary guidance or assistance in relation to the performance of the contract on the part of the citizen.

Article 145

Where one of the parties to an administrative contract is a citizen and, after the conclusion of the contract, another authority under the public juristic person to which the contracting authority is subordinate exercises its public authority beyond the scope of the contractual relationship, thereby increasing apparently the cost and expenses of the other party to the contract in performance of his obligations or causing him other unexpected losses, the other party is entitled to claim compensation from the contracting authority for his losses; provided that, no compensation may be claimed if there is no direct and necessary relevance between the exercise of such public authority and the performance of the contract.

The contracting authority shall make a decision in writing and state therein the reasons for its decision on a claim brought under the preceding paragraph.

The claim for compensation under the first paragraph of this

Article shall be brought within one year from the time when the other party becomes aware of his losses.

In the case of a dispute arising out of or in connection with the payment of compensation or if the other party to the contract is dissatisfied with the amount of compensation, he may file with the administrative court an action for payment.

Article 146

Where one of the parties to an administrative contract is a citizen, the administrative authority may adjust the terms of the contract to the extent necessary or terminate the same for the purpose of preventing or eliminating any material jeopardy to the public interest.

No adjustment or termination under the preceding paragraph may be made without paying the other party a compensation for the property loss which he may have suffered as a result of such adjustment or termination.

The adjustment or termination under the first paragraph and a decision on payment of compensation under paragraph 2 hereof shall be put in writing, stating therein the reasons therefor.

If the other party finds it difficult to perform the terms as adjusted under the first paragraph hereof, he is entitled to terminate the contract by a written statement, giving therein his reasons therefor.

If the other party disagrees on the amount of compensation, he may file with the administrative court an action for performance.

Article 147

In the case of changes of circumstances occurred after the conclusion of an administrative contract to the extent beyond the expectation at the time of conclusion of the contract, thereby making the original stipulations in the

contract obviously unfair, either party may request the other party to make appropriate adjustment to the contract, and is entitled to terminate the contract if no adjustment is possible.

In the situation described in the preceding paragraph, if one of the parties to the administrative contract is a citizen, the administrative authority may, for the purpose of maintaining the public interest, demand that the other party continues to perform his obligations as originally stipulated against the payment of a compensation for any loss he may suffer.

The request for adjustment or termination under the first paragraph and a decision on payment of compensation under paragraph 2 hereof shall be put in writing, stating therein the reasons therefor.

If the other party disagrees on the amount of compensation offered pursuant to paragraph 2 hereof, he may file with the administrative court an action for performance.

Article 148

Where it is stipulated in an administrative contract that enforcement will be voluntarily accepted and the obligor fails to make performance, the obligee is entitled to seek compulsory execution based on the contract as a title of execution.

If one of the parties to the contract is a central administrative authority, the stipulation referred to in the preceding paragraph shall be subject to ratification by the competent Yuan, ministry or another authority of the same level as the case may require; if one of the parties to the contract is an administrative authority under a local self-governing body, such stipulation shall be subject to ratification by the chief administrative officer of such local self-governing body. If the contract involves matters on commission, such stipulation shall have no force and effect without the ratification given by the commissioning authority.

The provisions set forth in the Administrative Proceeding Acts with respect to compulsory execution shall be applicable *mutatis mutandis* to the exercise of compulsory execution under the first paragraph hereof.

Article 149

Matters relating to administrative contracts not provided for in this Act shall be governed by provisions of the Civil Code as applicable *mutatis mutandis*.

Chapter IV Legal Orders and Administrative Rules

Article 150

The term "legal order" used in this Act means an abstract prescription with external legal effects, established by an administrative authority as enabled by law in respect of general matters and applicable to a multiple number of non-specified persons.

A legal order shall specify the authority conferred by law based on which it is established, and shall not transgress the scope of such authority or divert from the legislative purposes of the enabling law.

Article 151

With the exception of legal orders relating to the military, diplomacy and other matters of material importance involving national secrets or security, the procedure set forth in this Act shall be followed by all administrative authorities in the establishment of legal orders, unless it is otherwise provided for by law.

The provisions with respect to the procedure for the establishment of legal orders shall apply *mutatis mutandis* to amendment to and repeal of legal orders and the cessation and resumption of the application thereof.

Article 152

A legal order may be established on the basis of either a draft formulated by the administrative authority itself or a proposal submitted by the people or a civilian body.

A proposal submitted pursuant to the preceding paragraph shall be made in writing, stating therein the purposes, legal basis and reasons for the establishment of the legal order, accompanied by relevant materials.

Article 153

The administrative authority entertaining a proposal submitted pursuant to the preceding paragraph shall take the following actions as the case may require:

1. To refer the proposal as required by

Article 17 hereof if the matter is found beyond its competence;

2. To notify the person submitting the proposal and give its reasons if the matter is found to involve an issue that may not be legally regulated by legal order;

3. To notify the person submitting the proposal and give its reasons if the matter is found to involve an issue that does not need to be regulated by legal order; or

4. To undertake studying and preparing a draft if it is found that a legal order is necessary.

Article 154

When formulating a legal order, the administrative authority shall cause it to be publicly announced in a government gazette or newspaper and give the following information, unless the situation is so urgent that prior announcement to the public is clearly impossible:

1. Name of the authority formulating the legal order, or the names of all authorities involved if it is required by law that the legal order be established jointly by several authorities;

2. The legal basis for establishing the legal order;

3. Full text or the essence of the draft; and
4. The statement to the effect that any person may give the designated authority his opinions within the specified period.

In addition to the public announcement made under the preceding paragraph, the administrative authority may also make the substance widely known to the general public in an appropriate manner.

Article 155

The administrative authority may hold ex officio hearings for the purpose of establishment of a legal order.

Article 156

In holding hearings for the purpose of establishment of a legal order, the administrative authority shall publish in a government gazette or newspaper a public notice thereof, giving the following details:

1. Name of the authority establishing the legal order, or the names of all authorities involved if it is required by law that the legal order be established jointly by several authorities;
2. The legal basis for establishing the legal order;
3. Full text or the essence of the draft;
4. The date and place of the hearing; and
5. The basic procedure of the hearing.

Article 157

Where a legal order is subject to approval by a superior authority as required by law, it shall not be promulgated until after it is so approved.

Where a legal order established jointly by several authorities is subject to approval by the respective superior authorities thereof or by a common superior

authority as required by law, it shall be promulgated in their joint names only after it is so approved.

Legal orders shall be promulgated by way of publication in government gazettes or newspapers.

Article 158

A legal order shall be of no force and effect in any of the following circumstance:

1. Being in conflict with the Constitution or inconsistent with any law or an order of the superior authority;
2. Depriving the people of their freedom or rights or imposing any restriction thereon without authorization by law; or
3. Being non-approved by another authority if such approval is required by law.

A legal order that is partly void does not affect the validity of the remaining part, except where the regulatory purposes of the legal order would become unattainable without the part that is void, in which case the legal order shall be void in its entirety.

Article 159

The term "administrative rules" used in this Act means generalized and abstract provisions issued by a superior authority to its lower units or by a superior officer to his subordinate officers, by virtue of its or his powers, for the purpose of regulating the internal order and operation of the authority, with no direct external effects as legal norms.

Administrative rules include the following provisions:

1. General provisions relating to the organization, allotment of affairs, the manner in which business is conducted, personnel management, and other internal matters of the authority; and

2. Provisions of an interpretation nature and guidelines on the exercise of discretion, issued to assist lower units or subordinate officers in making unified interpretation of laws and regulations, finding the facts and exercising the power of discretion.

Article 160

Administrative rules shall be directed to lower units or subordinate officers.

In establishing administrative rules referred to in subparagraph 2 of the second paragraph of the preceding article, the administrative authority shall cause such rules to be signed by its head officer and released by publishing in a government gazette.

Article 161

Administrative rules that are effectively issued shall be binding upon the authority establishing such rules and its lower units and subordinate officers.

Article 162

Administrative rules may be annulled by the authority issuing such rules.

Article 160 hereof shall be applicable to the annulment of administrative rules.

Chapter V Administrative Planning

Article 163

The term "administrative planning" used in this Act denotes the design and planning devised in advance by an administrative authority in connection with the methods, steps or actions to be taken to achieve specific objectives or to realize particular concepts, which the administrative authority hopes to achieve within a certain future time frame.

Article 164

The decision on an administrative planning that relates to specified utilization of land situated in specific districts or the construction of major infrastructures, which involves persons with diverse interest and the powers of a multiple number of administrative authorities, may be finalized only through open process and after the holding of a hearing proceeding, and such a planning may bring efficiency as a result of concentrated efforts and power.

The procedure for formulation and finalization of, revision to and cancellation of an administrative planning mentioned in the preceding paragraph shall be separately established by the Executive Yuan.

Chapter VI Administrative guidance

Article 165

The term "administrative guidance" used in this Act denotes the act of an administrative authority within the scope of its duties or the functions under its control to urge specific persons to perform particular acts or omission of act, by way of the provision of aid, assistance, advice, recommendations or other manners without mandatory force in law, for the purpose of achieving specific administrative objectives.

Article 166

When offering an administrative guidance, the administrative authority shall pay attention to the purposes of the applicable laws and regulations and shall not abuse its authority.

Where the person to whom administrative guidance is offered explicitly refuses to accept guidance, the administrative authority shall promptly cease to give guidance and shall refrain from taking any adverse action against such person.

Article 167

When providing a person with administrative guidance, the administrative authority shall expressly indicate to the person such details as relating to the purpose and substance of the guidance and the officer in charge of providing guidance.

The express indication required by the preceding paragraph may be given in writing, orally or in any other manner. It shall be given in writing if the person for whom the administrative guidance is provided requests the delivery of a document, unless there is in administration a special difficulty in complying with such a request.

Chapter VII Petition

Article 168

Every citizen is entitled to present to competent authorities petitions with respect to proposals on administrative innovations and reforms, inquiries into administrative laws and regulations, reports on acts in breach of law or neglect of administrative duties or protection of the [people's] rights and interest in administration.

Article 169

A petition may be presented in writing or orally. In the case of a petition presented orally, the authority entertaining the petition shall write it down in a record, which shall be read to or by the petitioner and then signed by or affixed with the personal seal of the petitioner. In the case of any objection raised by the petitioner to the record, it shall be corrected as requested.

Article 170

Administrative authorities shall establish operating rules in respect of the people's petitions, and shall appoint officers to deal with petitions in a prompt and unqualified manner.

Where it is necessary to keep the petition of any citizen in confidence, the authority entertaining the petition shall refrain from disclosing it to the public.

Article 171

Where a petition presented by the people is deemed by the authority entertaining the petition to be well grounded, it shall take appropriate actions therefor; if the petition is deemed to be groundless, it shall give the petitioner a notification thereof and explain in essence its point of view.

Where the authority entertaining a petition considers that the major points contained in the petition lack clarity and certainty or are open to doubts, it may notify the petitioner accordingly and demand a supplementary petition.

Article 172

If an authority has received a petition which ought to have been presented to another authority, it shall notify the petitioner accordingly; provided that, the authority in receipt of the petition shall forthwith refer it to another authority if it deems appropriate to do so and notify the petitioner thereof.

Where the law permits the institution of an administrative appeal or action or the filing of a claim for State compensation in respect of the subject matter of a petition, the authority in receipt of the petition shall notify the petitioner accordingly.

Article 173

In any of the following circumstances, the petition may be left unattended to:

1. Where the petition gives no concrete substance or does not give true name or

address;

2. Where the petition is a repeat or further repeat of the same matter which has been appropriately dealt with and clearly answered; or
3. Where the authority receiving the petition is not competent to deal with the subject matter of the petition and the petitioner is found to have filed similar petitions to different authorities regarding the same matter.

Chapter VIII Supplementary Provisions

Article 174

If the party or an affected person is dissatisfied with the decision made or the action taken by an administrative authority in conducting the administrative procedure, he may file a statement to this effect only if and when he is also dissatisfied with the substantive decision and files a statement therefor; provided that this does apply where the decision made or the action taken by an administrative authority is enforceable or it is otherwise provided for in this Act or any other law or regulation.

Article 174-1

All legal orders established by administrative authorities before this Act comes into force in accordance with

Article 7 of the Standard Act for Making of Laws and Regulations by the Central Government, of which the basis of authorization is required to be provided for or specified by law, shall be amended or established after their respective basis of authorization is so provided for or specified by law, within two years after this Act comes into force, and shall become inoperative thereafter.

Article 175

This Act shall come into force on January 1, 2002.

The Amendments to this Act shall come into force from the date of promulgation.