

## Article Content

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Title : Administrative Appeal Act <sup>CH</sup>

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Category : Executive Yuan (行政院)

### Chapter 1 General Provision

#### Section 1 Administrative Appeal Affairs

##### Article 1

Anyone who's right or interest was unlawfully or improperly injured by a center or local government agency's administrative action is entitled to file an administrative appeal according to this Act, provided that other Acts stipulated otherwise. Each level of autonomy or other public law entity could have file an administrative appeal as well, while it's right or interest was unlawfully or improperly injured by the supervised agency's administrative action.

##### Article 2

Anyone who's right or interest was unlawfully or improperly injured by a center or local government agency's inaction to his application according to Acts during the period stipulated by this Act is entitled to file an administrative appeal as well. The period stipulated in last Paragraph is two month after the application was accepted by an agency provided that there is no other stipulation in other Acts or Regulations.

##### Article 3

An administrative action stipulated under this Act is referred to as an ex parte administrative action which directly creates legal effect to the people by a decision or measures decided or adopted by a center or local government agency by its ex officio derived from public law in a concrete public law affair. The decision or measures stipulated in last Paragraph is an administrative action as well, while the range might be ascertained under specified circumstance despite the parties

affected is not specified. The creation, modification and decrease or use of public facility by the agency shall be treated as an administrative action too.

## **Section 2 Jurisdiction**

### Article 4

The jurisdiction of an administrative appeal is stipulated as follows:

1. One can file an administrative appeal to a county government (or a province city hall) against an administrative action made by a village (town or district) office.
2. One can file an administrative appeal to a county government (or a province city hall) against an administrative action made by an agency under county government or province city hall.
3. One can file an administrative appeal to a ministry, council, bank, department, bureau or administration of central government in charge against an administrative action made by a county government (or a province city hall).
4. One can file an administrative appeal to a municipal city hall under Executive Yuan against an administrative action made by one of its agencies.
5. One can file an administrative appeal to a ministry, council, bank, department, bureau or administration of central government in charge against an administrative action made by a municipal city hall under Executive Yuan.
6. One can file an administrative appeal to a ministry, council, bank, department, bureau or administration of central government against an administrative action made by one of its agencies.
7. One can file an administrative appeal to the Yuan in charge against an administrative action made by a ministry, council, bank, department, bureau or administration of central government.
8. One can file an administrative appeal against a Yuan for an administrative action made by it.

### Article 5

One who files an administrative appeal against an administrative action made by a center or local government agency otherwise stipulated in last Article, the jurisdiction shall be referred to the agency's level as described in last Article.

The jurisdiction of an administrative appeal shall be decided

according to an agency's authority of supervision under other Acts stipulation.

Article 6

The jurisdiction of an administrative appeal against an administrative action made by more than one agencies with different supervision or level jointly shall be filed to their concurrent supervised agency.

Article 7

An administrative action made by an agency in delegated affairs from an authority without supervision relationship shall be regarded as an administrative action made by the agency which delegates the power. The jurisdiction of an administrative appeal in such case shall be filed to the agency which delegates the power or its direct supervised agency as referred to Article 4.

Article 8

An administrative action made by an agency in assigned affairs from an authority with supervision relationship shall be regarded as an administrative action made by the agency which the power is assigned. The jurisdiction of an administrative appeal in such case shall be filed to the agency which the power is assigned or its direct supervised agency as referred to Article 4.

Article 9

An administrative action made by a municipal city hall under Executive Yuan, a county government (or province city hall) or their agency and a village (town or district) office in allocated affairs from a supervised government or its agency according to law shall be regarded as an administrative action made by the agency which the power is allocated. The jurisdiction of an administrative appeal in such case shall be filed to the direct supervised agency of the agency which the power is allocated as referred to Article 4.

Article 10

The jurisdiction of an administrative appeal against an administrative action made under the name of a legal entity or individual which is authorized to exercise power by a center or local government agency according to law shall be the agency which delegates the power.

Article 11

While the agency which the administrative action was made has been revoked or reformed, the agency which took over the authority shall be regarded as the agency which the administrative action was made. The jurisdiction of an administrative appeal in such case shall be filed to the agency which took over the authority or its supervised agency as referred to last seven Articles.

Article 12

While a conflict of jurisdiction among several agencies arose or there is ambiguity of jurisdiction which can not be identified the agency with jurisdiction, the jurisdiction shall be affirmed by the concurrent direct supervised agency.

While an administrative appeal decision was made by an agency without jurisdiction, its supervised agency shall revoke the decision by its ex officio or according to one's application and remand to the agency with jurisdiction with a command.

Article 13

To decide the agency which the administrative action was made shall depend on the name of the administration action at the time it was issued. However, the administrative action was made by the supervised agency by its ex officio and commands the inferior agency to enforce, the supervised agency shall be the agency which the administrative action was made.

**Section 3 Dates and Period**

Article 14

An administrative appeal shall be filed within 30 days since one day after the date which administrative action is served or the expiration date of its publication period.

While the administrative appeal is filed by the third party with interest at stake, the period stipulated in last Paragraph shall calculate since the date which she/he knows. However, in such case it is not allowed to file an administrative appeal while it is over 3 years after the date which administrative action is served or the expiration date of its publication period.

Whether an administrative appeal is filed shall depend on the date which the administrative appeal pleading is received or processed by the agency which the administrative action was made or the agency with jurisdiction of administrative appeal.

An administrative appellant files an administrative appeal to an agency other than the agency which the administrative action was made or the agency with jurisdiction of administrative appeal, the date which the agency received or processed the administrative appeal pleading at the first place shall be regarded as the administrative appeal was filed.

Article 15

An administrative appellant files an administrative appeal to the agency with jurisdiction of administrative appeal after the administrative appeal period stipulated in last Article was expired due to act of god or other caused not contributed to her/him may file an application to restore her/his original status via a written which prescribes the reasons why act after the date is due within 10 days after the reasons were demolished. However, it is not allowed to do so while the date of administrative appeal period expired is over 1 year.

One who file an application for restoring her/his original status shall take action which is required to do according to the administrative appeal process within the period at the same time.

Article 16

An administrative appellant reside outside the area where the agency with jurisdiction of administrative appeal to process located shall deduct the traveling period when calculating the period stipulated by this Act unless there is an administrative appeal representative reside in the area where the agency with jurisdiction of administrative appeal to process located and the action might have done during the period.

The rule which regulates the traveling period stipulated in last Paragraph shall be regulated by Executive Yuan.

Article 17

The method to calculate the period shall be the same as stipulated in the Civil Act, provided that other Acts stipulated otherwise.

**Section 4 Administrative Appellant**

Article 18

Any individual, legal entity or organization or anyone whom an administrative action is issued to as well a third party with interest at stake may file an administrative appeal.

Article 19

Anyone who could have undertaken obligation independently via conducting legal affairs has capacity to file an administrative appeal.

Article 20

One without capacity to file an administrative appeal shall be represented by her/his legal representative.

While an autonomy, legal entity or organization files an administrative appeal, shall be represented by its representative or administrator.

The legal representative in an administrative appeal case shall be accorded to the Civil Act.

Article 21

Two or more individuals might have filed an administrative appeal jointly against an administrative action based on the same causes and facts.

To file an administrative appeal stipulated in last Paragraph is confined to cases under the same jurisdiction of an agency.

Article 22

To file an administrative appeal jointly might have been represented by one to three person (s) elected among all administrative appellants.

The elected representative(s) shall present the document(s) certification to the agency with jurisdiction of administrative appeal at the first place when the administrative appeal is conducted.

Article 23

When an administrative appeal was filed jointly without electing the representative(s), the agency with jurisdiction of administrative appeal may notify the administrative appellants to elect within a specific period. After the expiration of the specific period and the administrative appellants still not elect, the agency with jurisdiction of administrative appeal might assign the representative(s) by its ex officio.

Article 24

As long as the representative(s) was elected or assigned, the representative (s) will conduct an administrative appeal on behalf of all administrative appellants. However, to withdraw the

administrative appeal which via a written consent from all appellants is required.

Article 25

The elected or assigned representative(s) might be replaced or varied in numbers.

The replacement or variation of representative(s) stipulated in last Paragraph shall not be effected unless the agency with jurisdiction of administrative appeal was informed via written notice.

Article 26

While there are more than one representatives, any representative might conduct an administrative appeal on behalf of all administrative appellants independently.

Article 27

The right of the representative(s) to represent will not be demolished due to the death, lack of capacity to conduct independently of other administrative appellant(s) who file an administrative appeal jointly or the replacement of other administrative appellant(s)'s legal representative.

Article 28

One who has same interest at stake as an administrative appellant might participate the administrative appeal after the permission was granted by the agency with jurisdiction of administrative appeal. The agency with jurisdiction of administrative appeal might notify she/he to participate the administrative appeal while necessary as well.

While an administrative appeal decision to revoke or modify the original administrative action which substantially affected the right or interest of the third party, the agency with jurisdiction of administrative appeal shall notify her/him to intervene the administrative appeal procedure and pose her/his opinion.

Article 29

To file an application of intervention in an administrative appeal shall present a written application to the agency with jurisdiction of administrative appeal.

The application of intervention in an administrative appeal shall declare the following items via a written:

1. The administrative appeal per se and the administrative appellant(s).
2. The interest at stake of the intervenor appellant and the administrative appeal.
3. A statement of intervention for the administrative appeal.

Article 30

Notification of intervention in an administrative appeal shall serve the intervenor appellant and send a copy to the administrative appellant. The notification shall declare the intention of the administrative appeal, the reason to notify participation and the legal effect of default.

Before the notification stipulated in last Paragraph is served, the agency with jurisdiction of administrative appeal might inform the administrative appellant(s) and the third party who qualified as a participant pose her/his opinion via a written statement.

Article 31

An administrative appeal decision has also effects upon the intervenor appellant. While nonparticipation after a notification of participation an administrative appeal has been served or a permission to participate was granted by the agency with jurisdiction of administrative appeal as well.

Article 32

An administrative appellant or intervenor appellant might have authorized the representative(s) to conduct administrative appeal. There are no more than three administrative appeal representatives for each administrative appellant and intervenor appellant.

Article 33

The following individual is qualified to be an administrative appeal representative:

1. An attorney at law.
2. An individual who earned the qualification to represent the administrative appellant in her/his case according to Acts or Regulations.
3. A person with expertise in a specific administrative appeal.
4. An individual who represent the administrative appellant based on the professional or business relationship.



5. An individual who is a relative of the administrative appellant.

An administrative appeal representative stipulated in last Paragraph, Clause 1~3 might be prohibited while the agency with jurisdiction of administrative appeal deemed improper and it is required to notify the administrative appellant and the intervenor appellant via a written.

Article 34

An administrative appeal representative shall present a written form of authorization to the agency with jurisdiction of administrative appeal at the first place of the administrative appeal conduct.

Article 35

An administrative appeal representative might have undertaken all administrative appeal conducts as authorized in a administrative appeal case. However, a special authorization is required to withdraw an administrative appeal case.

Article 36

While there are more than one administrative appeal representatives, each one might represent the administrative appellant independently.

A representative may still represent the administrative appellant independently in spite of the representative is authorized against the rule stipulated in last Paragraph.

Article 37

An administrative appeal representative's statement of facts will not take effect while the administrative appellant who appears at the agency revoke or correct immediately by herself/himself.

Article 38

The authorization of administrative appeal representative will not demolish due to the administrative appellant's death, bankruptcy or lack of the capacity to conduct an administrative appeal. It is the same while the legal representative is changed, the agency is revoked or reformed, a corporation or organization is dissolved or reformed.

Article 39

The ceasing of an administrative appeal authorization shall be made by the administrative appellant, intervenor appellant or

administrative appeal representative via a written notice sent to the agency with jurisdiction of administrative appeal.

Article 40

While the ceasing of an administrative appeal authorization is posed by the administrative appeal representative, she/he shall still undertake necessary conduct to secure the right or interest of the administrative appellant or intervenor appellant within 15 days since the ceasing of authorization is expressed.

Article 41

The administrative appellant, intervenor appellant or administrative appeal representative might company with assistant to the place assigned by the agency with jurisdiction of administrative appeal on the specific date, while permission is granted by the agency.

The agency with jurisdiction of administrative appeal might have notified the administrative appellant, thirty party participant or administrative appeal representative company with assistant to the place assigned while the agency deemed necessary.

The agency with jurisdiction of administrative appeave ceased the permission or prohibited the continuation of assist while the agency deemed the assistant as stipulated in last two Paragraphs is improper.

Article 42

The statement made by the assistant appeared will be regarded as the same as made by the administrative appellant, intervenor appellant or administrative appeal representative, while the statement was not revoked or corrected by aforesaid parties immediately.

#### **Section 5 Service**

Article 43

A service shall be made by the agency with jurisdiction of administrative appeal by its ex officio, provided that otherwise stipulated.

Article 44

To serve the one without capacity to undertake any administrative appeal conduct shall be made to her/his legal representative, while the legal representative is not stated to the agency with jurisdiction of administrative appeal, the service might have

made to the one without capacity to undertake any administrative appeal conduct.

To serve a legal entity or organization shall be made to its representative or administrator.

While there are more than one legal representatives, representatives or administrators, the service might have made to one of them.

Article 45

To serve a foreign legal entity or organization with office or business center located within territory of Republic of China shall be made to its representative or administrator domiciled in Republic of China.

While there are more than one representatives or administrators, a service might be made to one of them.

Article 46

A service shall be made to the administrative appeal representative unless the authorization to receive an service is limited. However, service might have made to the administrative appellant or intervenor appellant, while the agency with jurisdiction of administrative appeal deemed necessary.

Article 47

The documents of an administrative appeal shall be served via post deliver with postal service certification in which declares the administrative appellant, intervenor appellant, representative of aforesaid parties, administrative appeal representative's domicile, office or business center address. While the documents of an administrative appeal are not able to serve stipulated in last Paragraph, the agency with jurisdiction of administrative appeal might send its staff or entrust the agency which the administrative action was made or policy agency in charge to serve and service certification shall be made by one who served.

The service of the administrative appeal documents could be made by applying mutatis mutandis for Article 67~69 and Article 71~83 of the Administrative Litigation Procedure Act otherwise stipulated in last two Paragraphs.

**Section 6 Administrative Appeal File**

Article 48

The document concerning an administrative appeal case under custody of the agency with jurisdiction of administrative appeal shall be bound into file by the staff in charge of the case.

Article 49

An administrative appellant, intervenor appellant or administrative appeal representative might file an application to the agency with jurisdiction of administrative appeal to view, cite, copy or photograph documents in the file or file an application to the agency to provide hand writing, copies, citation of the documents by paying fees in advance.

The standard of the fee stipulated in last Paragraph shall be made by the Yuan in charge.

Article 50

A thirty party who obtained the consent of the administrative appellant or provided prima facie evidence of the interest at stake might have also filed an application stipulated in last Article, while the agency with jurisdiction of administrative appeal permitted.

Article 51

To file an application for following documents under last two Articles shall be rejected by the agency with jurisdiction of administrative appeal:

1. The draft of an administrative appeal decision.
2. The documents of an administrative appeal decision for preparing or reviewing purpose.
3. The necessity to keep secret for the third party's right or interest.
4. The necessity to keep secret according to other Acts or based on the public interest.

## **Chapter 2 Administrative Appeal Review Committee**

Article 52

Every agency shall organize an administrative appeal review committee to process the administrative appeal cases. The members of the committee shall be equipped with law or legal expertise in principle.

The members of an administrative appeal review committee shall be chosen from the agency's senior staffs, righteous gentlemen in the society, scholars or experts; inter alia, the ratio of the

righteous gentlemen, scholars and experts shall not less than one half.

The rule of organizing an administrative appeal review committee and the reviewing procedure regulation shall be regulated by the Yuan in charge.

Article 53

An administrative appeal decision shall be made upon a resolution of the administrative appeal review committee, and the resolution could be reached upon one half committee members' present and one half presented committee members' consent.

Article 54

In reviewing an administrative appeal case, the administrative appeal review committee shall assign staff member to produce a review record in the file. While dissenting opinion was held by the committee member(s) in reviewing an administrative appeal case, the dissenting opinion shall be declared in the record upon the application of the committee member(s).

While the review of an administrative appeal case is processed via oral argument, it is required to produce another record bound as an attachment of the record stipulated in last Paragraph which shall apply mutatis mutandis for Article 212~219 of the Civil Procedure Act.

Article 55

The chairman or member(s) of the administrative appeal review committee shall be defaulted by herself/himself and is prohibited from join the reviewing, while there is an interest at stake concerning such administrative appeal case.

### **Chapter 3 Administrative Appeal Procedure**

#### **Section 1 Commencement of Administrative Appeal**

Article 56

An administrative appeal shall have an administrative appeal pleading which declares the following items and shall be signed or bear the seal of the administrative appellant or her/his representative:

1. The name, date of birth, domicile, or place of residence, identification number. While a legal entity or other organization with its administrator or representative, its name, office or business center address, and the name, date of birth, domicile or

place of residence of the administrator or representative.

2. While there is an administrative appeal representative for the administrative appeal, her/his name, date of birth, domicile, or place of residence, and identification number.

3. The agency which the administrative action was made.

4. The claims of administrative appeal.

5. The facts and reasons for an administrative appeal.

6. The date of reception or acknowledge of the administrative action.

7. The agency with jurisdiction of administrative appeal.

8. The evidence. While it is a document form, a hand writing or copy shall be appended.

9. The year, month, and date of filing an administrative appeal.

To file an administrative appeal shall append a copy of the administrative action.

An administrative appeal pursuant to Article 2 Paragraph 1 shall identify the agency with the obligation to made the administrative action, date of filing, a copy for the original application and receipt certification of the agency with application, pursuant to Paragraph 1 Clause 3, 6.

#### Article 57

While the administrative appellant has expressed the objection of an administrative action in the period stipulated in Article 14 Paragraph 1 to the agency with jurisdiction of administrative appeal or the agency which the administrative action was made, it shall be deemed as filed an administrative appeal in the period stipulated by this Act. However, an administrative appeal pleading shall be presented to the agency within 30 days.

#### Article 58

The administrative appellant shall prepare an administrative appeal pleading and file the administrative appeal to the agency which the administrative action was made to transfer to the agency with jurisdiction of administrative appeal.

The agency which the administrative action was made shall review the legality and propriety of the administrative action stipulated in last Paragraph in advance, and while the administrative appeal is sustainable, the agency may revoke or modify the administrative action and report to the agency with

jurisdiction of administrative appeal.

When the agency which the administrative action was made refuse to revoke or modify the administrative action according to the administrative appellant's application, the agency shall prepare an written answer promptly, and transfer all necessary related documents to the agency with jurisdiction of administrative appeal.

Article 59

While the administrative appellant filed an administrative appeal to the agency with jurisdiction of administrative appeal directly, the agency shall deliver a copy of the administrative appeal pleading to the agency which the administrative action was made and dispose the administrative appeal according to last Article, Paragraph 2~4.

Article 60

The administrative appellant may withdraw the administrative appeal before the administrative appeal decision has been served. While the administrative appeal has been withdrawn, to file a same administrative appeal by the administrative appellant shall not be allowed.

Article 61

While the administrative appellant expressed an objection to the administrative action to an agency other than the agency which the administrative action was made or the agency with jurisdiction of administrative appeal, it shall be deemed as filed to the agency with jurisdiction of administrative appeal at the first place.

The agency which receive and process the administrative appeal stipulated in last Paragraph shall transfer the case to the agency which the administrative action was made within 10 days and notify the administrative appellant.

Article 62

While the agency with jurisdiction of administrative appeal concluded that the administrative appeal pleading is not make in proper form or is defective in other respects but is supplementable, the agency shall assign a period of 20 days and notify the administrative appellant to supplement the administrative appeal pleading within such period.

## Section 2 The Review of the Administrative Appeal

### Article 63

An administrative appeal is a proceeding of paper review and without hearing.

When necessary, the agency with jurisdiction of administrative appeal may notify the administrative appellant, intervenor appellant, or third party with interest at stake to the place assigned by the agency to state her/his opinion.

When the administrative appellant or intervenor appellant file an application for stating her/his opinion with reasonable grounds, they shall be given the chance to appear at the place assigned by the agency with jurisdiction of administrative appeal to pose her/his opinion.

### Article 64

The chairman of the administrative appeal review committee may assign the commissioner(s) to hear the opinion of the administrative appellant, intervenor appellant, or third party with interest at stake who appears at the agency.

### Article 65

The agency with jurisdiction of administrative appeal may according to an application of the administrative appellant or intervenor appellant or when necessary, the agency may by its ex officio to notify the administrative appellant, intervenor appellant, or aforesaid parties' representative(s), administrative appeal representative, assistant and staff assigned by the agency which the administrative action was made to proceed an oral argument at the assigned date and place.

### Article 66

The procedures of the oral argument are stipulated as follows:

1. The agency with jurisdiction of administrative appeal states the summary of the case.
2. The administrative appellant, intervenor appellant, or administrative appeal representative states the issue of fact and the issue of law.
3. The agency which the administrative action was made states the issue of fact and the issue of law.
4. The agency with jurisdiction of administrative appeal or the agency which the administrative action was made to state the



opinion concerning the opposition parties or defense the statement or the defense of the opposition parties.

5. The agency with jurisdiction of administrative appeal to inquire the administrative appellant or the agency which the administrative action was made.

While the oral argument stipulated in last Paragraph is uncompleted, a secondary oral argument may be allowed.

Article 67

The agency with jurisdiction of administrative appeal shall conduct evidence investigation, test, or inspection by its ex officio or upon a request to the relevant government agency or staff which is not bound by the administrative appellant's allegation.

The agency with jurisdiction of administrative appeal shall investigate evidence based according to the application of an administrative appellant or intervenor appellant. However, the agency with jurisdiction of administrative appeal concluded that the application to investigate a specific evidence is unnecessary.

The result of the evidence investigation by the agency with jurisdiction of administrative appeal by its ex officio or according to one's application shall not be used as the bases of an unfavorable decision against the interest of the administrative appellant, except that the administrative appellant and intervenor appellant had been given the chance to express her/his opinion.

Article 68

The administrative appellant or intervenor appellant may present the documentary evidence or other evidence during the procedure. However, while the agency with jurisdiction of administrative appeal assigns a peremptory period to present the evidence, the evidence shall be presented in the specific period.

Article 69

The agency with jurisdiction of administrative appeal may by its ex officio or according to the application of the administrative appellant or intervenor appellant to request the relevant government agency, school, organization or any individual with the expertise to conduct the examination.

While the agency with jurisdiction of administrative appeal concluded the examination is unnecessary and the administrative appellant or intervenor appellant is willing to bear the cost for the examination, the administrative appellant or intervenor appellant may apply for the examination and the agency with jurisdiction of administrative appeal may not reject the application without justification.

The expert witness shall be assigned by the agency with jurisdiction of administrative appeal.

While there are more than one expert witnesses, they may state one common opinion jointly, however that there are different opinions, the agency with jurisdiction of administrative appeal shall make them to state their own opinion independently.

Article 70

The expert witness shall present her/his opinion via an examination statement. While the agency with jurisdiction of administrative appeal deems necessary, the agency may invite the expert witness to explain her/his opinion at the assigned place.

Article 71

While the examination required the relevant materials under the possession of the agency which the administrative action was made or the agency with jurisdiction of administrative appeal, the agency with jurisdiction of administrative appeal shall inform and grant an permission to the expert witness to use those materials. However, the agency with jurisdiction of administrative appeal may set limitation in scope and method for such use.

Due to conduct the examination, the expert witness may request the agency with jurisdiction of administrative appeal to investigate the relevant evidence.

Article 72

The cost of the examination shall be born by the agency with jurisdiction of administrative appeal, and such cost may be paid in advance upon the request of the expert witness.

While the administrative appellant or intervenor appellant has paid the cost for the examination according to Article 69 Paragraph 2, and the result of the examination has been used to as a base of a favored decision or judgment for the

administrative appellant's or intervenor appellant's interest, the administrative appellant or intervenor appellant may file an application to the agency with jurisdiction of administrative appeal for reimbursement within 30 days after the administrative appeal or administrative litigation is conclusive and irrevocable.

#### Article 73

The agency with jurisdiction of administrative appeal may by its ex officio or according to the administrative appellant or intervenor appellant's application command a third party to present the document or other items, the agency may take custody of such document or item.

The agency with jurisdiction of administrative appeal may get a document or other items under the custody of an official or a government agency.

Unless the contents commanded by the agency with jurisdiction of administrative appeal as stipulated in last Paragraph is against the national secrecy, the official or government agency shall not refuse to present it.

#### Article 74

The agency with jurisdiction of administrative appeal may by its ex officio or according to the application of the administrative appellant or intervenor appellant to conduct an inspection for the necessary item or place.

The agency with jurisdiction of administrative appeal shall notify the administrative appellant, intervenor appellant or relevant person to appear at the date, time, and place of the inspection according to last Paragraph.

#### Article 75

The agency which the administrative action was made shall present all relevant evidences as the bases of the administrative action to the agency with jurisdiction of administrative appeal.

The administrative appellant, intervenor appellant, or administrative appeal representative may file an application for view, cite or copy for such evidence materials stipulated in last Paragraph. The agency with jurisdiction of administrative appeal shall not refuse without justification.

The agency with jurisdiction of administrative appeal shall

specify the date, time, and place for the view, cite or copy for the evidence materials stipulated in Paragraph 1.

Article 76

While the administrative appellant or intervenor appellant has objection(s) to the procedure decision made by the agency with jurisdiction of administrative appeal during the administrative appeal procedure, she/he shall consolidate the procedure decision and the administrative appeal decision to file an administrative litigation.

### **Section 3 Administrative Appeal Decision**

Article 77

While one of the following clauses is met in an administrative appeal case, the agency with jurisdiction of administrative appeal shall make a decision of case not entertained:

1. An administrative appeal pleading is not in the legal form and is not amendable, or while it is amendable, but was not amended after the expiration of the specific period.
2. An administrative appeal was filed after the expiration of the period stipulated by this Act, or while the administrative appeal pleading was not supplemented in the period according to Article 57.
3. An administrative appellant is not qualified according to Article 18.
4. An administrative appellant without capacity to file an administrative appeal and undertake the administrative appeal conduct without her/his legal representative, provided that a notification to supplement has been given but failed to do so after the expiration of the specific period.
5. An autonomy, legal entity, non-legal entity undertook the administrative appeal conduct by person other than its administrator or legal representative, provided that a notification to supplement has been given but failed to do so after the expiration of the specific period.
6. The administrative action is no longer existed.
7. An administrative appeal is filed second time against a conclusive administrative appeal case or it is for which has been withdrawn.
8. An administrative appeal is filed against non-administrative

action or other cases which are beyond the scope of administrative appeal remediless according to other Acts.

Article 78

The agency with jurisdiction of administrative appeal may consolidate and review several separate administrative appeals and may make a consolidated decision, while they are filed as a base of the same or like fact or law.

Article 79

While the administrative appeal is unsustainable, the agency with jurisdiction of administrative appeal shall dismiss the administrative appeal via an administrative appeal decision.

Even if the bases of the administrative action made by the agency which the administrative action was made is with improper reasoning; however, while there are other reasons to support the administrative action, the administrative appeal shall be dismissed as unsustainable.

While the administrative appeal is related to an autonomy's self-government matters, the supervised agency with jurisdiction of administrative appeal shall only review the legality of the administrative action.

Article 80

While the administrative appeal was rendered as a decision of case not entertained because it was filed after the expiration of the specific period according to this Act, but the administrative action is obviously illegality or impropriety, the agency which the administrative action was made or its supervised agency may by its ex officio to revoke or modify the administrative action.

However, one of the following situations is met in which the agency shall not revoke or modify the administrative action:

1. The revocation or modification is against the public interest.
2. The reliance interest of the beneficiary of the administrative action required obviously more protection than the public interest derived from the revocation or modification as planned.

The reliance is not worth of protection while one of the following situations was met to the beneficiary of the administrative action:

1. To make the agency which the administrative action was made to issue an administrative action via using the method of falsity,

threat, or bribery.

2. Intentionally present the untruth information for material factor or the statement omission partly to make the agency which the administrative action was made to issue the administrative action based on aforesaid factor or statement.

3. Acknowledge of the illegality of the administrative action or lack of such acknowledge due to gross negligent.

The reliance interest of the beneficiary of the administrative action shall be indemnified, while the administrative action was revoked or modified by the agency which the administrative action was made or its superior agency according to Paragraph 1.

However, the amount of the indemnification shall not exceed the amount of the beneficiary interest while the administrative action was sustained.

#### Article 81

While the administrative appeal is sustainable, the agency with jurisdiction of administrative appeal shall revoke the administrative action as a whole or a part by an administrative appeal decision, it may also, based on case background, make its own modification decision or remand to the agency which the administrative action was made for another administrative action. . However, in the scope of the objection which the administrative appellant expressed, the agency with jurisdiction of administrative appeal shall not make a modification or decision which is less favorable to the interest of the administrative appellant than the administrative action was sustained.

While the administrative appeal decision revoke the administrative action and remand to the agency which the administrative action was made for another administrative action, the agency with jurisdiction of administrative appeal shall specify a period for making such new administrative action.

#### Article 82

While the agency with jurisdiction of administrative appeal concluded an administrative appeal which was filed according to Article 2 Paragraph 1 was sustainable, it shall specify a period and command the agency which the administrative action should be made at the first place to make a certain administrative action. Before the agency with jurisdiction of administrative appeal has

made the decision stipulated in last Paragraph, while the agency which the administrative action should be made has made an administrative action, the agency with jurisdiction of administrative appeal shall conclude the administrative appeal is unsustainable and dismiss it by a decision.

Article 83

Even if the agency with jurisdiction of administrative appeal concluded that the administrative action was improper or unlawful, however, the revocation or modification of the administrative action will cause serious damage against the public interest, after considering the damage suffered by the administrative appellant, the extend of the compensation, and the method of prevention damage and other relevant circumstances, the agency may dismiss the administrative appeal while the agency concluded that the revocation or modification of the administrative action obviously against the public interest. The agency with jurisdiction of administrative appeal shall declare the administrative action was unlawful or improper in the holding of the administrative appeal decision stipulated in last Paragraph.

Article 84

While the agency with jurisdiction of administrative appeal make the decision stipulated in last Paragraph, it may consider the damage suffered by the administrative appellant due to the unlawful or improper administrative action and declares in the reasoning of the decision that the agency which the administrative action was made to negotiate agreement for the compensation with the administrative appellant. The negotiation stipulated in last Paragraph shall have the same effect as the agreement in the Government Tort Claim Act.

Article 85

Since the next day which the receipt of the administrative appeal pleading, the administrative appeal decision shall be made within 3 months which may be extended if necessary, provided that the administrative appellant and intervenor appellant were notified. The period can only be extended one time with two months limits. The period stipulated in last Paragraph shall calculate from the next day when the administrative appeal pleading presented to the

agency with jurisdiction of administrative appeal while according to Article 57, except the administrative appellant failed to present the administrative appeal pleading, the period shall calculate from the next day of the expiration date of period for presentation of an administrative appeal pleading. While the agency with jurisdiction of administrative appeal made a notification to supplement according to Article 62, the period shall calculate from the next day when the pleading has been supplemented, while failed to so, the period shall calculate from the next of the expiration date of period for submission of an administrative appeal pleading.

#### Article 86

While the decision of the administrative appeal depends on the existence or non-existence of certain relationship of law, and such relationship of law is pending in an litigation or administrative remedy proceeding, before the legal relation has been affirmed, the agency with jurisdiction of administrative appeal may cease the administrative appeal proceeding and notify the administrative appellant and intervenor appellant immediately.

When the agency with jurisdiction of administrative appeal ceased the administrative appeal proceeding stipulated in last Paragraph, the period to make the administrative appeal decision stipulated in last Paragraph shall be recalculated from the next day after the relationship of law has been confirmed.

#### Article 87

While the administrative appellant died during the proceeding, the successor(s) or other person(s) who has the right to succeed the right or interest derived from the administrative action according to Acts may assume the administrative appeal.

While a legal entity dissolved due to merger, the administrative appeal shall be assumed by the newly established or survived legal entity after the merger.

While the successor(s) assume the administrative appeal as stipulated in last two Paragraphs, the successor(s) shall present the certification of right succession upon death or fact of merge to the agency with jurisdiction of administrative appeal within 30 days which begin from the next day of the death or merger.



Article 88

The assignee of the right or interest raised from the administrative action may present the assignation certification documents to the agency with jurisdiction of administrative appeal and file an application for the permission of assuming the administrative appeal.

Article 89

The administrative appeal decision shall include the following items:

1. The name, date of birth, domicile or place of residence, identification number of the administrative appellant. While the administrative appellant is a legal entity or other organization with its administrator or representative, its name, office or business center address, and the name, date of birth, domicile or place of residence of the administrator or representative.
2. The administrative appellant with a legal representative or administrative appeal representative, her/his name, date of birth, domicile, or place of residence, and identification number.
3. The holding, facts and reasoning. While it is a judgment of case not entertained, the facts may be omitted.
4. The agency with jurisdiction of administrative appeal and its leading officer.
5. Year, month and date.

An official copy of the administrative appeal decision shall be served to the administrative appellant, intervenor appellant, and the agency which the administrative action was made within 15 days after the decision has been made.

Article 90

The administrative appeal decision shall have a statement of notification for the right to file an administrative litigation to the administrative court within two months from the next day which the administrative appeal served.

Article 91

While an administrative appeal decision is eligible to file an administrative litigation in which the statement of notification state the agency without jurisdiction of administrative litigation in mistake, and causes the plaintiff file an

administrative litigation to the agency without jurisdiction, the agency shall transfer the administrative litigation pleading together with all relevant materials to the administrative court with jurisdiction and notify the plaintiff immediately.

While an administrative litigation pleading was filed to the agency without jurisdiction as stipulated in last Paragraph shall be deemed as filed to the administrative court with jurisdiction at the first place.

#### Article 92

While the period to bring up an administrative litigation state in the statement of notification in the decision was in mistake, the agency with jurisdiction of administrative appeal shall issue a new notice to correct the mistake, and the period stipulated by this Act shall be recalculate from the date when the new notice was served.

While the agency with jurisdiction of administrative appeal failed to enclose a statement of notification according to Article 90 in the decision, or a period as state in the statement of notification in mistake was not corrected according to the last Paragraph, which cause the plaintiff failed to file an administrative litigation in the period, while such administrative litigation was filed in 1 year from the date when the administrative appeal decision was served, the administrative litigation shall be deemed as filed in the period stipulated by this Act.

#### Article 93

The enforcement of an administrative action shall not be stopped by the commencement of an administrative appeal, provided that other Acts stipulated otherwise.

While the legality of the administrative action is obviously suspicious, or the execution will cause irreparable damage, there is urgent situation, and it is not necessary for protecting the important public interest, the agency with jurisdiction of administrative appeal or the agency which the administrative action was made may by its ex officio or according to one's application to stop an enforcement as a whole or a part.

The administrative court may according to one's application to

stop an enforcement as stipulated in last Paragraph via adjudication as well.

Article 94

While the reason to stop an enforcement of the administrative action was demolished , or there is a change in circumstance, the agency with jurisdiction of administrative appeal or the agency which the administrative action was made may by its ex officio or according to one's application to revoke the stop enforcement adjudication.

The administrative court may according to one's application to revoke the stop enforcement adjudication stipulated in last Paragraph.

Article 95

When an administrative appeal decision is conclusive and irrevocable, for the subject matter, it shall bind all relevant agencies; and while an administrative appeal was filed according to Article 10, the decision will bind the legal entity or individual who is authorized to exercise power.

Article 96

While the administrative action was revoked and remand to the agency which the administrative action was made to make an administrative action de novo, the agency which the administrative action was made shall make a new administrative action based upon the reasoning of the administrative appeal decision, and inform the agency with jurisdiction of administrative appeal with a written.

**Chapter 4 Procedure For The Review De Novo of Administrative Appeal**

Article 97

While one of the following situations is met, the administrative appellant, intervenor appellant or any third party with interest at stake may apply for a review de novo against an irrevocable and conclusive administrative appeal decision to the agency with jurisdiction of administrative appeal, except that she/he has already pleaded the cause(s) in an administrative litigation or failed to plead in spite of her/his learning the cause(s):

1. While it is obvious that Laws and Regulations have been applied in mistake.
2. While it is obvious that the reasons of an administrative

- appeal decision are inconsistent with the holding thereof.
3. While the agency with jurisdiction of administrative appeal was not constituted as stipulated by law.
  4. While the commissioner(s) who participated in the administrative appeal decision shall be defaulted according to Acts or Regulations .
  5. While a commissioner(s) who participated in the administrative appeal decision committed a criminal offense relating to his official duties in connection with the administrative appeal.
  6. While an administrative appeal representative committed a crime in connection with the administrative appeal, which is punishable by the Criminal Law and affected the administrative appeal decision.
  7. While an evidence has been used as the bases of the administrative appeal decision is found to be forged or fraudulently altered.
  8. While a witness, an examiner or an interpreter on whose testimony, examine opinion has be used as the bases of the administrative appeal decision has been proved punishable by perjury;
  9. While a civil, criminal or administrative litigation judgment or administrative action on which the administrative appeal decision was based has been altered.
  10. While an evidence which was not taken into consideration or was not been used as the basis has been discovered after the decision has been made.

A request for review de novo stipulated in last Paragraph shall be instituted within 30 days.

The period stipulated in last Paragraph calculates from the time when the administrative appeal decision becomes irrevocable and conclusive except the cause of review de novo happened or was known until after the administrative appeal decision has become irrevocable and conclusive, the period calculates from the time when the cause of review de novo was known.

#### **Chapter 5 Supplementary Provisions**

Article 98

All administrative appeal, answer, and other required documents shall be written in Chinese. A scientific terminology shall be

translated consistent with the publication of the National Institute for Compilation and Translation in principle, and the foreign terminology shall be appended.

While the documents stipulated in last paragraph are in foreign language in origin, the original documents shall be appended.

Article 99

While an administrative appeal case was not yet concluded until this Act is amended and effected, the remaining procedure of the administrative appeal shall be processed consist with an administrative appeal procedure of this Act as amended.

While an administrative reappeal was not yet concluded until this Act is amended and effected, the remaining procedure of the reappeal shall be processed by applying mutatis mutandis for this Act as amended.

Article 100

While a public servant is liable under the Criminal Law or shall be held responsible for administrative liability due to the illegal or improper administrative action, the agency which made the final administrative appeal decision shall refer the public servant's responsibility to the agency in charge for further procedure.

Article 101

This Act shall be effective from the date of promulgation.

The Amendments of this Act will be effective from the date assigned by Executive Yuan via a command.