

# **ADMINISTRATIVE PROCEDURES ACT**

Act No. 5241, Dec. 31, 1996

Amended by Act No. 5809, Feb. 5, 1999

Act No. 6839, Dec. 30, 2002

Act No. 7904, Mar. 24, 2006

Act No. 8451, May 17, 2007

Act No. 8852, Feb. 29, 2008

Act No. 11109, Dec. 2, 2011

## **CHAPTER I GENERAL PROVISIONS**

### **SECTION 1 Purpose, Definition and Scope of Application**

#### **Article 1 (Purpose)**

The purpose of this Act is to attain fairness, transparency, and confidence in administration, and to protect the rights and interests of citizens, encouraging citizens' participation in administration by stipulating the common matters regarding administrative procedures.

#### **Article 2 (Definitions)**

The definitions of the terms used in this Act shall be as follows: *<Amended by Act No. 6839, Dec. 30, 2002>*

1. The term "administrative agencies" means agencies of the State or local governments which make administrative decisions, or public organizations and their agencies, or other individuals

with authority or authority delegated or consigned under relevant Acts and subordinate statutes and Municipal Ordinances and Rules (hereinafter referred to as the "Acts, etc.");

2. The term "dispositions" means the exercises of public authority, its denial or other corresponding administrative functions in administrative agencies' application of Acts to particular facts;
3. The term "administrative guidance" means the administrative functions of guidance, recommendation, and advice, or other acts by which an administrative agency seeks, within the scope of its duties or jurisdictional functions, certain feasant or non feasant on the part of specified persons in order to realize administrative aims;
4. The term "parties" means the direct counter parties of the disposition of administrative agencies, or interested parties who are requested to participate in the administrative procedure by administrative agencies ex officio or upon applications;
5. The term "hearing" means the procedure of directly hearing the opinion of parties and investigating the evidence prior to any dispositions by administrative agencies;
6. The term "public hearing" means the procedure by the administrative agencies of extensively collecting the opinions of parties, persons with expert knowledge and experience, and the general public regarding any administrative functions through open discussions;
7. The term "submission of opinions" means the procedure of presenting opinions by parties prior to any administrative functions of the administrative agencies, neither through a hearing nor in a public hearing;
8. The term "electronic message" means information generated, sent, received or stored in an electronic form through information processing systems, including computers; and
9. The term "information and communications networks" means the information and communications system by which telecommunications facilities and equipment are utilized or the

telecommunications facilities and equipment, computers, and the technology of using computers are together utilized to gather, process, search, send or receive information.

### **Article 3 (Scope of Application)**

(1) Where there exist no special provisions in other Acts with respect to the procedures of dispositions, notifications, administrative pre- announcement of legislation, pre-announcement of dispositions and administrative guidance (hereinafter referred to as the "administrative procedures"), such matters shall be applied by this Act.

(2) This Act shall not apply to the matters falling under any of the following subparagraph: *<Amended by Act No. 5809, Feb. 5, 1999>*

1. Matters to be conducted with resolution, assent or approval of the National Assembly or local municipal council;
2. Matters to be conducted by or through judgements of the court or military court or execution thereof;
3. Matters to be conducted through rulings of the Constitutional Court;
4. Matters to be conducted through the resolution of the Election Management Commission of various levels;
5. Matters to be conducted by the Board of Audit and Inspection following the ruling of the Council of Commissioners;
6. Matters to be conducted in accordance with the Acts and subordinate statutes on criminal and prison administration and security measures;
7. Matters concerning national security, national defense, diplomacy and reunification which could severely harm the national interest if they go through the administrative procedures;
8. Matters in the procedures for the request of review, maritime safety inquiry, tax trial, patent trial, administrative appeal and other appeals; and

9. Matters as prescribed by the Presidential Decree, against which the completion of administrative procedures are unsuitable or unnecessary due to the nature of administrative functions or against which the procedures comparable to the administrative procedures have been completed, such as conscription and summon pursuant to the Military Service Act, entry and departure of foreigners, recognition of refugee status, naturalization, disciplinary actions or dispositions pursuant to the Acts and subordinate statutes related to public official service, or mediation, conciliation, arbitration, ruling, and other dispositions pursuant to the Acts and subordinate statutes related to settlement of disputes.

#### **Article 4 (Faithfulness and Sincerity, and Protection of Trust)**

- (1) In the performance of their duties, the administrative agencies shall be sincere and faithful.
- (2) When the interpretation of Acts and subordinate statutes or the customs of an administrative agency is generally accepted by the citizens, with the exception of cases where there is a risk of considerable harm to the public good or interests of third parties, then the new interpretation or customs shall not be applied disadvantageously in refractivity.

#### **Article 5 (Transparency)**

The contents of the administrative functions performed by the administrative agencies shall be concrete and clear, and in case the contents of Acts and subordinate statutes forming the basis of administrative functions are not clear, the counter parties may request the administrative agencies concerned to interpret them. In such cases, to the extent there are no special reasons, the administrative agencies concerned shall comply with the request.

## SECTION 2 Jurisdiction of and Cooperation among Administrative Agencies

### Article 6 (Jurisdiction)

- (1) If an administrative agency receives the cases which is beyond its jurisdiction initially or by transfer from another jurisdiction, then such cases shall be transferred to the relevant administrative agency with jurisdiction without delay and this fact shall be notified to the applicants. The same shall apply to cases where there is a modification in jurisdiction after the receipt by the administrative agency.
- (2) In case where the scope of jurisdiction of the administrative agencies is not clear, the jurisdiction shall be decided by the senior administrative agencies supervising both administrative agencies concerned, and when there is no such senior administrative agency supervising, the jurisdiction shall be decided with the consultation of the senior administrative agencies involved.

### Article 7 (Cooperation among Administrative Agencies)

For the purpose of harmonious execution of administrative functions, there shall be cooperation among administrative agencies.

### Article 8 (Administrative Assistance)

- (1) In case falling under any of the following subparagraphs, an administrative agency may request other administrative agency for administrative assistance: *<Amended by Act No. 6839, Dec. 30, 2002>*
  1. In case where the execution of its duties by itself is difficult because of Acts and subordinate statutes;
  2. In case where the execution of duties by itself is difficult because of de facto causes such as the deficit of personnel, equipment, etc.;
  3. In case where the cooperation of a specialized agency affiliated with other administrative agency is necessary;

4. In case where documents (including electronic messages; hereinafter the same shall apply), statistics, and other administrative data managed by another administrative agency are necessary for the execution of its duties; and
  5. In case where the execution of its duties with the assistance of other administrative agencies is deemed more efficient and economical.
- (2) The administrative agency requested for administrative assistance under paragraph (1) above may deny the request in cases falling under any of the following subparagraphs:
1. When there are clear grounds that another administrative agency may provide more efficient or economical assistance; and
  2. When there is a clear reason for the significant impediment to the execution of proper duties because of providing for the administrative assistance.
- (3) The request for administrative assistance shall be made to the administrative agencies with the capability to directly assist the duties concerned.
- (4) In case where the administrative agency receiving the request for administrative assistance denies the assistance, the reasons shall be notified to the administrative agencies requesting the assistance.
- (5) Staff dispatched for the purpose of administrative assistance shall be under the direction and supervision of the administrative agency requesting the assistance: Provided, That when matters pertaining to the service of the staff concerned are specially stipulated by other Acts and subordinate statutes, it shall be governed by the provisions thereof.
- (6) The expenses required for the administrative assistance shall be borne by the administrative agency requesting the assistance and the amount and payment method of the expense shall be decided by consultation between the administrative agency requesting the assistance and the administrative agency conducting the assistance.

## SECTION 3 Parties

### Article 9 (Qualifications of Parties)

Any person falling under any of the following subparagraphs may be a party in administrative procedure:

1. An individual;
2. A juristic person or a association or foundation which is not a legal person (hereinafter referred to as a "juristic persons, etc."); and
3. A person eligible to be the subject of rights and duties pursuant to other Acts and subordinate statutes.

### Article 10 (Succession of Status)

- (1) The successors due to the death of parties or persons succeeding the rights and interests of the parties pursuant to other Acts and subordinate statutes shall succeed the status of parties.
- (2) When there is a merger between juristic persons who are parties, the juristic person surviving or newly established after the merger shall succeed the status of parties concerned.
- (3) A person succeeding the status of parties under paragraphs (1) and (2) above shall notify it to the administrative agencies.
- (4) A person de facto acquiring by transfer the rights and interests under dispositions may succeed the status of parties with the authorization of the administrative agencies concerned.
- (5) The notification by the administrative agencies to the deceased or predecessor juristic persons of the merger before being notified under paragraph (3) above shall have effect on the person succeeding the status of parties under paragraphs (1) and (2) above.

### Article 11 (Representatives)

- (1) When two or more parties are jointly performing acts relating to administrative procedures, the parties may appoint their representatives.

- (2) When parties appoint no representative under paragraph (1) above or there is a risk of delay in administrative procedures because of extremely many representatives, the administrative agencies may, explaining the reasons, request the appointment of 3 or less representatives within a considerable time period. When parties do not comply with the request for the appointment of representatives, the administrative agencies may appoint representatives at their discretions.
- (3) Parties may change representatives or remove them from office.
- (4) Representatives may perform any and all the administrative procedures on behalf of parties who have appointed them as representatives: Provided, That in the act of closing the administrative procedure, the consent of parties shall be obtained.
- (5) When there are representatives, parties shall perform acts relating to administrative procedures only by and through the representatives.
- (6) When there are two or more representatives, the acts of administrative agencies to any of the representatives shall be effective on all the parties: Provided, That the notification of the administrative agencies shall, only if given to all of representatives, effective.

#### **Article 12 (Agents)**

- (1) Parties may designate as their agent a person falling under any of the following subparagraphs:
1. Spouse, lineal ascendant and descendant, and sibling of parties;
  2. Officers and personnel, in case where the party is a legal person;
  3. Lawyer;
  4. A person with permission from administrative agencies or in a case of a hearing, the presider;  
and
  5. A person eligible to be an agent in matters pertaining to a case concerned under the relevant Acts and subordinate statutes.
- (2) The provisions of Article 11 (3), (4) and (6) shall apply mutatis mutandis to cases of agents.



#### **Article 13 (Notice of Representatives and Agents)**

When parties appoint representatives or agents, they shall notify the administrative agencies without delay. The same shall apply when change or removal of the representatives or agents is made.

### **SECTION 4 Service and Special Rules of Period and Time Limit**

#### **Article 14 (Service)**

- (1) Service shall be made by means of postal service, delivery, or information and communications networks, etc. and to the domicile, residence, place of business, office, or electronic mail address (hereinafter referred to as the "domicile, etc.") of the person entitled to receive the service (including the representative or agent; hereinafter the same shall apply): Provided, That such service may be made at a place of meeting with the recipient of the service, if he consents thereto. *<Amended by Act No. 6839, Dec. 30, 2002>*
- (2) The service by delivery shall be completed by delivering the document in exchange of the written acceptance confirmation from the recipient of the service, and, if the person to receive the service is not present at the place where the service is to be made, may be made to his office worker, employee, or inmate with the mental capability to make reasonable judgement. *<Amended by Act No. 6839, Dec. 30, 2002>*
- (3) The service by means of information and communications networks may be made subject to the consent of the person to receive the service. In this case, the person to receive the service shall designate the electronic mail address, etc. where the service is to be made. *<Amended by Act No. 6839, Dec. 30, 2002>*
- (4) In case of falling under any of the following subparagraphs a public notification shall be made by way of listing on one or more of the Official Gazette, a public bulletin, a bulletin board, and a daily newspaper, and on the Internet, in consideration of conveniences of the person to receive the service: *<Amended by Act No. 6839, Dec. 30, 2002>*

1. When the domiciles of the person receiving the service cannot be confirmed by normal methods;  
and
  2. When the service is impossible.
- (5) Administrative agencies shall preserve records of document title, full name or title of the person receiving the service of process and the method of services and date thereof.
- (6) Deleted. *<by Act No. 6839, Dec. 30, 2002>*

#### **Article 15 (Effectuation of Service)**

- (1) The service shall be effectuated upon arrival to the person receiving the service except as otherwise stipulated by other Acts and subordinate statutes.
- (2) The service of electronic message by means of information and communications networks under Article 14 (3) shall be deemed to reach a person to receive such service when the electronic message is inputted in the computer, etc. designated by the person to receive the service. *<Newly Inserted by Act No. 6839, Dec. 30, 2002>*
- (3) In the cases of Article 14 (4), except as otherwise stipulated by other Acts and subordinate statutes, it shall be effective at the expiration of 14 days from the date of the public notification: Provided, That this shall not be applicable to cases where a different effective date thereof is determined in the public notification due to circumstances mandating immediate enforcement. *<Amended by Act No. 6839, Dec. 30, 2002>*

#### **Article 16 (Special Cases for Period and Time Limit)**

- (1) In case where it is impossible to keep the period and time limit due to a natural disaster or other causes beyond the control of parties, the progression of the period shall be suspended until the day of cessation of such causes.
- (2) The period and time limit for persons residing or sojourning in a foreign country shall be determined by administrative agencies taking into consideration the period for the postal service or correspondence.

## CHAPTER II DISPOSITION

### SECTION 1 Common Provisions

#### Article 17 (Application for Dispositions)

- (1) The application for disposition to administrative agencies shall be made in writing: Provided, That this shall not be applicable to such cases as otherwise stipulated by other Acts and subordinate statutes and to a case where administrative agencies have determined and publicly announced the other method.
- (2) When the application for disposition under paragraph (1) is made by means of electronic message, the application shall be deemed to be filed when the electronic message is inputted in computers, etc. of administrative agencies. *<Newly Inserted by Act No. 6839, Dec. 30, 2002>*
- (3) Administrative agencies shall post a notice (including any notice on the Internet) for the required documents, the receiving agency, the period of processing, and other matters necessary for the application for dispositions, or furnish the manual for its perusal by the general public. *<Amended by Act No. 6839, Dec. 30, 2002>*
- (4) When an application is officially submitted, administrative agencies may, except as specially stipulated by other Acts and subordinate statutes, not reserve or refuse the acceptance thereof or unjustly return it, and in a case of receiving the application, shall give the receipt thereof to the applicants: Provided, That the receipt shall not be required when it is prescribed by the Presidential Decree. *<Amended by Act No. 6839, Dec. 30, 2002>*
- (5) In a case of flaws, etc. and other deficiencies in the required documents of the application, administrative agencies shall allot a considerable period of time for the necessary supplements, and shall promptly request the applicants to make such supplements.

- (6) When the supplement is not submitted by the applicants within the period under paragraph (5) above, administrative agencies shall explain the reasons and may return the received applications.

<Amended by Act No. 6839, Dec. 30, 2002>

- (7) For the convenience of the applicants administrative agencies may have another administrative agency receive the applications: Provided, That in such cases, administrative agencies shall determine and publicly announce in advance the types of applications the other administrative agencies may receive.

- (8) The contents of applications may be supplemented, modified, and dismissed by applicants until dispositions are rendered: Provided, That this shall not be applicable to such a case where otherwise stipulated by other Acts and subordinate statutes or to cases where the nature of the application concerned does not allow for the supplement, modification, and dismissal thereof.

#### **Article 18 (Dispositions Involving More Than One Administrative Agency)**

When there is an application for dispositions with which two or more administrative agencies are concerned, the administrative agencies shall promptly cooperate to ensure that the dispositions are not unduly delayed.

#### **Article 19 (Establishment and Public Announcement of Processing Period)**

- (1) In order to advance the convenience of applicants, administrative agencies shall determine and publicly announce in advance the processing period for each type and class of the dispositions.
- (2) When deemed difficult to process within the processing period as prescribed in paragraph (1) above due to unavoidable causes, administrative agencies may extend the period only once and within the span of the processing period for the disposition concerned.
- (3) When an administrative agency intends to extend the processing period under paragraph (2) above, it shall without delay notify the applicants of the grounds for extension and the expected date for the completion of the processing.

- (4) When an administrative agency does not process within a mandated processing period, the applicants may request the administrative agency concerned or the supervisory administrative agency for prompt processing.
- (5) The period which shall not be included in the processing period under paragraph (1) above shall be determined by the Presidential Decree.

**Article 20 (Establishment and Public Announcement of Disposition Standards)**

- (1) The disposition standards shall be stated as concretely as possible in view of the nature of the dispositions concerned. They shall be determined and publicly announced by administrative agencies. The same shall be applicable to the change of the disposition standard.
- (2) The disposition standards may not be publicly announced when the public announcement of them under paragraph (1) above is impractical in light of the nature of the dispositions concerned or when it is reasonably deemed that the safety and welfare of the public may be severely damaged by the announcement.
- (3) When the publicly announced disposition standards are unclear, parties may request the administrative agencies concerned for the interpretation or explanation thereof. In such cases administrative agencies shall comply with such request unless there are special extenuating circumstances.

**Article 21 (Advance Notification of Dispositions)**

- (1) The matters of the following subparagraphs shall be notified to parties in advance when administrative agencies are rendering dispositions to parties concerned imposing duties on them or restricting their rights or interests:
  - 1. Title of the disposition;
  - 2. Full name or title, and domicile of parties concerned;
  - 3. The factual grounds for the disposition and the contents of the disposition and legal basis;

4. Advice that the opinions may be submitted on the items of subparagraph 3 above and the processing method when no opinions are presented;
  5. The title and address of the agency to which opinions may be submitted;
  6. Time limit for submission of opinions; and
  7. Other necessary matters.
- (2) When administrative agencies intend to proceed with a formal hearing, the matters of subparagraphs of paragraph (1) above shall be notified to the parties concerned at least 10 days before the commencement of the hearing. The matters of paragraph (1) 4 through 6 above shall be substituted by the appropriate matters for the hearing such as the affiliation, official position, and full name of the presider of the hearing, the date and time and location of the hearing, and the processing method in case the parties concerned can not attend the hearings.
- (3) The time limit under paragraph (1) 6 above shall be an adequate period to prepare and submit opinions.
- (4) The notification requirement under paragraph (1) may not apply to the cases falling under any of the following subparagraphs:
1. When an urgent disposition is necessary for the safety and welfare of the general public;
  2. When, in case a certain disposition should be taken because any qualification required by any Act or subordinate statute is not equipped with or is extinguished, it proves that such qualification is not equipped with or is extinguished; and
  3. When reasonably deemed that there are grounds that the hearing of opinions is impractical or the hearing is clearly unnecessary considering the nature of the dispositions concerned.

#### **Article 22 (Hearing of Arguments)**

- (1) In rendering dispositions, administrative agencies shall have a formal hearing in cases of the following subparagraphs:

1. When a formal hearing is demanded by other Acts and subordinate statutes; and
  2. When deemed necessary by administrative agencies.
- (2) In rendering dispositions, administrative agencies shall convene a public hearing in cases of the following subparagraphs:
1. When the convening of a public hearing is demanded by other Acts and subordinate statutes;  
and
  2. When deemed necessary by the administrative agency to compile wide range of opinions considering the potentially extensive influence of the dispositions concerned.
- (3) When administrative agencies are rendering dispositions to parties concerned, imposing duties on them, or restricting their rights and interests, except for cases of paragraph (1) or (2) above, an opportunity for submitting opinions shall be granted to the parties.
- (4) When falling under any of the subparagraphs of Article 21 (4), or when parties have clearly indicated the intent to renounce the opportunity for submitting opinions, the hearing of opinions may not be conducted notwithstanding the provisions of paragraphs (1) through (3) above.
- (5) Following a formal hearing, public hearing, or hearing of opinions, administrative agencies shall take dispositions promptly to ensure that the dispositions concerned are not delayed.
- (6) When there is a request by parties within 1 year after the dispositions, administrative agencies shall return documents and other materials present for the formal hearing, public hearing, or hearing of opinions.

#### **Article 23 (Declaration of Reasons for Dispositions)**

- (1) When rendering dispositions, administrative agencies shall set forth to parties the basis and reasons for dispositions with the exception of cases falling under any of the following subparagraphs:
1. In case of a disposition fully accepts the contents of the applications;

2. In case of a simple, repetitious disposition or an insignificant disposition where parties are deemed to know the reasons; and

3. In cases of emergency.

(2) When parties concerned so request, administrative agencies shall, ex post facto, explain the basis and reasons for the dispositions in cases of paragraph (1) 2 and 3 above.

#### **Article 24 (Method of Dispositions)**

(1) When administrative agencies render dispositions, the dispositions shall be made in writing or, subject to the parties' consent, by means of electronic message, except for cases otherwise stipulated by other Acts and subordinate statutes: Provided, That in cases necessitating prompt action or cases of minor matters, the dispositions may be conducted by way of oral statement or other methods, and in such cases, if requested by the parties, the documents concerning the disposition shall be delivered without delay. *<Amended by Act No. 6839, Dec. 30, 2002>*

(2) The documents of the dispositions shall state the administrative agency of the dispositions and the affiliation, full name, and point of contact (referring to the telephone number, fax number, electronic mail address, etc.) of the person in charge. *<Amended by Act No. 6839, Dec. 30, 2002>*

#### **Article 25 (Correction of Dispositions)**

When a clerical error, miscalculation, and other similar errors are found in the dispositions, administrative agencies shall without delay correct them ex officio or upon request and notify the parties.

#### **Article 26 (Notice)**

When rendering dispositions, administrative agencies shall notify parties if an action for administrative adjudication, administrative litigation or other remedial request may be filed. The parties shall be notified of filing procedure and filing deadline and other necessary matters.

*<Amended by Act No. 8451, May 17, 2007>*



## SECTION 2 Submission of Arguments and Hearing

### Article 27 (Submission of Arguments)

- (1) Parties may submit arguments regarding the dispositions to the administrative agency concerned in writing, orally, or by means of information and communications networks prior to the dispositions.

*<Amended by Act No. 6839, Dec. 30, 2002>*

- (2) When submitting arguments under paragraph (1), parties may concurrently submit documentary evidence, etc. supporting the claims.

- (3) When parties submit arguments by oral statement, administrative agencies shall record in writing the abstracts thereof and the person who has made the statement.

- (4) When parties fail to submit arguments within the designated time limit without justifiable grounds, it shall be deemed that there is no argument regarding the dispositions.

- (5) Deleted. *<by Act No. 6839, Dec. 30, 2002>*

### Article 27-2 (Reflection of Submitted Arguments)

When dispositions are rendered, administrative agencies shall take into consideration arguments submitted by the parties if they have convincing grounds.

*[This Article Newly Inserted by Act No. 6839, Dec. 30, 2002]*

### Article 28 (Presider of Hearing)

- (1) The hearing shall be presided over by a person designated from among personnel belonging to the administrative agency or persons qualified under the provisions of the Presidential Decree. The administrative agency shall endeavor for fairness in the designation of the presider of a formal hearing.

- (2) The presider of a hearing shall independently and fairly execute his duties, and shall not receive any detriment to his status due to his execution of duties against his own will. *<Amended by Act No. 6839,*

*Dec. 30, 2002>*

- (3) The presider of a hearing appointed among the persons as prescribed by the Presidential Decree under paragraph (1) shall be regarded as a public servant in the application of penal provisions under the Criminal Act and other Acts.

**Article 29 (Exclusion, Challenge, and Refrainment of Presider of Hearings)**

- (1) The presider of a hearing shall not preside over a hearing in case falling under any of the following subparagraphs: *<Amended by Act No. 6839, Dec. 30, 2002>*
1. When he currently or in the past is or was a party, or has or had a kinship relationship with parties falling under any subparagraphs of Article 777 of the Civil Act;
  2. When he has rendered a testimony or expert examination involved in the dispositions concerned;
  3. When he is currently or was previously involved in the dispositions concerned as an agent of one or more of the parties; and
  4. When he himself currently handles or previously handled the affairs of dispositions concerned.
- (2) When there are grounds for the presider to undermine the fair progression of the hearings parties may request the administrative agencies to replace the presider. In such case, administrative agencies shall suspend the hearing, and when the request is deemed reasonable, administrative agencies shall replace without delay the presider of the hearing concerned.
- (3) When the presider of a hearing falls under cases of paragraphs (1) and (2) above, he may voluntarily refrain from presiding over the hearing with the authorization of administrative agencies.

**Article 30 (Disclosure of Hearing)**

When there is a request or when the presider of the hearing deems it necessary, the hearing may be made open to the public: Provided, That the hearing shall not be made open when there is a risk that the interests of the public or third parties may be severely harmed.

### **Article 31 (Progression of Hearing)**

- (1) When commencing the hearing, the presider shall first explain the contents of the scheduled dispositions in question, their factual background, and legal basis, etc.
- (2) Parties may submit their arguments, present documentary evidence and address questions to a relevant witness and an expert witness.
- (3) When parties submit written arguments, the contents shall be deemed as stated in person at the hearing.
- (4) The presider may take measures necessary to ensure the prompt progression and orderly maintenance of the hearing.
- (5) When an administrative agency intends to continue the hearing, the parties shall be notified in writing or, subject to the parties' consent, by means of electronic message of the date and time and the location of the next hearing: Provided, That for parties in attendance at the hearing, the presider may notify the date of the hearing concerned by oral statement. *<Amended by Act No. 6839, Dec. 30, 2002>*

### **Article 32 (Consolidation and Separation of Hearings)**

Administrative agencies may execute the hearings ex officio or upon the request of applicants by consolidating or separating several cases.

### **Article 33 (Investigation of Evidence)**

- (1) Administrative agencies may ex officio or upon the request of applicants investigate necessary matters and may also investigate facts that parties have not claimed.
- (2) The investigation of evidence shall be done according to the methods falling under any of the following subparagraphs:
  1. Collection of evidence such as documents, ledgers, materials, etc.;
  2. Inquiries to relevant witnesses and expert witnesses, etc.;
  3. Verification or examination and assessment; and

4. Other necessary investigations.

- (3) The presider of the hearing, when deemed necessary, may request the administrative agencies involved to submit the necessary documents or statement of views. In such cases, the administrative agencies concerned shall comply with this request unless there are circumstances obstructing the execution of their duties.

#### **Article 34 (Record of Hearings)**

- (1) The presider of a hearing shall maintain a record of hearings on the following matters: *<Amended by Act No. 6839, Dec. 30, 2002>*

1. Title;
2. Personal information including affiliation, full name, etc. of the presider of a hearing;
3. Domicile, full name or title, and the attendance of parties;
4. Date and time and location of a hearing;
5. The abstract of statements of parties and the evidence submitted;
6. Whether or not a hearing is made open to the public; the grounds therefor under the proviso of Article 30 hereof;
7. The abstract and appended evidence when engaged in the investigation of evidence;
8. Deleted; and *<by Act No. 6839, Dec. 30, 2002>*
9. Other necessary matters.

- (2) Parties may inspect and review the contents of the hearings record and may request a correction if they have an objection thereto.

#### **Article 34-2 (Statement of Views of Presider of Hearing)**

The presider of a hearing shall draw up a statement of his own views which includes the following matters:

1. Title of a hearing;
2. Contents of disposition and major facts or evidence;

3. General views; and
4. Other necessary matters.

*[This Article Newly Inserted by Act No. 6839, Dec. 30, 2002]*

#### **Article 35 (Closing of Hearings)**

- (1) When deemed that the presentation of parties' arguments and investigation of evidence regarding the case have been completed, the presider of the hearing may conclude the hearing.
- (2) When all or any of parties are not in attendance at the fixed date of the hearing without justifiable grounds or when they do not submit written arguments under of Article 31 (3), the presider of the hearing may conclude the hearing without granting them the opportunity for submitting arguments and evidence.
- (3) When all or parts of parties are unable to be in attendance at the date and time of the hearing or to submit written arguments under of Article 31 (3) due to justifiable grounds, the presider of the hearing may set forth a considerable period and request them to submit arguments and evidence, and may conclude the hearing when the period concerned has expired.
- (4) When concluding the hearing, the presider thereof shall submit the records of the hearing, the statement of his own views, and other documents concerned, etc. to the administrative agency concerned without delay. *<Amended by Act No. 6839, Dec. 30, 2002>*
- (5) Deleted. *<by Act No. 6839, Dec. 30, 2002>*

#### **Article 35-2 (Reflection of Results of Hearings)**

Administrative agencies shall carefully review the records of the hearing, the statement of views of the presider of the hearing, and other documents concerned, etc. submitted under Article 35 (4), and if deemed reasonable, shall reflect the results of the hearing in rendering dispositions.

*[This Article Newly Inserted by Act No. 6839, Dec. 30, 2002]*

#### **Article 36 (Reopening of Hearings)**

If reopening of a formal hearing is deemed necessary due to the revelation of new facts between the closing of the hearing and dispositions, administrative agencies shall return the records of the hearing, etc. submitted under of Article 35 (4) and order the reopening of the hearing. With regard to such cases the provisions of Article 31 (5) shall apply *mutatis mutandis*.

#### **Article 37 (Inspection of Documents and Confidentiality)**

- (1) Parties may request administrative agencies for the inspection or duplication of the documents regarding the investigation results of the cases, and other documents related to the dispositions concerned, from the day of the notice of the hearing until the closing of the hearing. In such cases, administrative agencies shall not reject such a request unless otherwise stipulated by the Acts and subordinate statutes.
- (2) In complying with the demand for inspection or duplication under paragraph (1) above, administrative agencies may designate the date and time, and location for the services.
- (3) When rejecting the demand for inspection or duplication under the provisions of the latter sentence of paragraph (1), administrative agencies shall clearly explain the reasons therefor.
- (4) The scope of the documents subject to the inspection or duplication under paragraph (1) above shall be provided for by the Presidential Decree.
- (5) Administrative agencies may charge the expenses for the duplication under paragraph (1) to the person who made the request.
- (6) No one shall, without justifiable grounds, leak or use for other purposes the secrets concerning private lives or business or transaction secrets obtained through the hearings.

## SECTION 3 Public Hearing

### Article 38 (Announcement of Commencement of Public Hearing)

To commence a public hearing, administrative agencies shall notify the parties of the matters of the following subparagraphs at least 14 days before the commencement of the public hearing and inform the general public by public notification through methods such as listing on the Official Gazette, public bulletin, Internet homepage, or daily newspaper, etc.:

1. Title;
2. Date and time, and location;
3. Main contents;
4. Information about presenters;
5. Methods of application for presentation and the term of application;
6. Presentation of opinions by means of information and communications networks; and
7. Other necessary matters for conducting a public hearing.

*[This Article Wholly Amended by Act No. 8451, May 17, 2007]*

### Article 38-2 (Electronic Public Hearing)

- (1) Administrative agencies may conduct a public hearing through information and communications networks (hereinafter referred to as an "electronic public hearing") only in parallel with a public hearing under Article 38.
- (2) When conducting an electronic public hearing, administrative agencies shall build and operate information and communications networks with appropriate electronic process systems to enable submission of opinions and participation in discussion.
- (3) When conducting an electronic public hearing, any person may submit opinions or participate in discussion on submitted opinions through information and communications networks.

- (4) Other necessary matters for methods or procedures of conducting an electronic public hearing shall be prescribed by the Presidential Decree.

*[This Article Newly Inserted by Act No. 8451, May 17, 2007]*

**Article 38-3 (Selection of Presider and Presenters of Public Hearing)**

- (1) The presider of a public hearing shall be designated or commissioned by administrative agencies from among those with specialized knowledge in the field related to the topics of such public hearing or with career experience in the field.
- (2) Presenters of a public hearing shall be selected by administrative agencies from among those applied for presentations: Provided, That administrative agencies may designate or commission presenters from among those falling under the following subparagraphs, when no person has applied for a presentation, or when they regard it necessary to insure fairness of a public hearing:
1. The parties related to the topic of the public hearing concerned;
  2. Persons with special knowledge in the field related to the topic of the public hearing concerned;
  - and
  3. Persons with career experience in the field related to the topic of the public hearing concerned.
- (3) Administrative agencies shall be fair in designating, commissioning or selecting the presider or presenters of a public hearing.
- (4) Administrative agencies may pay the presider or presenters of a public hearing, or specialists who submit information to a public hearing for allowances, travel expenses or other necessary expenses within budget.

*[This Article Newly Inserted by Act No. 8451, May 17, 2007]*

**Article 39 (Progression of Public Hearing)**

- (1) The presider of a public hearing shall be fair in proceeding a public hearing, may restrict the contents of presentation for smooth progression of a public hearing and may take necessary



measures for maintaining order such as suspension of speaking or order to exit as determined by the Minister of Public Administration and Security. *<Amended by Act No. 8852, Feb. 29, 2008>*

- (2) A presenter shall address matters directly related to the contents of the public hearing.
- (3) The presider of a public hearing shall allow questions and answers among presenters and give audiences opportunities to speak opinions after a presentation is finished.

*[This Article Wholly Amended by Act No. 8451, May 17, 2007]*

#### **Article 39-2 (Reflection of Results of Public Hearing or Electronic Public Hearing)**

When administrative agencies recognize that the facts and opinions presented through public hearings, electronic public hearings, or information and communications networks are reasonable, they shall have these reflected in rendering dispositions. *<Amended by Act No. 8451, May 17, 2007>*

*[This Article Newly Inserted by Act No. 6839, Dec. 30, 2002]*

## **CHAPTER III NOTIFICATIONS**

#### **Article 40 (Notifications)**

- (1) As to notifications of legal importance, such as releasing a person from a liability when meeting the notification requirements, administrative agencies in control of the notification matters shall post a notice (including any notice on the Internet, etc.) for the required documents and receiving agencies for the notification and other necessary matters under Acts and subordinate statutes or shall furnish the manual of the notification matters for inspection by the public. *<Amended by Act No. 6839, Dec. 30, 2002>*
- (2) When a notification under paragraph (1) meets the conditions of the following subparagraphs, the notification requirements shall be deemed fulfilled upon the arrival of the notification at the receiving agency: *<Amended by Act No. 6839, Dec. 30, 2002>*
  - 1. When there are no erroneous statements in the written notification;
  - 2. When the required documents are duly appended; and

3. When the notification conforms to the formalities provided under the Acts and subordinate statutes.

(3) In a case where a presented notification does not meet the conditions of paragraph (2), administrative agencies shall set forth a reasonable period and demand its supplement from the applicants.

(4) When the applicant does not submit a supplement within the period as stipulated by paragraph (3), administrative agencies shall clearly explain the reason and return the written notifications concerned.

## CHAPTER IV ADMINISTRATIVE PRE- ANNOUNCEMENT OF LEGISLATION

### **Article 41 (Administrative Pre-Announcement of Legislation)**

(1) When intending to enact, amend, or abolish Acts and subordinate statutes (hereinafter referred to as the "legislation"), administrative agencies preparing the legislation concerned shall pre-announce it: Provided, That in case of falling under any of the following subparagraphs, such pre-announcement may be omitted: *<Amended by Act No. 6839, Dec. 30, 2002>*

1. Where the contents of the legislation have no relation to the rights and duties or daily lives of citizens;
2. Where the legislation requires urgency;
3. Where the legislation is just made for the enforcement of senior Acts and subordinate statutes;
4. Where the pre-announcement might severely damage the public interest; and
5. Where the pre-announcement is deemed unnecessary or difficult considering the nature of the contents of the legislation or for other reasons.

(2) Deleted. *<by Act No. 6839, Dec. 30, 2002>*

- (3) In cases where receiving a request for review of the Acts and subordinate statutes that have not gone through the pre-announced legislation procedure, the Minister of Legislation may recommend the preannouncement of legislation to the administrative agency concerned or directly preannounce, if the pre-announcement of legislation is deemed necessary.
- (4) Matters necessary for the standards and procedures for the preannouncement of legislation shall be prescribed by the Presidential Decree.

**Article 42 (Methods of Pre-Announcement)**

- (1) Administrative agencies shall widely notify the purpose of the legislation, its important contents, or its entire text by means of the Official Gazette, public bulletin, Internet, newspaper, broadcasting, etc.  
*<Amended by Act No. 6839, Dec. 30, 2002>*
- (2) Administrative agencies shall, when they make a pre-announcement of legislation, submit Presidential Decree to the competent standing committee of the National Assembly. *<Newly Inserted by Act No. 7904, Mar. 24, 2006>*
- (3) Administrative agencies shall, when they make a preannouncement of legislation, notify central administrative agencies, local governments or other organizations deemed related to such legislation, of preannouncement of legislation by notifying matters to be pre-announced or using other means. *<Amended by Act No. 8451, May 17, 2007>*
- (4) Administrative agencies may extensively collect public opinions on the legislation pre-announced pursuant to paragraph (1), through electronic public hearings. In this case, the provisions of Article 38-2 (2) through (4) shall apply mutatis mutandis. *<Newly Inserted by Act No. 8451, May 17, 2007>*
- (5) With respect to the applications for an inspection or duplication of the entire text of the preannouncement of legislation, administrative agencies shall comply with such applications unless circumstances mandating otherwise exist.

- (6) Administrative agencies may charge the expenses for duplication under paragraph (4) to the applicants thereof. *<Amended by Act No. 7904, Mar. 24, 2006>*

**Article 43 (Period of Pre-Announcement)**

The period of pre-announcement for legislation shall be determined at the time of pre-announcement. Unless circumstances mandating otherwise exist, it shall be not less than 40 days (20 days in cases of Regulations). *<Amended by Act No. 11109, Dec. 2, 2011>*

**Article 44 (Submission of Arguments and Its Process)**

- (1) Any person may submit opinions concerning the pre-announced legislation.
- (2) Administrative agencies shall also publicly notify the agencies to receive the opinions, the period for the submission of opinions, and other necessary matters when pre-announcing the legislation concerned.
- (3) In cases where opinions regarding the legislation concerned are submitted, administrative agencies shall respect the opinions and process accordingly, unless circumstances mandating otherwise exist.
- (4) Administrative agencies shall notify a person who submits opinions of the processed results thereof.
- (5) With respect to the processing method of the submitted opinions and notice of the results, it shall be prescribed by the Presidential Decree.

**Article 45 (Public Hearing)**

- (1) With respect to a proposed legislation, administrative agencies may hold a public hearing.
- (2) With respect to public hearings, the provisions of Articles 38, 38-2, 38-3, 39, and 39-2 shall apply mutatis mutandis. *<Amended by Act No. 6839, Dec. 30, 2002; Act No. 8451, May 17, 2007>*

## CHAPTER V PRE-ANNOUNCEMENT OF ADMINISTRATION

### Article 46 (Pre-Announcement of Administration)

- (1) When administrative agencies intend to establish, enforce, or change policies, system, and planning concerning matters falling under any of the following subparagraphs, they agencies shall pre-announce the matters: Provided, That when the safety and welfare of the public may be severely damaged by the pre-announcement or when circumstances making the pre-announcement difficult exist, the pre-announcement may be omitted:
1. Matters of great influence to the livelihood of citizens;
  2. Matters of conflict of interests between many citizens;
  3. Matters imposing inconveniences and burdens on many citizens; and
  4. Other matters requiring the wide accumulation of opinions from citizens.
- (2) Despite the provisions of paragraph (1), the pre-announcement of administration may be substituted by pre-announcement of legislation when the former includes the legislation of other Acts and subordinate statutes.
- (3) The period of pre-announcement of administration shall be determined taking into consideration the nature of its contents, and unless special circumstances exist, it shall be not less than 20 days.

### Article 47 (Mutatis Mutandis Application)

The provisions of Articles 42 (excluding paragraph (4)), 44 (1) through (3) and 45 shall apply mutatis mutandis to the method of preannouncement of administration, to submission of opinions and processing thereof, and to a public hearing or an electronic public hearing. *<Amended by Act No. 8451, May 17, 2007>*

## CHAPTER VI ADMINISTRATIVE GUIDANCE

### **Article 48 (Principles of Administrative Guidance)**

- (1) The administrative guidance shall be made as little as necessary for the attainment of the purpose thereof, and shall not be unjustly exercised against the will of the other party of administrative guidance.
- (2) An administrative agency shall not treat the other party of administrative guidance disadvantageously because of the other party's non-compliance with the administrative guidance concerned.

### **Article 49 (Manners of Administrative Guidance)**

- (1) Any person rendering an administrative guidance shall make clear to the other party both his own identity, and the purpose and content of the administrative guidance concerned.
- (2) Where the administrative guidance is rendered by oral statement, the person imposing administrative guidance concerned shall, when requested by the other party, provide the matters as stipulated in paragraph (1) in writing, so long as no extraordinary administrative inconvenience arises thereby.

### **Article 50 (Submission of Arguments)**

The other party subject to the administrative guidance concerned may submit arguments in regards to the manners and content, etc. thereof.

### **Article 51 (Administrative Guidance Directed to More Than One Person)**

When an administrative agency intends to render any administrative guidance to a number of persons in order to achieve a common administrative objective, then the agency shall make such matters known to the public, so long as no extraordinary inconvenience arises thereby.

## CHAPTER VII SUPPLEMENTARY PROVISIONS

### Article 52 (Payment of Expenses)

Expenses required for the administrative procedure shall be borne by administrative agencies:

Provided, That the same shall not apply to expenses paid by the parties for themselves.

### Article 53 (Provision of Expenses for Relevant Witnesses, etc.)

- (1) For the relevant witnesses, expert witnesses, etc. necessary for the progression of the administrative procedure, administrative agencies may provide traveling costs and a daily allowance within the scope of the budget.
- (2) The criteria for the provision of expenses under paragraph (1) shall be prescribed by the Presidential Decree.

### Article 54 (Request for Cooperation, etc.)

The Minister of Public Administration and Security (Minister of Legislation in the case of Chapter IV) shall strive for the efficient operation of this Act, and if necessary, he may confirm the actual operational situation and conditions, and request the administrative agencies concerned for cooperation by the presentation of relevant data, etc. *<Amended by Act No. 6839, Dec. 30, 2002; Act No. 8852, Feb. 29, 2008>*

### ADDENDA

- (1) (Enforcement Date) This Act shall enter into force one year after the date of its promulgation.
- (2) (Example of Application) This Act shall not apply to matters pertaining to the disposition, report, administrative pre-announcement of legislation, preannouncement of administration, and administrative guidance in progress at the time of the enforcement of this Act.

ADDENDA *<Act No. 5809, Feb. 5, 1999>*

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 6 Omitted.**

ADDENDA <Act No. 6839, Dec. 30, 2002>

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures) With respect to administrative procedures in progress at the time this Act enters into force, the previous provisions shall apply.

ADDENDUM <Act No. 7904, Mar. 24, 2006>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 8451, May 17, 2007>

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures) With respect to administrative procedures in progress at the time this Act enters into force, the previous provisions shall apply.

ADDENDA <Act No. 8852, Feb. 29, 2008>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 7 Omitted.**

ADDENDA <Act No. 11109, Dec. 2, 2011>



**Article 1 (Enforcement Date)**

This Act shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the United States of America and Exchange of Letters related to the Agreement enters into force.

**Article 2 (Applicability to Extension of Period of Pre-Announcement for Legislation)**

The amended provisions of Article 43 shall apply to an Act or subordinate statute regarding which a pre-announcement for legislation is made on or after this Act enters into force.

---