Administrative Litigation Law of the PRC

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Adopted at the 2nd Session of the Seventh National People's Congress on April 4, 1989

Amended in accordance with the Decision on Amending the Administrative Litigation Law of the People's Republic of China adopted at the 11th Session of the Standing Committee of the Twelfth National People's Congress on November 1, 2014; amended in accordance with the Decision on Amending the Civil Procedure Law of the People's Republic of China and the Administrative Litigation Law of the People's Republic of China adopted at the 28th Session of the Standing Committee of the Twelfth National People's Congress on June 27, 2017

Effective: July 1, 2017 (2017 Amendment)

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of ensuring the fair and timely trial of administrative cases by the people's courts, resolving administrative disputes, protecting the legitimate rights and interests of citizens, legal persons and other organizations, and supervising the exercise of administrative power by administrative organs in accordance with the law.

Article 2 — Citizens, legal persons or other organizations shall have the right to initiate litigation in the people's courts in accordance with this Law where they believe that the administrative acts of an administrative organ or its staff have infringed upon their legitimate rights and interests. For the purposes of the preceding paragraph, "administrative act" includes administrative acts performed by an organization authorized by laws, regulations or rules to administer public affairs.

Article 3 — The people's courts shall protect the right of citizens, legal persons and other organizations to initiate litigation in accordance with the law and shall accept administrative cases that should be accepted in accordance with the law. Administrative organs and their staff shall not interfere with or obstruct the people's courts from accepting administrative cases. Responsible persons of administrative organs being sued shall appear in court to respond to the lawsuit. Where the responsible person is unable to appear in court, the administrative organ shall entrust the corresponding staff to appear in court.

Article 4 — The people's courts shall exercise judicial power independently in trying administrative cases according to law and shall not be subject to interference by administrative organs, public organizations or individuals.

Article 5 — In trying administrative cases, the people's courts shall examine the legality of the administrative acts.

Article 6 — In trying administrative cases, the people's courts shall practice the system of collegial benches, recusal, public trial and the system of two instances being final in accordance with the law.

Article 7 — Parties in administrative litigation shall have equal legal status.

Article 8 — Citizens of all ethnic groups shall have the right to use their own spoken and written languages in administrative litigation. In an area where a minority ethnic group lives in a compact community or where several ethnic groups live together, the people's courts shall conduct trials and publish legal instruments in the spoken and written languages commonly used by the ethnic groups in that area. The people's courts shall provide interpretation for litigation participants who are not familiar with the spoken and written languages commonly used by the ethnic groups in that area.

Article 9 — The parties shall have the right to debate in administrative litigation.

Article 10 — The people's procuratorates shall have the right to exercise legal supervision over administrative litigation.

Chapter II — Scope of Accepting Cases

Article 11 — The people's courts shall entertain suits brought by citizens, legal persons or other organizations against any of the following specific administrative acts:

(1) an administrative penalty such as detention, fine, revocation of a permit or license, order to suspend production or business operations, confiscation of property, etc.;

(2) compulsory administrative measures such as restriction of personal freedom or the sealing up, seizure or freezing of property;

(3) an administrative act infringing upon the right to autonomous business operations as provided for by law;

(4) the administrative organ refuses to issue, or fails to respond to an application for issuance of, a permit or license that the applicant is legally qualified to receive;

(5) the administrative organ refuses to perform, or fails to respond to an application for performance of, its statutory duty to protect personal and property rights;

(6) the administrative organ fails to distribute consolation money, minimum subsistence allowances or social insurance benefits in accordance with the law;

(7) an administrative act imposing obligations in violation of the law;

(8) an administrative act regarding the confirmation and determination of ownership or the right to use natural resources such as land, mineral deposits, water flows, forests, mountains, grasslands, wasteland, tidal flats and sea areas;

(9) abuse of administrative power to eliminate or restrict competition;

(10) an administrative act regarding expropriation or requisition of property and decisions on compensation;

(11) the administrative organ fails to perform, or fails to conclude, an administrative agreement in accordance with the provisions, or unilaterally amends or rescinds an administrative agreement in violation of the law; or

(12) any other administrative act that infringes upon personal or property rights or other legitimate rights and interests.

In addition to the provisions of the preceding paragraph, the people's courts shall also entertain other administrative cases that may be initiated in accordance with the provisions of laws and regulations.

Article 12 — The people's courts shall not entertain suits brought by citizens, legal persons or other organizations against the following matters:

(1) acts of the State in the areas of national defense, foreign affairs and other such areas;

(2) administrative regulations, rules or decisions and orders of general binding force formulated or issued by administrative organs;

(3) decisions of administrative organs on rewards and punishments or on appointments and removals of their staff;

(4) final decisions made by administrative organs as provided for by law.

Chapter III — Jurisdiction

Article 13 — The basic people's courts shall have jurisdiction as courts of first instance over administrative cases.

Article 14 — The intermediate people's courts shall have jurisdiction as courts of first instance over the following administrative cases:

(1) cases against administrative acts taken by departments of the State Council or people's governments at or above the county level;

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(2) cases involving the handling of customs affairs;

(3) major or complicated cases within their respective jurisdictions; or

(4) other cases over which the intermediate people's courts have jurisdiction in accordance with the provisions of this Law.

Article 15 — The high people's courts shall have jurisdiction as courts of first instance over major or complicated administrative cases within their respective jurisdictions.

Article 16 — The Supreme People's Court shall have jurisdiction as a court of first instance over major or complicated administrative cases of nationwide significance.

Article 17 — An administrative case shall be under the jurisdiction of the people's court at the place where the administrative organ that originally performed the administrative act is located. With respect to a case that has undergone reconsideration, the people's court at the place where the reconsideration organ is located may also have jurisdiction. With respect to an administrative case that has been approved for cross-regional jurisdiction by the Supreme People's Court, the higher people's court may determine that the case be tried by a different people's court through its decision.

Article 18 — An administrative case involving restriction of personal freedom shall be under the jurisdiction of the people's court at the place where the defendant is located or where the plaintiff is located.

Article 19 — An administrative case involving real property shall be under the jurisdiction of the people's court at the place where the real property is located.

Article 20 — Where two or more people's courts have jurisdiction over a case, the plaintiff may choose to file a lawsuit with one of them. Where the plaintiff files lawsuits with two or more people's courts having jurisdiction, the case shall be under the jurisdiction of the people's court that first entertains the case.

Article 21 — Where a people's court discovers that a case it has entertained does not fall under its jurisdiction, it shall transfer the case to the people's court having jurisdiction, and the people's court to which the case is transferred shall entertain the case. Where a people's court to which the case is transferred believes that the transferred case does not fall under its jurisdiction, it shall request its superior people's court to designate jurisdiction and shall not further transfer the case on its own.

Article 22 — Where disputes over jurisdiction arise, the parties shall request the people's courts at the next higher level common to both to designate jurisdiction.

Article 23 — The people's courts at a higher level shall have the right to try administrative cases of first instance over which the people's courts at a lower level have jurisdiction. The people's courts at a lower level may transfer administrative cases of first instance over which they have jurisdiction to the people's courts at a higher level for trial.

Chapter IV — Litigation Participants

Article 24 — Citizens, legal persons or other organizations that initiate litigation in accordance with this Law shall be plaintiffs. Citizens who have the right to initiate litigation and have died, their close relatives may initiate litigation. Legal persons or other organizations that have the right to initiate litigation and have been terminated, the legal persons or other organizations that succeed to their rights may initiate litigation.

Article 25 — The administrative organ that performed the administrative act shall be the defendant in an administrative case. Where the administrative act was performed by an organization authorized by laws, regulations or rules to administer public affairs, that organization shall be the defendant. Where an administrative act is performed by an organization entrusted by an administrative organ, the entrusting organ shall be the defendant. Where an administrative organ has been abolished or its powers have been modified, the administrative organ that continues to exercise its powers shall be the defendant.

Article 26 — Where the parties, the legal representatives and the entrusted agents are the same party, the number of entrusted agents shall be one or two. The following persons may be entrusted as agents ad litem: lawyers, grassroots legal service workers; close relatives or staff of the parties; and citizens recommended by the community, the entity where the party works or the relevant social group.

Article 27 — Where the administrative act performed by an administrative organ involves a joint rights and obligation relationship with two or more administrative organs, or such administrative organs jointly perform the same administrative act, such administrative organs shall be joint defendants.

Article 28 — Where a party, one of the joint parties, or a third party has a relatively large number of persons, the parties may elect one to five representatives to conduct the litigation. Where the representatives fail to be elected within the prescribed period, the people's court may designate the representatives.

Article 29 — Citizens, legal persons or other organizations that have an interest in the administrative act being adjudicated but have not initiated litigation may apply to participate in the litigation as a third party, or the people's court may notify them to participate in the litigation. Where a third party does not participate in the litigation, it shall not affect the trial of the case by the people's court.

Chapter V — Evidence

Article 30 — Evidence shall be classified as follows:

(1) documentary evidence;

(2) material evidence;

(3) audio-visual materials;

(4) electronic data;

(5) witness testimony;

(6) statements of the parties;

(7) expert conclusions; and

(8) on-site inspection records and on-site records.

The above-mentioned evidence must be verified by the court before it can be used as a basis for determining the facts of the case.

Article 31 — The defendant shall bear the burden of proof for the administrative act it has performed and shall provide evidence of the administrative act and the normative documents on which the administrative act is based. Where the defendant fails to provide evidence or fails to provide evidence within the statutory time limit, it shall be deemed that there is no corresponding evidence. However, an exception shall apply where the sued administrative act involves the legitimate rights and interests of a third party and the third party provides evidence.

Article 32 — In the course of litigation, the defendant shall not collect evidence from the plaintiff, the third party or witnesses on its own initiative.

Article 33 — The people's court shall have the right to request the parties to provide or supplement evidence. The people's court shall have the right to collect evidence from the relevant administrative organs, other organizations and citizens.

Article 34 — In the course of litigation, the people's court may, when it deems necessary to carry out expert evaluation of a specialized issue, submit the issue to an expert evaluation institution for evaluation. An expert evaluator shall be appointed by the people's court, and where there is no statutory evaluation institution, the people's court may designate an evaluation institution.

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Article 35 — Where, under the threat of an impossibility of obtaining evidence or difficulty in obtaining evidence in the future, a litigation participant may apply to the people's court for preservation of evidence, and the people's court may also take preservation measures on its own initiative.

Chapter VI — Filing and Entertaining a Case

Article 36 — Citizens, legal persons or other organizations that fall under the scope of administrative litigation in accordance with this Law shall first apply to the administrative organ for reconsideration. If they are dissatisfied with the reconsideration decision, they may then file a lawsuit with the people's court. They may also directly file a lawsuit with the people's court. Where laws or regulations provide that an application to the administrative organ for reconsideration shall be filed first, and where the parties are dissatisfied with the reconsideration decision, they may then file a lawsuit with the people's court, those provisions shall apply.

Article 37 — Where an application for reconsideration has been filed and the reconsideration organ fails to make a decision within the statutory time limit, the applicant may file a lawsuit with the people's court within 15 days from the date of expiry of the time limit for reconsideration; unless otherwise provided for by law.

Article 38 — Citizens, legal persons or other organizations that directly file a lawsuit with the people's court shall file the lawsuit within six months from the date on which they knew or should have known of the administrative act. Where laws provide otherwise, those provisions shall apply. Where an administrative organ fails to inform the citizen, legal person or other organization of the time limit for initiating litigation when performing the administrative act, the time limit for initiating litigation shall be calculated from the date on which the citizen, legal person or other organization knew or should have known of the time limit for initiating litigation, but the maximum period shall not exceed one year from the date on which the citizen, legal person or other organization knew or should have known of the content of the administrative act. Where the maximum period for initiating litigation relating to real property exceeds 20 years from the date on which the administrative act was performed, or the maximum period for initiating other administrative litigation exceeds five years from the date on which the administrative act was performed, the people's court shall not entertain the case.

Article 39 — Where citizens, legal persons or other organizations are unable to exercise their right to initiate litigation within the statutory time limit due to force majeure or other special circumstances, they may apply for an extension of the time limit within 10 days after the obstacle is removed, and the people's court shall decide whether to grant the extension.

Article 40 — The conditions for initiating litigation shall be as follows:

(1) the plaintiff is a citizen, legal person or other organization that believes that the administrative act has infringed upon its legitimate rights and interests;

(2) there is a clear defendant;

(3) there is a specific claim for litigation and a factual basis;

(4) it falls under the scope of accepting cases by the people's courts and under the jurisdiction of the people's court where the lawsuit is filed.

Article 41 — Where a lawsuit is initiated, a written complaint shall be filed with the people's court, together with copies corresponding to the number of defendants. Where it is truly difficult to file a written complaint, the lawsuit may be initiated orally and the people's court shall make a record and notify the opposing party.

Article 42 — The people's court shall, upon receipt of the written complaint, register and file the case if it meets the conditions for initiating litigation as provided for in this Law. Where the conditions for initiating litigation are not fully met on site, the people's court shall accept the filing, issue a receipt indicating the date of receipt, and make a decision on whether to entertain the case within seven days. Where the people's

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court neither entertains the case nor makes a ruling on not entertaining the case within seven days, the party may appeal to the people's court at the next higher level.

Chapter VII — Trial and Judgment

Article 43 — The people's court shall send a copy of the written complaint to the defendant within five days from the date of entertaining the case. The defendant shall, within 15 days from the date of receipt of the copy of the written complaint, submit to the people's court the evidence and the normative documents on which the administrative act is based and provide a written reply. The people's court shall send a copy of the written reply to the plaintiff within five days from the date of receipt. Where the defendant fails to provide a written reply, this shall not affect the trial of the case by the people's court.

Article 44 — In the course of litigation, the people's court shall not suspend the enforcement of the administrative act, except under any of the following circumstances:

(1) the defendant considers it necessary to suspend enforcement;

(2) the plaintiff or an interested party applies for suspension of enforcement and the people's court believes that the enforcement of the administrative act would cause irreparable damage and that the suspension of enforcement would not harm the public interest; or

(3) the people's court considers that the enforcement of the administrative act would cause irreparable damage to the public interest.

Article 45 — Administrative cases tried by the people's courts shall be tried in public, except for those involving state secrets, personal privacy or otherwise provided for by law. Cases involving trade secrets may be tried in camera upon application by the parties.

Article 46 — The people's court shall form a collegial bench or a sole judge to try administrative cases. The people's courts may apply summary procedures to try the following administrative cases of first instance where the facts are clear, the rights and obligations relationship is explicit and the dispute is minor:

(1) cases where the administrative act being sued was performed on the spot in accordance with the law;

(2) cases involving an amount of not more than 2,000 yuan; or

(3) cases falling under publicly-known government information disclosure matters.

Article 47 — A party who believes that a judge has an interest in the case or has other relationships that may affect fair trial shall have the right to apply for recusal of the judge. A judge who believes that he has an interest in the case or has other relationships shall apply for recusal. The provisions of the two preceding paragraphs shall apply to court clerks, interpreters, expert evaluators and inspectors. The recusal of the president of the court shall be decided by the judicial committee; the recusal of a judge shall be decided by the president of the court; and the recusal of other persons shall be decided by the presiding judge. Where a party is dissatisfied with the decision, the party may apply for reconsideration once.

Article 48 — Where the plaintiff refuses to appear in court without a legitimate reason, or leaves the courtroom during the court session without the permission of the court, the litigation may be treated as withdrawn. Where the defendant refuses to appear in court without a legitimate reason, or leaves the courtroom during the court session without the permission of the court, a judgment may be rendered by default.

Article 49 — Litigation participants and other persons shall observe the order of the courtroom. The people's court may take compulsory measures against those who violate the order of the courtroom, and may impose fines or detention in accordance with the law. If the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

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Article 50 — The people's court may mediate the handling of administrative cases, except for administrative compensation or compensatory cases and cases where the administrative organ exercises its discretionary power as provided for by laws and regulations. Mediation shall follow the principles of voluntariness and legality, and shall not harm the national interest, the public interest or the legitimate rights and interests of others.

Article 51 — The people's court shall render a judgment of first instance within six months from the date of entertaining the case. Under special circumstances requiring an extension, the matter shall be reported to a higher people's court for approval.

Article 52 — After hearing an administrative case, the people's court shall render a judgment in accordance with the following circumstances:

(1) where the evidence for the administrative act is conclusive, the application of laws and regulations is correct, and the statutory procedures have been followed, the plaintiff's claim for litigation shall be rejected and the administrative act shall be affirmed;

(2) where the administrative act falls under any of the following circumstances, the people's court shall render a judgment to revoke or partially revoke the administrative act, and may render a judgment ordering the defendant to re-perform the administrative act: the main evidence is insufficient; the application of laws or regulations is erroneous; the statutory procedures have been violated; the administrative organ has exceeded its authority; or the administrative organ has abused its powers;

(3) where the administrative organ fails to perform or delays the performance of its statutory duties, the people's court shall render a judgment ordering the administrative organ to perform the duties within a certain period; or

(4) where the administrative penalty is manifestly improper, or involves the determination of the amount of money, the people's court may render a judgment to amend the administrative act.

Article 53 — Where the people's court considers that the administrative act is lawful, it shall render a judgment affirming the administrative act.

Article 54 — Where a party is dissatisfied with the judgment of first instance of the people's court, the party shall have the right to appeal to the people's court at the next higher level within 15 days from the date of service of the written judgment. Where a party is dissatisfied with the ruling of first instance of the people's court, the party shall have the right to appeal to the people's court at the next higher level within 10 days from the date of service of the written ruling. Where an appeal is not filed within the statutory time limit, the judgment or ruling of first instance of the people's court shall become legally effective.

Article 55 — The people's court shall, within three months from the date of receipt of the appeal petition, render a final judgment. If there are special circumstances requiring an extension, the matter shall be reported to the higher people's court for approval.

Chapter VIII — Enforcement

Article 56 — The parties shall perform the legally effective judgments, rulings or mediation statements of the people's courts. Where a citizen, legal person or other organization refuses to perform a judgment, ruling or mediation statement, the administrative organ or a third party may apply to the people's court of first instance for compulsory enforcement or enforce it on its own in accordance with the law.

Article 57 — Where an administrative organ refuses to perform a judgment, ruling or mediation statement, the people's court of first instance may adopt the following measures:

(1) notify the bank to transfer a corresponding amount from the administrative organ's account;

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(2) impose a daily fine of 50 to 100 yuan on the administrative organ for the period during which the performance is delayed;

(3) issue a judicial proposal to the supervisory organ or the administrative organ at the next higher level of the administrative organ. The organ receiving the judicial proposal shall handle the matter in accordance with the relevant provisions and notify the people's court of the handling result; or

(4) where the refusal to perform the judgment, ruling or mediation statement is serious and causes adverse social impact, detain the directly responsible person in charge and other directly responsible persons of the administrative organ in accordance with the law, or pursue criminal liability in accordance with the law where a crime is constituted.

Article 58 — Where a citizen, legal person or other organization fails to initiate litigation or perform the specific administrative act within the statutory time limit, the administrative organ may apply to the people's court for compulsory enforcement or enforce it on its own in accordance with the law.

Chapter IX — Foreign-Related Administrative Litigation

Article 59 — Where a foreign national, stateless person or foreign organization initiates litigation in the people's court of the People's Republic of China, it shall be governed by the provisions of this Law, except as otherwise provided for by law.

Article 60 — A foreign national, stateless person or foreign organization that initiates litigation in the people's court of the People's Republic of China shall have the same rights and obligations in litigation as citizens or organizations of the People's Republic of China. Where the courts of a foreign country impose restrictions on the litigation rights of citizens and organizations of the People's Republic of China, the people's courts of the People's Republic of China shall apply the principle of reciprocity with respect to the litigation rights of citizens and organizations of that country.

Article 61 — Where an international treaty concluded or acceded to by the People's Republic of China contains provisions different from those of this Law, the provisions of the international treaty shall apply, except for those provisions on which the People's Republic of China has declared reservations.

Article 62 — Where a foreign national, stateless person or foreign organization entrusts a lawyer to act as its agent ad litem in the people's court of the People's Republic of China, it shall entrust a lawyer of the People's Republic of China.

Chapter X — Supplementary Provisions

Article 63 — The people's courts shall charge litigation fees for hearing administrative cases. Litigation fees shall be borne by the losing party, or by both parties where both parties are liable. The specific measures shall be formulated by the State Council.

Article 64 — This Law shall come into force on October 1, 1990. The amendment shall come into force on July 1, 2017.

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