Administrative Reconsideration Law of the People’s Republic of China

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of preventing and correcting illegal or improper specific administrative acts, protecting the lawful rights and interests of citizens, legal persons, and other organizations, safeguarding and supervising the exercise of administrative powers by administrative organs in accordance with law, and providing a channel for administrative remedies.

Article 2 — Where a citizen, legal person, or other organization considers that a specific administrative act of an administrative organ has infringed upon its lawful rights and interests, it may file an application for administrative reconsideration with the administrative reconsideration organ in accordance with this Law, which shall accept the application and make a decision on the administrative reconsideration.

Article 3 — Administrative reconsideration organs shall, in performing their duties of administrative reconsideration, follow the principles of legality, impartiality, openness, timeliness, and convenience for the people, and shall adhere to correcting mistakes so as to ensure the correct implementation of laws and regulations.

Article 4 — The people's governments at or above the county level and other administrative organs performing the duties of administrative reconsideration in accordance with this Law shall be the administrative reconsideration organs. The administrative reconsideration organs shall be responsible for handling applications for administrative reconsideration within the scope of their respective functions and duties and shall allocate full-time administrative reconsideration personnel.

Article 5 — A citizen, legal person, or other organization that is dissatisfied with a decision made on administrative reconsideration may institute an administrative litigation in a people's court in accordance with the provisions of the Administrative Litigation Law, except where the law provides that the decision on administrative reconsideration shall be final.

Chapter II — Scope of Administrative Reconsideration

Article 6 — A citizen, legal person, or other organization may apply for administrative reconsideration in accordance with this Law under any of the following circumstances: being dissatisfied with an administrative penalty decision made by an administrative organ, such as a warning, fine, confiscation of illegal gains, confiscation of illegal property, order to suspend production or business operation, temporary withholding or revocation of a permit or license, or administrative detention; being dissatisfied with a decision made by an administrative organ on compulsory administrative measures such as restriction of personal freedom or sealing up, seizing, or freezing of property; being dissatisfied with a decision made by an administrative organ on modification, suspension, or revocation of a permit, license, qualification certificate, or other certification; being dissatisfied with a decision made by an administrative organ on the confirmation of ownership or the right to use natural resources such as land, mineral resources, water, forests, mountains, grasslands, wasteland, tidal flats, or sea areas; being dissatisfied with an administrative organ's infringement upon its lawful operational autonomy or rights to contracted management of rural land; being dissatisfied with an administrative organ's modification or abolition of an agricultural contract in violation of law; being dissatisfied with an administrative organ's act of illegally raising funds, collecting property, apportioning expenses, or illegally requiring the performance of other obligations; being dissatisfied with an administrative organ's failure to handle an application for a permit, license, qualification certificate, or other certification in accordance with law, or its refusal to respond thereto; being dissatisfied with an administrative organ's failure to perform its statutory duty of protecting personal rights, property rights, or the right to education; being dissatisfied with an administrative organ's failure to pay social insurance benefits such as pensions or minimum subsistence allowances in accordance with law; or being dissatisfied with other specific administrative acts of an administrative organ that it considers to have infringed upon its lawful rights and interests.

Article 7 — A citizen, legal person, or other organization that considers the provisions on which an administrative organ's specific administrative act is based to be illegal may, when filing an application for

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administrative reconsideration of the specific administrative act, also file an application for review of such provisions. The provisions referred to in the preceding paragraph include: provisions of the departments of the State Council; provisions of the local people's governments at or above the county level and their departments; and provisions of the people's governments of townships and towns. The preceding paragraph shall not include rules of the departments and commissions of the State Council and rules of the local people's governments. The review of rules shall be handled in accordance with laws and administrative regulations.

Article 8 — Where a party is dissatisfied with a decision made by an administrative organ on an administrative sanction or other personnel handling, the party shall make a complaint in accordance with the provisions of laws and administrative regulations. Where a party is dissatisfied with an administrative organ's mediation or handling of a civil dispute, the party shall apply for arbitration or institute legal proceedings in accordance with law.

Chapter III — Application for Administrative Reconsideration

Article 9 — A citizen, legal person, or other organization that considers a specific administrative act to have infringed upon its lawful rights and interests may file an application for administrative reconsideration within sixty days from the date on which it knows of the specific administrative act, unless the time limit prescribed by law exceeds sixty days. Where the time limit for filing an application is delayed due to force majeure or other justified reasons, the time limit shall be continuously calculated from the date on which the obstacle is removed.

Article 10 — A citizen, legal person, or other organization that applies for administrative reconsideration in accordance with this Law shall be the applicant. The applicant may entrust an agent to participate in the administrative reconsideration. Where a citizen who has the right to apply for administrative reconsideration dies, his close relative may apply for administrative reconsideration. Where a legal person or other organization that has the right to apply for administrative reconsideration is terminated, the legal person or other organization that succeeds to its rights may apply for administrative reconsideration.

Article 11 — An applicant may apply for administrative reconsideration in writing or orally. Where the application is made orally, the administrative reconsideration organ shall record on the spot the basic information of the applicant, the main facts, reasons, and time of the application for administrative reconsideration, and the claims of the administrative reconsideration.

Article 12 — An applicant may apply for administrative reconsideration to the people's government at the same level or to the competent department at the next higher level of the department that has undertaken the specific administrative act.

Article 13 — During the period of administrative reconsideration, the enforcement of the specific administrative act shall not be suspended. However, enforcement may be suspended under any of the following circumstances: the respondent considers it necessary to suspend enforcement; the administrative reconsideration organ considers it necessary to suspend enforcement; the applicant applies for suspension of enforcement and the administrative reconsideration organ considers the application to be reasonable and decides to suspend enforcement; or the law provides for suspension of enforcement.

Article 14 — The administrative reconsideration organ shall not charge any fee from the applicant for accepting an application for administrative reconsideration. Funds required for administrative reconsideration activities shall be included in the administrative budget of the administrative reconsideration organ and shall be guaranteed by the financial department at the same level.

Chapter IV — Acceptance of Administrative Reconsideration

Article 15 — An administrative reconsideration organ shall, within five days from the date of receipt of an application for administrative reconsideration, examine the application and decide whether to accept it. Where the application does not meet the requirements prescribed by this Law, the administrative reconsideration organ shall decide not to accept the application and shall inform the applicant in writing; where the application meets the requirements of this Law but does not fall within the scope of acceptance of the administrative reconsideration organ, it shall inform the applicant to apply to the relevant administrative reconsideration organ.

Article 16 — Where laws and regulations provide that an application for administrative reconsideration shall first be filed with the administrative reconsideration organ and an administrative litigation may be instituted in the people's court only where the party is dissatisfied with the decision on the administrative reconsideration, where the administrative reconsideration organ decides not to accept the application or fails to respond within the time limit for acceptance, the citizen, legal person, or other organization may, within fifteen days from the date of receipt of the decision not to accept the application or from the date of expiration of the time limit for acceptance, institute an administrative litigation in the people's court in accordance with law.

Article 17 — During the period of administrative reconsideration, where a citizen, legal person, or other organization that has applied for administrative reconsideration also institutes an administrative litigation in the people's court and the people's court has accepted the case, the administrative reconsideration shall not be accepted. Where the administrative reconsideration organ has accepted the application, the applicant shall not institute an administrative litigation in the people's court during the period of administrative reconsideration.

Chapter V — Hearing of Administrative Reconsideration

Article 18 — Administrative reconsideration shall in principle be conducted by means of written examination. However, where the applicant so requests, or the office of the administrative reconsideration organ considers it necessary, the office may investigate the circumstances and hear the opinions of the applicant, the respondent, and third parties.

Article 19 — The office of the administrative reconsideration organ shall, within seven days from the date of acceptance of the application for administrative reconsideration, send a copy of the application for administrative reconsideration or a copy of the record of the oral application for administrative reconsideration to the respondent. The respondent shall, within ten days from the date of receipt of the copy of the application or the copy of the record of the oral application, submit a written response, and submit the evidence and basis on which the specific administrative act was originally undertaken and other relevant materials.

Article 20 — The applicant and third parties may consult the written response submitted by the respondent, and the evidence and basis on which the specific administrative act was originally undertaken and other relevant materials, except where State secrets, trade secrets, or personal privacy are involved. The administrative reconsideration organ shall not refuse the same.

Article 21 — During the process of administrative reconsideration, the respondent shall not collect evidence from the applicant and other relevant organizations or individuals on its own. However, in cases where the respondent is unable to provide the evidence and basis that served as the basis for the original specific administrative act due to force majeure or other justified reasons, it may be allowed to supplement the same with the approval of the administrative reconsideration organ.

Article 22 — Before a decision on administrative reconsideration is made, the applicant may withdraw the application for administrative reconsideration, whereupon the administrative reconsideration shall be terminated.

Article 23 — Where an applicant applies for administrative reconsideration of the provisions specified in Article 7 of this Law while applying for administrative reconsideration of a specific administrative act, the administrative reconsideration organ that has jurisdiction over such provisions shall handle the application within thirty days in accordance with law. Where the administrative reconsideration organ has no authority to handle the provisions, it shall transfer the same to the State organ with the authority to handle them within seven days in accordance with the statutory procedures, and the State organ with the authority shall handle them within sixty days in accordance with law. During the period of handling, the examination of the specific administrative act shall be suspended.

Article 24 — Where an administrative reconsideration organ orders the respondent to re-perform a specific administrative act, the respondent shall not perform a same or essentially similar specific administrative act based on the same facts and reasons.

Chapter VI — Administrative Reconsideration Decision

Article 25 — The person in charge of the administrative reconsideration organ shall examine the specific administrative act conducted by the respondent and the materials submitted by the respondent, and shall, after examination by the office of the administrative reconsideration organ, put forward opinions. With the consent of the person in charge of the administrative reconsideration organ or through collective discussion, a decision on administrative reconsideration shall be made in accordance with the following provisions: where the specific administrative act is supported by clear facts, conclusive evidence, correct application of basis, lawful procedures, and appropriate content, the specific administrative act shall be upheld; where the respondent fails to perform its statutory duties, it shall be decided to perform the same within a specified time limit; where the specific administrative act falls under any of the following circumstances, a decision shall be made to revoke, modify, or confirm that the specific administrative act is illegal, and the respondent may be ordered to re-perform a specific administrative act within a specified time limit: the main facts are unclear or the evidence is insufficient; the applicable basis is erroneous; the statutory procedures are violated; the respondent exceeds or abuses its authority; or the specific administrative act is manifestly improper. Where the respondent fails to submit a written response, submit the evidence and basis of the specific administrative act, and other relevant materials in accordance with the provisions of Article 23 of this Law, the specific administrative act shall be deemed to have no evidence or basis, and a decision shall be made to revoke the specific administrative act.

Article 26 — Where an applicant applies for administrative reconsideration and requests administrative compensation in accordance with the provisions of the State Compensation Law, the administrative reconsideration organ, when deciding to revoke or modify a specific administrative act or confirming that a specific administrative act is illegal, shall simultaneously decide that the respondent shall make compensation in accordance with law. Where an applicant fails to file a corresponding request for administrative compensation, the administrative reconsideration organ shall order the respondent to return the property, release the seizure, freezing, or detention, or make compensation for the corresponding price, where it decides to revoke a decision on a fine, or revoke a decision on the confiscation of property, or revoke a decision on illegal fundraising, apportionment of expenses, or other decisions that infringe upon property rights.

Article 27 — Where a citizen, legal person, or other organization considers that an administrative organ's specific administrative act has infringed upon its lawful rights and interests in land, mineral resources, water, forests, mountains, grasslands, wasteland, tidal flats, sea areas, or other natural resources that have been obtained in accordance with law, it shall first apply for administrative reconsideration. A party that is dissatisfied with the decision on administrative reconsideration may institute an administrative litigation in the people's court in accordance with law.

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Article 28 — An administrative reconsideration organ shall make a decision on administrative reconsideration within sixty days from the date of acceptance of the application, except where the time limit prescribed by law is less than sixty days. Where the circumstances are complicated and a decision cannot be made within the prescribed time limit, the time limit may be appropriately extended with the approval of the person in charge of the administrative reconsideration organ, and the applicant and the respondent shall be notified of the extension; however, the extension shall not exceed thirty days.

Article 29 — The service of a written decision on administrative reconsideration shall be made in accordance with the provisions of the Civil Procedure Law on service. Once a written decision on administrative reconsideration is served, it shall become legally effective.

Article 30 — Where a respondent shall perform a decision on administrative reconsideration, it shall perform the same. Where the respondent fails to perform or delays performance without justified reasons, the administrative reconsideration organ or the relevant competent administrative organ at a higher level shall order it to perform within a specified time limit.

Article 31 — Where an applicant fails to institute legal proceedings within the time limit and fails to perform the decision on administrative reconsideration, or fails to perform the final decision on administrative reconsideration, the matter shall be handled in accordance with the following provisions respectively: where a specific administrative act is upheld, the administrative organ that originally undertook the specific administrative act shall apply to the people's court for compulsory enforcement in accordance with law, or enforce the decision in accordance with law; where a specific administrative act is modified, the administrative reconsideration organ shall apply to the people's court for compulsory enforcement in accordance with law, or enforce the decision in accordance with law.

Chapter VII — Legal Liability

Article 32 — Where an administrative reconsideration organ, in violation of this Law, fails to accept an application for administrative reconsideration that should be accepted in accordance with law, or fails to make a decision on administrative reconsideration within the statutory time limit without justified reasons, the directly responsible person in charge and other directly responsible persons shall be subject to administrative sanctions of warning, recording of a demerit, or recording of a major demerit in accordance with law. Where the administrative reconsideration organ still refuses to accept or, after accepting the application, still fails to make a decision on administrative reconsideration within the statutory time limit, the relevant persons shall be subject to administrative sanctions of demotion, removal from office, or dismissal in accordance with law.

Article 33 — Where a respondent, in violation of this Law, fails to submit a written response or to submit the evidence and basis on which the specific administrative act was originally undertaken and other relevant materials, or obstructs or prevents a citizen, legal person, or other organization from applying for administrative reconsideration in accordance with law, the directly responsible person in charge and other directly responsible persons shall be subject to administrative sanctions of warning, recording of a demerit, or recording of a major demerit in accordance with law. Where the respondent continues the same conduct, the relevant persons shall be subject to administrative sanctions of demotion, removal from office, or dismissal in accordance with law.

Article 34 — Where a respondent fails to perform or delays performance without justified reasons of a decision on administrative reconsideration, the directly responsible person in charge and other directly responsible persons shall be subject to administrative sanctions of warning, recording of a demerit, or recording of a major demerit in accordance with law. Where the respondent still refuses to perform after being ordered to do so, the relevant persons shall be subject to administrative sanctions of demotion, removal from office, or dismissal in accordance with law.

Article 35 — Where a functionary of an administrative reconsideration organ, in the course of administrative reconsideration activities, engages in malpractices for personal gain or commits other dereliction of duty or abuse of authority, the functionary shall be subject to administrative sanctions of warning, recording of a demerit, or recording of a major demerit in accordance with law. Where the circumstances are serious, the functionary shall be subject to administrative sanctions of demotion, removal from office, or dismissal in accordance with law. Where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 36 — Where a respondent retaliates against an applicant for administrative reconsideration, the directly responsible person in charge and other directly responsible persons shall be subject to administrative sanctions of demotion, removal from office, or dismissal in accordance with law. Where a crime is constituted, criminal liability shall be pursued in accordance with law.

Chapter VIII — Supplementary Provisions

Article 37 — The period for administrative reconsideration shall be calculated on the basis of calendar days, including working days and holidays. Where the last day of a period falls on a holiday, the first working day after the holiday shall be the last day of the period. The period shall not include the time in transit.

Article 38 — The administrative reconsideration activities shall be free of charge. The funds required for administrative reconsideration activities shall be included in the budget of the administrative organ and guaranteed by the financial department at the same level.

Article 39 — The provisions of this Law concerning the calculation of periods and the service of documents on administrative reconsideration shall apply to the relevant matters concerning the time limit for administrative reconsideration and the service of administrative reconsideration documents. The calculation of periods in this Law shall be governed by the provisions of the Civil Procedure Law.

Article 40 — Where a foreigner, stateless person, or foreign organization applies for administrative reconsideration within the territory of the People's Republic of China, this Law shall apply.

Article 41 — This Law shall take effect as of January 1, 2024. The Administrative Reconsideration Law of the People's Republic of China adopted on April 29, 1999 shall be repealed simultaneously.

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