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中华人民共和国行政诉讼法

Administrative Procedure Law of the
People's Republic of China

中国法制出版社
China Legal System Publishing House

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第一章 总 则

第一条 为保证人民法院正确、及时审理行政案件，

Administrative Procedure Law of the People's Republic of China

(Adopted at the Second Session of the Seventh National People's Congress on April 4, 1989, promulgated by Order No. 16 of the President of the People's Republic of China on April 4, 1989, and effective as of October 1, 1990)

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Chapter I General Provisions

Article 1 Pursuant to the Constitution, this Law is enacted

保护公民、法人和其他组织的合法权益,维护和监督行政机关依法行使行政职权,根据宪法制定本法。

第二条 公民、法人或者其他组织认为行政机关和行政机关工作人员的具体行政行为侵犯其合法权益,有权依照本法向人民法院提起诉讼。

第三条 人民法院依法对行政案件独立行使审判权,不受行政机关、社会团体和个人的干涉。

人民法院设行政审判庭,审理行政案件。

第四条 人民法院审理行政案件,以事实为根据,以法律为准绳。

第五条 人民法院审理行政案件,对具体行政行为是否合法进行审查。

第六条 人民法院审理行政案件,依法实行合议、回避、公开审判和两审终审制度。

第七条 当事人在行政诉讼中的法律地位平等。

for the purpose of ensuring the correct and prompt handling of administrative cases by the people's courts, protecting the lawful rights and interests of citizens, legal persons and other organizations, and safeguarding and supervising the exercise of administrative powers by administrative organs in accordance with the law.

Article 2 If a citizen, a legal person or any other organization considers that his or its lawful rights and interests have been infringed upon by a specific administrative act of an administrative organ or its personnel, he or it shall have the right to bring a suit before a people's court in accordance with this Law.

Article 3 The people's courts shall, in accordance with the law, exercise judicial power independently with respect to administrative cases, and shall not be subject to interference by any administrative organ, public organization or individual.

The people's courts shall set up administrative divisions for the handling of administrative cases.

Article 4 In conducting administrative proceedings, the people's courts shall base themselves on facts and take the law as the criterion.

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

Article 6 In handling administrative cases, the people's courts shall, as prescribed by law, apply the systems of collegial panel, withdrawal of judicial personnel and public trial and a system whereby the second instance is the final instance.

Article 7 Parties to an administrative suit shall have equal legal positions.

第八条 各民族公民都有用本民族语言、文字进行行政诉讼的权利。

在少数民族聚居或者多民族共同居住的地区,人民法院应当用当地民族通用的语言、文字进行审理和发布法律文书。

人民法院应当对不通晓当地民族通用的语言、文字的诉讼参与人提供翻译。

第九条 当事人在行政诉讼中有权进行辩论。

第十条 人民检察院有权对行政诉讼实行法律监督。

第二章 受案范围

第十一条 人民法院受理公民、法人和其他组织对下列具体行政行为不服提起的诉讼:

(一)对拘留、罚款、吊销许可证和执照、责令停产停业、没收财物等行政处罚不服的;

(二)对限制人身自由或者对财产的查封、扣押、冻结等行政强制措施不服的;

Article 8 Citizens of all nationalities shall have the right to use their native spoken and written languages in administrative proceedings.

In an area where people of a minority nationality live in concentrated communities or where a number of nationalities live together, the people's courts shall conduct adjudication and issue legal documents in the language or languages commonly used by the local nationalities.

The people's courts shall provide interpretation for participants in proceedings who do not understand the language or languages commonly used by the local nationalities.

Article 9 Parties to an administrative suit shall have the right to debate.

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

Chapter II Scope of Accepting Cases

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

(1) an administrative sanction, such as detention, fine, rescission of a license or permit, order to suspend production or business or confiscation of property, which one refuses to accept;

(2) a compulsory administrative measure, such as restricting freedom of the person or the sealing up, seizing or freezing of property, which one refuses to accept;

(三)认为行政机关侵犯法律规定的经营自主权的；

(四)认为符合法定条件申请行政机关颁发许可证和执照，行政机关拒绝颁发或者不予答复的；

(五)申请行政机关履行保护人身权、财产权的法定职责，行政机关拒绝履行或者不予答复的；

(六)认为行政机关没有依法发给抚恤金的；

(七)认为行政机关违法要求履行义务的；

(八)认为行政机关侵犯其他人身权、财产权的。

除前款规定外，人民法院受理法律、法规规定可以提起行政诉讼的其他行政案件。

第十二条 人民法院不受理公民、法人或者其他组织对下列事项提起的诉讼：

(一)国防、外交等国家行为；

(二)行政法规、规章或者行政机关制定、发布的具有普遍约束力的决定、命令；

(3) infringement upon one's managerial decision-making powers, which is considered to have been perpetrated by an administrative organ;

(4) refusal by an administrative organ to issue a permit or license, which one considers oneself legally qualified to apply for, or its failure to respond to the application;

(5) refusal by an administrative organ to perform its statutory duty of protecting one's rights of the person and of property, as one has applied for, or its failure to respond to the application;

(6) cases where an administrative organ is considered to have failed to issue a pension according to law;

(7) cases where an administrative organ is considered to have illegally demanded the performance of duties; and

(8) cases where an administrative organ is considered to have infringed upon other rights of the person and of property.

Apart from the provisions set forth in the preceding paragraphs, the people's courts shall accept other administrative suits which may be brought in accordance with the provisions of relevant laws and regulations.

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

(1) acts of the state in areas like national defence and foreign affairs;

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

(三)行政机关对行政机关工作人员的奖惩、任免等决定；

(四)法律规定由行政机关最终裁决的具体行政行为。

第三章 管 辖

第十三条 基层人民法院管辖第一审行政案件。

第十四条 中级人民法院管辖下列第一审行政案件：

(一)确认发明专利权的案件、海关处理的案件；

(二)对国务院各部门或者省、自治区、直辖市人民政府所作的具体行政行为提起诉讼的案件；

(三)本辖区内重大、复杂的案件。

第十五条 高级人民法院管辖本辖区内重大、复杂的第一审行政案件。

第十六条 最高人民法院管辖全国范围内重大、复杂的第一审行政案件。

(3) decisions of an administrative organ on awards or punishments for its personnel or on the appointment or relief of duties of its personnel; and

(4) specific administrative acts that shall, as provided for by law, be finally decided by an administrative organ.

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 of confirming patent rights of invention and cases handled by the Customs;

(2) suits against specific administrative acts undertaken by departments under the State Council or by the people's governments of provinces, autonomous regions or municipalities directly under the Central Government; and

(3) grave and complicated cases in areas under their jurisdiction.

Article 15 The higher people's courts shall have jurisdiction as courts of first instance over grave and complicated administrative cases in areas under their jurisdiction.

Article 16 The Supreme People's Court shall have jurisdiction as a court of first instance over grave and complicated administrative cases in the whole country.

第十七条 行政案件由最初作出具体行政行为的行政机关所在地人民法院管辖。经复议的案件,复议机关改变原具体行政行为的,也可以由复议机关所在地人民法院管辖。

第十八条 对限制人身自由的行政强制措施不服提起的诉讼,由被告所在地或者原告所在地人民法院管辖。

第十九条 因不动产提起的行政诉讼,由不动产所在地人民法院管辖。

第二十条 两个以上人民法院都有管辖权的案件,原告可以选择其中一个人民法院提起诉讼。原告向两个以上有管辖权的人民法院提起诉讼的,由最先收到起诉状的人民法院管辖。

第二十一条 人民法院发现受理的案件不属于自己管辖时,应当移送有管辖权的人民法院。受移送的人民法院不得自行移送。

第二十二条 有管辖权的人民法院由于特殊原因不

Article 17 An administrative case shall be under the jurisdiction of the people's court in the locality of the administrative organ that initially undertook the specific administrative act. A reconsidered case in which the organ conducting the reconsideration has amended the original specific administrative act may also be placed under the jurisdiction of the people's court in the locality of the administrative organ conducting the reconsideration.

Article 18 A suit against compulsory administrative measures restricting freedom of the person shall be under the jurisdiction of a people's court in the place where the defendant or the plaintiff is located.

Article 19 An administrative suit regarding a real property shall be under the jurisdiction of the people's court in the place where the real property is located.

Article 20 When two or more people's courts have jurisdiction over a suit, the plaintiff may have the option to bring the suit in one of these people's courts. If the plaintiff brings the suit in two or more people's courts that have jurisdiction over the suit, the people's court that first receives the bill of complaint shall have jurisdiction.

Article 21 If a people's court finds that a case it has accepted is not under its jurisdiction, it shall transfer the case to the people's court that does have jurisdiction over the case. The people's court to which the case has been transferred shall not on its own initiative transfer it to another people's court.

Article 22 If a people's court which has jurisdiction over a case is unable to exercise its jurisdiction for special reasons, a

能行使管辖权的,由上级人民法院指定管辖。

人民法院对管辖权发生争议,由争议双方协商解决。

协商不成的,报它们的共同上级人民法院指定管辖。

第二十三条 上级人民法院有权审判下级人民法院管辖的第一审行政案件,也可以把自己管辖的第一审行政案件移交下级人民法院审判。

下级人民法院对其管辖的第一审行政案件,认为需要由上级人民法院审判的,可以报请上级人民法院决定

第四章 诉讼参加人

第二十四条 依照本法提起诉讼的公民、法人或者其他组织是原告。

有权提起诉讼的公民死亡,其近亲属可以提起诉讼。

有权提起诉讼的法人或者其他组织终止,承受其权利的法人或者其他组织可以提起诉讼。