

## **Basic Act on Administrative Regulations**

**Act No. 5368, Aug. 22, 1997**

### Chapter 1 General Provisions

Article 1 (Purpose) The purpose of this Act is to enhance the quality of the people's life and secure continuous strengthening of the nation's competitiveness, by eliminating unreasonable administrative regulations through the clarification of fundamental matters concerning administrative regulations as well as by encouraging autonomy and creativeness in social and economic activities through the prevention from newly introducing inefficient administrative regulations.

Article 2 (Definition) (1) For the purpose of this Act,

1. the term "administrative regulations"(hereinafter referred to as "regulations") means actions taken by the central government or any local government in order to restrict any right of the people or impose any duty to them for the purpose of accomplishing a specific administrative objective, as prescribed in Acts and subordinate statutes.

2. the term "Acts and subordinate statutes, etc." means Acts, Presidential Decrees, Ordinances of the Prime Minister or Ministries and such notification as determined in conformity with the delegation thereby.

3. the term "existing regulations" means regulations that are prescribed on the basis of other Acts at the time this Act enter into force, and regulations that are prescribed according to the procedure specified in this Act thereafter.

4. the term "administrative agencies" means agencies that has any administrative authority as prescribed by any Act or subordinate statutes, etc., or by any municipal ordinance or rule as well as bodies cooperate, organizations, institutions or individuals to whom the same authority is delegated or entrusted.

5. the term "regulations impact analysis" means estimating and analyzing in advance, by applying scientific and objective methods, various effects that any particular regulations would have on the people's daily life as well as the society, economy, and administration, thereby presenting standards for determining whether or not such regulations are justifiable.

(2) The concrete scope of the regulations as defined in Subparagraph 1 of paragraph(1) shall be prescribed by the Presidential Decree.

Article 3 (Scope of Application) (1) Unless otherwise provided by any

other Act, this Act shall apply with respect to regulations.

(2) This Act shall not apply to matters falling under any of the followings.

1. Duties performed by the National Assembly, the Judiciary, Constitutional Court, Election Management Committee, and the Board of Audit and Inspection.

2. Duties concerning criminal affairs, criminal administration, and security dispositions.

3. Duties as determined by the Presidential Decree, from among duties relevant to national security, national defense, foreign affairs, reunification of Korea, and taxation to which this Act is difficult to apply to.

(3) Local governments shall, in accordance with this Act, take necessary actions, such as registration and promulgation of regulations as prescribed by ordinances and rules, review of new establishment or strengthening of regulations, revision and repeal of existing regulations and establishment of regulation-review organizations.

Article 4 (Principles of Stipulating Regulations by Law) (1) Regulations shall be in conformity with any Act, and the contents thereof shall be clearly and unambiguously described in plain terms.

(2) Regulations shall be prescribed by Act, but the concrete contents thereof may be determined by Presidential Decree, Ordinance of Prime Minister or Ministry, or municipal ordinance or rule to such concrete extent of delegation as any Act or higher statute fixes: *Provided*, That, in case of regulations pertaining to any specialized, technical or minor matter the delegation of which is inevitably required, if any Act or subordinate statute delegate them by fixing the concrete extent of delegation, they may be prescribed by a notification.

(3) Administrative organizations shall not restrict rights of the people or impose duties on them by means of any regulations that are not prescribed by any Act.

Article 5 (Principles Concerning Regulations) (1) The central and local governments shall respect the rights and creativeness of the people. They shall not interfere with fundamental rights of the people by establishing any new regulations.

(2) The central and local governments shall establish regulations in so effective manners as to protect the life, health and environment of the people.

(3) The scope and methods of any regulations shall be so determined as to secure their objectivity, transparency and impartiality in the most effective

manner possible, to such minimum extent as required to achieve their objective.

Article 6 (Registration and Promulgation of Regulations) (1) The head of the central administrative agency shall, according to the provision in Article 23, register titles, contents, relevant statutory provisions, and dealing organs of regulations in his charge with the Regulatory Reform Committee(hereinafter referred to as the "Committee").

(2) The Committee shall draw up and promulgate the list of regulations as registered according to the provision in Article 1.

(3) If the Committee, after *ex officio* review, finds that any regulations are not registered, it may immediately require the head of the relevant central administrative agency to register them with the Committee, or to submit a plan on revision and repeal of any relevant Act or subordinate statute to abolish them.

(4) The Presidential Decree shall determine necessary matters related to the method and procedure of registration and promulgation of regulations according to Paragraphs (1), (2) and (3)

## Chapter 2 Principles Concerning Establishment and Strengthening of Regulations and Their Reviews

Article 7 (Analysis of Regulations Impacts and Internal Review) (1) When the head of any central administrative agency intends to newly establish or strengthen (including extending the valid period) any regulations, he shall analyze their impacts and draw up a report thereof, in comprehensive consideration of the following matters.

1. Necessity of newly establishing or strengthening them
2. Whether or not their objectives are attainable
3. Whether or not any alternatives to them exist or whether or not any regulations similar thereto are currently implemented.
4. Comparative analysis of the costs and benefits of persons or groups of persons who would be subject to them.
5. Whether or not they include any factor of restrictive competition
6. Their objectivity and clarity
7. Administrative organ, manpower and budgetary appropriation required for their establishment or strengthening
8. Whether or not the previous determination on documents to be submitted and procedures to be followed with respect to the relevant civil petitions are proper.

(2) The head of any central administrative agency shall, on the basis of results of an analysis of regulations impacts as prescribed in Paragraph (1), determine persons subject to any regulations as well as the scope and method thereof and conduct an internal review on the their justifiability. Opinions of the relevant experts shall be fully reflected in the results of such review.

(3) The Presidential Decree shall determine the necessary methods and procedure of the analysis of regulations impacts and the guidelines for making a report on analysis.

Article 8 (Stipulation of the Continuation of Regulation) (1) When the head of the central administrative agency intends to establish or strengthen any regulations, he shall, specify their duration period in the relevant Acts and subordinate statutes, etc., if there is no justifiable reason that such regulations must be permanently implemented.

(2) The period of duration during which the regulations are in force shall not be set longer than required to achieve their objective. In principle it shall not exceed five years.

(3) If deemed necessary to extend the period of duration, the head of the central administrative agency shall request the Committee to review that case according to Article 10, one year prior to the expiration of said period.

(4) The Committee may, if as a result of the review pursuant to Articles 12 and 13, deemed necessary, recommend the head of the relevant central administrative agency to set a duration period of the regulations concerned.

Article 9 (Reflection of Opinions) If the head of the central administrative agency intends to establish or strengthen any regulations, he shall fully reflect opinions of administrative agencies, non-governmental organizations, interested parties, research institutes, and experts which are gathered in consequence of public hearings or advance notices on the legislation of the regulations concerned, or by any other means.

Article 10 (Request for Review) (1) The head of the central administrative agency shall submit a request for review to the Committee if he intends to establish or strengthen any regulations. In case of a draft of legislation establishing or strengthening them, he shall do so before referring said draft to the Ministry of Legislation for review.

(2) When the head of the central administrative agency submit a request to the Committee according to Paragraph (1), he shall submit the proposal of the relevant regulations, fixing the followings.

1. Analysis report on the predicted impact of the regulation according to

Article 7(1)

2. Opinions presented as a result of internal review according to Article 7(2)

3. Abstract of opinions submitted by administrative agencies and interested parties, etc. according to Article 9

Article 11 (Preliminary Review) (1) The Committee shall, within ten day immediately after receiving the request for review according to Article 10, make a determination on whether or not the relevant regulations must be subject to review(hereinafter referred to as "important regulations") as stipulated in Article 12. The determination shall be based on the impact it will have on the daily lives and the socio-economic activities of people.

(2) Those regulations which the Committee determines are of no importance according to Paragraph (1) are considered as having passed a review by the Committee.

(3) The Committee shall notify without delay the head of the relevant administrative agency of the determination made according to Paragraph (1).

Article 12 (Review) (1) The Committee shall complete within forty-five days of request the review of any regulations that have been determined as important according to Article 11(1): Provided, That, if necessary to extend the review period, the Committee may decide to extend it by no more than fifteen days for the preliminary review.

(2) The Committee shall deliberate on whether or not a relevant internal review of the administrative agency was conducted on the basis of credible data and sources in conformity with due procedures.

(3) The Committee may demand that heads of relevant administrative agencies provide supplementary documents to those enclosed pursuant to each of the items specified in Article 10(2), if such supplementary data is required.

(4) When the review is completed, the Committee shall notify the head of the relevant administrative agency of the results of the review without delay, according to Paragraph (1).

Article 13 (Review of Establishment or Reinforcement of Urgent Regulations) (1) The head of the central administrative agency may request review to the Committee without following the procedures specified in Article 7, Article 8(3), and Articles 9 and 10, if there is reason for immediate enactment or reinforcement of a regulation. The reasons shall be

stated in this case.

(2) If the Committee has decided the urgency of the regulation submitted for review according to Paragraph (1) was legitimate, it shall review within twenty days of request the validity of the new or reinforced regulation, and notify the head of the relevant central administrative agency. In this case, the head of the relevant central administrative agency shall submit within sixty days of having received notification from the Committee, results of the review in the analysis report on the impact of the regulation to the Committee.

(3) If the Committee has determined that the regulation draft submitted according to Paragraph (1) for review does not have urgency, it may, within ten days of receiving review request, demand that the head of the relevant administrative agency follow the procedures defined in Articles 7 and 10.

Article 14 (Improvement Recommendation) (1) The Committee may recommend to the head of the relevant central administrative agency the withdrawal or improvement of new or reinforced regulations, should it be deemed necessary based on a review according to Articles 12 and 13.

(2) The head of the relevant central administrative agency shall follow the recommendation given according to Paragraph (1) unless there is a significant reason to do otherwise, and shall submit the result of the procedure to the Committee according to the Presidential Decree.

Article 15 (Second Review) (1) The head of the central administrative agency may request a second review to the Committee according to the Presidential Decree, if he has objections to the review findings or judges that he may not carry out the recommendation of the Committee.

(2) If there is a request for a second review according to Paragraph (1), the Committee shall complete the second review within fifteen days of the second review request and notify the head of the relevant central administrative agency of its findings.

(3) Article 14 shall apply *mutatis mutandis* to second reviews as according to Paragraph (2).

Article 16 (Compliance with Review Procedures) (1) The head of a central administrative agency shall not draft or reinforce a regulation without the review of the Committee.

(2) The head of the central administrative agency shall submit a review opinion of the Committee on the regulation in question to the Minister of Legislation when he request the review of a draft Act or regulation to write

or reinforce. The same procedure applies to presenting the bill to the State Council.

### Chapter 3 Improving Existing Regulations

Article 17 (Submission of Opinion) (1) Anyone may submit their opinions on abolishment or amendment (hereinafter referred to as "improvement") of an existing regulation to the Committee.

(2) The method and procedures of submission of opinions according to Paragraph (1) shall be defined in the Presidential Decree.

Article 18 (Review of Existing Regulations) (1) The Committee may review improvement of existing regulations that meet any of the following criteria.

1. In cases in which the Committee has acknowledged the need to review a submitted opinion according to Article 17

2. In cases in which the Committee has received items on improvement of existing regulations from the Business Activities Deregulation Committee according to the Act on Special Measures for Deregulation of Restricted Corporate Activities

3. In other cases in which the Committee has acknowledged the need for a review of a specific existing regulation after gathering data on the opinions of interested parties and experts

(2) Articles 14 and 15 shall be applicable to reviews according to Paragraph (1).

Article 19 (Independent Improvement of Existing Regulations) (1) The head of the central administrative agency shall annually identify regulations that need improvement, after gathering data on the opinions of interested parties as well as experts on those regulations.

(2) The head of the central administrative agency shall submit the results of the improvement according to Paragraph (1) as defined by the Presidential Decree to the Committee.

Article 20 (Establishment of a Comprehensive Plan to Improve Regulations) (1) The Committee shall select regulatory areas or specific regulations for each year to focus on improvement, and notify the head of the central administrative agency of the improvement guidelines after receiving deliberation by the State Council. If the Committee acknowledges the need, it may set a time frame for the improvement in the

guidelines for a specific regulation.

(2) The head of the central administrative agency shall submit to the Committee a plan for regulation improvement of that agency according to the guidelines pursuant to Paragraph (1).

(3) The Committee shall establish the government's comprehensive plan to improve regulations based on the regulation improvement plan of each central administrative agency according to Paragraph (2) and shall promulgate the plan after deliberations of the State Council and approval of the President have been made.

(4) The method of drawing up and promulgating the comprehensive plan on regulation improvement as well as the necessary procedures shall be defined in the Presidential Decree.

Article 21 (Implementation of Comprehensive Regulation Improvement Plan) (1) The head of a central administrative agency shall improve the existing regulations under his jurisdiction according to the comprehensive plan on regulation improvement of the government that was established and promulgated according to Article 20, and shall submit the results to the Committee according to the Presidential Decree.

(2) The head of a central administrative agency shall complete improvement of those regulations having time frames determined by the Committee according to the latter half of Article 20(1), and shall notify the Committee of the results. *Provided*, That, if the improvement has not completed within the time frame set by the Committee, the head of the agency shall immediately submit to the Committee the reason for the delay as well as the improvement plan for the regulation in question, and shall communicate the results after the improvement has been completed.

Article 22 (Organizational Restructuring, etc.) (1) The Committee shall notify the heads of the central administrative agencies that oversee governmental organizations and budgets when improvement of an existing regulation has been completed.

(2) The head of the relevant central administrative agency who has been notified according to Paragraph (1) shall decide on a rational measure to make changes in the governmental organization or the budget after the existing regulation has been improved.

#### Chapter 4 Regulatory Reform Committee

Article 23 (Establishment) A regulatory reform committee that is



responsible to the President is to be established to deliberate and coordinate governmental regulation policy as well as to oversee, review and improve regulations.

Article 24 (Functions) The Committee is responsible for deliberation and coordination of each of the following.

1. Setting the basic direction of regulation policy as well as research and development of regulatory institutions
2. Items that pertain to review of establishing and reinforcing new or existing regulations
3. Review of existing regulations, establishment and implementation of a comprehensive plan on regulatory improvement
4. Registration and promulgation of regulations
5. Gathering and processing opinions on regulatory upgrading
6. Inspection and evaluation of the progress made by administrative agencies on different levels in terms of regulation improvement
7. Other items deemed by the Head of the Committee as requiring deliberation and coordination of the Committee

Article 25 (Composition, etc.) (1) The Committee shall be comprised of no less than fifteen and no more than twenty members, including two heads of the committee.

(2) The heads of the Committee shall be chosen by the president, one being the prime minister and the other chosen from a pool of candidates with knowledge and experience.

(3) Members of the Committee shall be selected by the President based on their knowledge and experience and a public servant designated by the Presidential Decree . Non-public servant members shall comprise more than half the total number of members on the Committee.

(4) The Executive Commissioner to the Committee shall be chosen from the non-public servant members by the head of the Committee other than the prime minister.

(5) The term in office for non-public servant members shall be two years, with allowance for a second term.

(6) If both heads of the Committee are unable to perform their duties due to irrevocable circumstances, the member named by the prime minister shall act as the head of the Committee.

Article 26 (Quorum) Issues at member meetings shall be decided by the affirmative vote of over half of the members on the roll.

Article 27 (Status Guarantee for Members) Members are not subject to dismissal or removal from their offices except in one of the following cases.

1. Sentenced to imprisonment without prison labor or a more severe sentence
2. Unable to carry out duties due to long-term illness

Article 28 (Subcommittees) The Committee may form special subcommittees for efficient management of its work.

Article 29 (Expert Members of the Committee, etc.) The Committee may recruit expert members and necessary researchers for professional research activities regarding its work.

Article 30 (Research and Opinion-gathering, etc.) (1) The Committee may take any of the following measures it regards necessary to carry out its role according to Article 24.

1. Request for explanation from the relevant administrative agency or data and documentation
2. Request for appearance and statements of opinion by interested parties, references, or appropriate public servants
3. On-site investigation of relevant administrative agencies, etc.

(2) In terms of review of a regulation, etc., the head of the relevant administrative agency may request the appearance of relevant public servants or experts before the Committee in order to give their opinions or submit data.

Article 31 (Secretariat of the Committee) (1) A specialized secretariat shall be in place to take care of the Committee's tasks.

(2) The Committee may designate an expert research organization to support its specialized review tasks.

Article 32 (Public Servant Status in Punishment) The members on the Committee, expert members, and researchers who are not public servants are regarded as public servants in application of punishment according to criminal and other Acts.

Article 33 (Organization and Management) Matters pertaining to the organization and management of the Committee other than those stated in this Act shall be determined by the Presidential Decree.

## Chapter 5 Supplementary Rules

Article 34 (Inspection and Evaluation of Regulatory Improvements) (1) The Committee shall confirm and inspect improvements and status of regulations of each administrative agency for effective improvement of regulations.

(2) The Committee shall report to the President and the State Council after evaluating the results of confirmation and inspection according to Paragraph (1).

(3) The Committee may make requests to appropriate expert agencies to conduct public opinion surveys for objective confirmation, inspection and evaluation according to Paragraphs (1) and (2).

(4) If the Committee judges that regulatory improvements have been passive or not implemented properly through its confirmation, inspection and evaluation according to Paragraphs (1) and (2), it may offer suggestions on the necessary corrective measures to the President.

Article 35 (White Paper on Regulatory Reform) The Committee shall annually publish and promulgate a white paper regarding the status of major governmental regulatory reform issues.

Article 36 (Administrative Support, etc.) The Minister of Government Administration shall study the regulation-related system and provide the necessary support for the management of the Committee.

Article 37 (Responsibilities of Public Servants) (1) Public servants shall not be subject to disadvantageous measures or unfair treatment because of any effects which they cause in the course of active performance of any activities for improving regulations, if not on purpose or with any gross negligence,.

(2) The head of a central administrative agency shall award or grant preferential treatment in personnel management to public servants who have made outstanding contributions in pursuit of regulatory improvement.

## Addendum

Article 1 (Enforcement Date) This Act enters into force within a one-year period from the date of promulgation, as decided by the President.

Article 2 (Abolishment of Other Acts) Act No. 4735 Administrative Regulation Management Act is abolished.

Article 3 (Special Case for Independent Improvement of Existing Regulations at the Time of Act implementation) (1) The head of a central administrative agency shall draw up and implement a year-by-year plan for improvement of all regulations under his jurisdiction at the time of this Act's implementation before December 31 of the fifth year from the implementation of the Act, according to the Presidential Decree. This take the place of independent improvement of existing regulations according to Article 19.

(2) The head of a central administrative agency shall submit the y

Article 4 (Re-examination of directives and public notices) (1) The head of a central administrative agency or a local government shall re-examine within one year after implementation of this Act the regulations defined in the directives, rules, guidelines, and public notices that are being implemented to determine whether they are based on Acts and regulations, ordinance, or rules, according to Article 4.

(2) After the re-examination according to Paragraph (1), the head of a central administrative agency or a local government shall abolish without delay or define the basis in relevant Acts and regulations, ordinances or rules for regulations defined in directives, rules, or guidelines that are not based on Acts and regulations, ordinances, or rules as according to Article 1.

Article 5 (Revising other Acts and Subordinate Statutes) Some parts of the Act on Special Measures for Deregulation of Restricted Corporate Activities shall be revised as followed.

In Article 3, "provision in other Acts and subordinate statutes" is revised to "provision in other Acts and subordinate statutes(with the exception of the Framework Act on Administrative Regulation)."

In Article 42, "shall undergo review of the Committee on Deregulation of Restricted Corporate Activities according to Article 61" is revised to "shall undergo prior consultation with the Minister of Trade, Industry and Energy."

In Subparagraph 3 of Article 62, the phrase "establish or revise" is replaced by "revise," in Subparagraph 5 of the same Article "administrative regulations" is revised to "administrative regulations on corporate activities," and Paragraph (2) is written into the same Article as follows:

(2) The Committee shall notify the Regulatory Reform Committee in advance, of issues on improvement of Acts, and regulations or systems pertaining to administrative regulation, according to inspection and review provisions in Subparagraphs 1, 2 and 3 of Paragraph (1). The Regulatory Reform Committee shall decide whether to conduct a review of the issue, and notify the Committee of its decision without delay. In this case, the Committee, without delay, shall refer that issue to the Regulatory Reform Committee for review, by affixing relevant documents.

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