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列印時間：109.06.11 13:41

英譯法規內容

法規名稱 Act on Recusal of Public Servants Due to Conflicts of Interest Ch
(Title) :

公發布日 2000.07.12
(Announced
Date) :

修正日期 2018.06.13
(Amended
Date) :

法規沿革 1.Promulgated on July 12, 2000
(Legislative) : 2.Amended on November 26, 2014
3.Amended on June 13, 2018

Article 1 The Act is enacted to promote uncorrupt and efficient politics and to well form politics ethics by establishing norms to be followed by public servants for recusal due to conflicts of interest, so that corruption and conveyance of unjust interests can be efficiently eliminated.
Unless otherwise provided more strictly by other acts, the Act shall apply to recusal of public servants due to conflicts of interest.

Article 2 The term "Public Servant" referred to in this Act means the following persons:

1. President and Vice President of the R.O.C.;
2. Heads, deputy heads, chiefs of staff, deputy chiefs of staff, and equivalents of the government agencies (entities) at all levels and headquarters and branches of the state-owned enterprises;
3. Administrative officers;
4. Presidents and vice presidents of public schools, military and police academies/schools, and reformatory schools, and heads and deputy heads of entities affiliated with them, if any;
5. Elected representatives of democratic bodies and works at all levels;
6. Directors, supervisors and equivalents representing the government or the state-owned shares in private juristic entities;
7. Directors, supervisors, heads, CEOs and equivalents of public juristic entities;
8. Chairmen of the board, CEOs, secretary-general and equivalents of the

juristic entities donated by governments;

9. Judges, prosecutors, war-time military judges, enforcement officers, judicial associate officers, and prosecutor investigators;

10. Chief officers and deputy chief officers above the rank of colonel in the military agencies (entities) at all levels;

11. Chief officers in charge of public works, civil engineering management, urban planning, ethics, accounting, audit and procurement of governments and agencies (entities) at all levels, state-owned entities, public schools, military/police academies/schools, reformatory schools and affiliated entities thereof at all levels;

12. Other personnel authorized by the Executive Yuan together with the competent governments/ministries to apply the Acts due to the special nature of their functions.

The persons who perform functions on behalf of the public servants referred to in the preceding paragraph pursuant to laws shall be identified as the public servants defined herein when they perform said functions.

Article 3 The term "related persons of a public servant" referred to in the Act is hereby defined as follows:

1. The spouse of a public servant or the family members living together with the public servant.

2. Relatives of the public servant by the second degree of kinship.

3. Trustees of the trust property consigned by the public servant or his spouse, unless it refers to the compulsory trust required by laws.

4. Any profit-seeking enterprise, non-profit-seeking juristic person and non-juristic entity in which the public servant and the persons specified in above subparagraph 1 and 2 hold the post as CEO, director, independent director, supervisor, manager or equivalents, unless they are the representatives appointed or selected by the government entities or state-owned shareholders or retained by the government entities.

5. Key persons recruited from public servants.

6. Assistance of elected representatives of democratic bodies and works at all levels.

The assistants referred to in the preceding subparagraph 6 mean the state-financed assistants of elected representatives of democratic bodies and works at all levels, or their assistants enrolled into the assistant association and other assistants under supervision by them.

Article 4 The term "interests" referred to in the Act includes property interests and non-property interests.

Property interests include:

1. Movable property and real estate.
2. Cash, deposits, foreign currencies, and securities.
3. Obligatory rights or other property rights.
4. Other interests with economic value or that can be acquired through money exchange.

Non-property interests mean the appointment, staffing, promotion, transfer, performance evaluation and other personnel measures about the personnel appointed, engaged, hired and employed by contract by the government organs, schools, juristic persons, enterprises and military forces (hereinafter referred to as the "organ") referred to in Paragraph 1 of Article 2 herein and temporary workers thereof, which are in favor of a public servant or his related persons.

Article 5 The term "conflicts of interest" referred to in the Act means the public servant obtains interests by himself or his related persons either directly or indirectly through any act or omission in the course of performing his official duties.

Article 6 A public servant shall recuse himself as soon as he is aware of a conflict of interest.

In the said circumstance, the public servant shall comply with the following requirements in writing:

1. Elected representatives of democratic bodies and works, if any, shall notify the relevant democratic body and work;
2. The public servant referred to in the subparagraphs 6 and 7 of Paragraph 1 of Article 2 herein, if any, shall notify the agency delegating, electing or engaging him.
3. Other public servants shall notify the organs in which they render services.

Where the public servant referred to in the preceding paragraph refers to the head of the agency, he shall notify the organ in which he renders service and also the superior agency/entity, or if no such superior organ is available, he shall only notify the organ in which he renders service.

Article 7 Where a public servant fails to recuse himself notwithstanding the fact that

he is obligated to recuse, the interested person may apply with the organ referred to in Paragraph 2 or Paragraph 3 of the preceding Article for his recusal.

The authority of the organ referred to in Paragraph 2 or Paragraph 3 of the preceding Article for accepting the application referred to in the preceding paragraph shall be investigated ex officio. Where the organ is held has no authority to accept the application, the application shall be transferred to the organ empowered with such authority and the applicant shall be notified of the fact.

For disagreement with the organ's decision to overrule the application, if any, the applicant may apply with the superior organ within 5 days. Unless with justified reasons, the superior organ shall render its decision within 10 days. Where no such superior organ is available, the application shall be filed with the organ referred to in Paragraph 2 and Paragraph 3 of the preceding Article.

Article 8 Where the organ being notified or accepting the application as referred to in the preceding two Articles deems it not requisite for the public servant to recuse himself, it may instruct the public servant to keep on performing his official duties. Where the organ deems it requisite for the public servant to recuse himself, it may instruct the public servant to recuse himself from performing his official duties.

Article 9 Where the organ in which the public servant renders services, its supervisor organ, or the organ appointing, electing or engaging the public servant holds that the public servant fails to recuse himself notwithstanding the fact that he is obligated to recuse himself, the organ shall order the public servant to recuse himself ex officio.

The order to keep on performing the official duties or recuse himself from performing the duties referred to in the preceding Article and preceding paragraph shall be given by the head of the organ. Where the public servant to recuse himself refers to the head and no supervisor organ is available, the same shall be given by the proxy acting on behalf of the head, unless otherwise provided in laws separately.

Article 10 The public servant who is required to recuse himself pursuant to the preceding four Articles shall comply with the following requirements:

1. In the case of elected representatives, the public servant is prohibited

from participating in the deliberation and voting on the proposal involving his personal interests.

2. In the case of other public servants, the public servant shall cease to perform his official duty, and that duty shall be performed by his proxy. If necessary, the organ shall designate the proxy.

Article 11 The organ in which the public servant renders service, its superior organ, and the organ appointing, electing or engaging the public servant shall compile and report the information about the public servant's voluntary recusal, application for recusal, or recusal ordered ex officio in the previous year to the organ or entity with the jurisdiction referred to in Article 20 herein as designated by the Control Yuan or Ministry of Justice, within 30 days at the end of each year.

Article 12 A public servant shall not seek interests for himself or for his related persons by manipulating his official power, opportunities or any method under his official duty.

Article 13 Related persons of a public servant shall not seek interests for himself or for the said public servant by requesting relevant persons in the organ, speaking for the same, or by other improper means.

The requesting or speaking for the same referred to in the preceding paragraph means the request made to the officers of the organ referred to in the preceding paragraph in an illegal manner, which involves the decision made by the relevant organ and execution or non-execution thereof that is likely to violate laws or render undue influence over the specific rights and obligations.

Article 14 A public servant and his related persons shall not conduct transactions such as subsidizing, sales, lease, contracting, or other transactions conducted with consideration with the organ with which the public servant serves or the organs under his supervision, unless in any one of the following circumstances:

1. The procurement carried out by public notice under the Government Procurement Act or pursuant to Article 105 of the same Act;
2. The property right in interest created for the procurement, sale by tender, lease by tender or tender solicitation carried out by public notice in a fair competitive manner pursuant to laws;
3. Subsidy requested in the legal capacity under laws; the subsidy to the

public servant' s related person in an open and fair manner pursuant to laws, or the subsidy which might be against the public interest if it is prohibited and is granted subject to the competent authority' s approval;

4. The subject matter of the transaction is provided by the organ with which the public servant serves or the organs under his supervision, and traded at the official price;

5. The lease, acquisition, discretionary management, improvement and utilization of national non-public real estate requested by the state-owned enterprise in order to execute the national construction projects or public policies, or for the purpose of public welfare;

6. The subsidy and transaction under the specific amount.

The public servant or his related person and the organ with which the public servant serves or the organs under his supervision shall disclose their identity or relationship in the application forms or tender submissions voluntarily, before rendering the subsidy or engaging in the service referred to in the subparagraphs 1~3 of the preceding Paragraph. Upon rendering the subsidy or engaging in the service, the organ shall disclose his identity and relationship altogether voluntarily, unless the subsidy is requested in the legal capacity pursuant to laws as referred to in the subparagraph 3 of the preceding Article.

The disclosure referred to in the preceding paragraph shall be accessible by the public online or in any other manner.

The specific amount referred to in the subparagraph 6 of Paragraph 1 shall be determined by the Executive Yuan together with the Control Yuan.

Article 15 The ethics units of Control Yuan, Ministry of Justice and the organ with which the public servant serves or its supervisor organ may inquire the related organ, juristic person, entity or individual in order to investigate the public servant and his related person' s violation of the Act, if any. The inquired parties shall be obligated to tell truth or provide the required information.

Article 16 Those in violation of Paragraph 1 of Article 6 herein shall be imposed a penalty of between NTD 100 thousand to 2 million. Those failing to recuse themselves after being ordered to do so pursuant to Article 8 or Article 9 herein shall be imposed a penalty of between NTD 150 thousand to 3 million, and may be fined per violation.

Article 17 Those in violation of Article 12 or Paragraph 1 of Article 13 herein shall be imposed a penalty of between NTD 300 thousand to 6 million.

Article 18 Those in violation of Paragraph 1 of Article 14 herein shall be punished in the following manners:

1. For the transaction amount not more than NTD 100 thousand, a penalty between NTD 10 thousand and 50 thousand shall be imposed.
2. For the transaction amount more than NTD 100 thousand but not more than 1 million, a penalty between NTD 60 thousand and 500 thousand shall be imposed.
3. For the transaction amount more than NTD 1 million but not more than 10 million, a penalty between NTD 600 thousand and 5 million shall be imposed.
4. For the transaction amount more than NTD 10 million, a penalty between NTD 6 million and the amount of the transaction shall be imposed.

Said transaction amount is defined according to a contract or a verifiable price, provided that where the post-settlement amount is higher than the original amount, the settlement amount shall apply.

Those in violation of Paragraph 2 of Article 14 herein shall be imposed a penalty of between NTD 50 thousand to 500 thousand, and may be fined per violation.

Article 19 Those who are under investigation for violation of Article 15 herein but refuse to recuse themselves without justified reasons, or provide misrepresentation shall be imposed a penalty of NTD 20 thousand to 200 thousand. Those who still refuse to recuse themselves or provide misrepresentation upon receipt of the notice asking them to recuse within specific time limit may be fined per violation.

Article 20 The penalties referred to in Article 16 to Article 18 herein shall be rendered by the following organs, provided that the same shall apply to the persons performing the public servant's official duties on behalf of the public servants pursuant to laws:

1. Control Yuan

- (1) The persons referred to in the subparagraph 1, subparagraph 3, and subparagraph 5 to subparagraph 8 of Paragraph 1 of Article 2 herein;
- (2) Premier and Vice Premier of the Executive Yuan, and President and Vice President of the Legislative Yuan, Judicial Yuan, Examination Yuan, and Control Yuan; Chiefs, Chief Deputies, Chiefs of Staff and Deputy Chiefs of Staff at 12th job rank or at the rank equivalent to 12th job rank or above,

and the Governors at above village (town, city) level elected pursuant to the Public Officials Election and Recall Act;

(3) Presidents of the schools and above referred to in the subparagraph 4 of Paragraph 1 of Article 2 herein, and heads of entities affiliated with them, if any;

(4) Judges and prosecutors referred to in the subparagraph 9 of Paragraph 1 of Article 2 herein with the basic salary of grade 6;

(5) Persons referred to in the subparagraph 10 of Paragraph 1 of Article 2 herein ranking major general and above;

(6) The related person of the public servant referred to herein.

2. Ministry of Justice: The public servant and his related person other than those referred to in the preceding subparagraphs.

The penalties referred to in the preceding Article which are subject to investigation by the Control Yuan shall be rendered by the Control Yuan. Those subject to investigation by the Ministry of Justice or any ethics unit shall be rendered by the Ministry of Justice.

Article 21 Where penalties imposed pursuant to the Act are confirmed, the organ making the penalties shall publish the same at government gazette or newspapers and announce such sanction in public at websites.

Article 22 The Enforcement Rules of the Act shall be established by the Executive Yuan together with the Examination Yuan and the Control Yuan.

Article 23 The Act shall be enforced within 6 months after the same is promulgated.

資料來源：法務部主管法規查詢系統