|  |  |  |
| --- | --- | --- |
| 发文机关Promulgator | ：: | 全国人民代表大会常务委员会The Standing Committee of the National People's Congress |
| 发布日期Date of Issue | ：: | 2017.09.012017.09.01 |
| 生效日期Effective Date | ：: | 2018.01.012018.01.01 |
| 时效性Effectiveness | ：: | 现行有效Current |

# 中华人民共和国行政复议法（2017修正）

# Law of the People's Republic of China on Administrative Review (Amended in 2017)

中华人民共和国行政复议法（2017修正）

Law of the People's Republic of China on Administrative Review (Amended in 2017)

(1994年8月31日第八届全国人民代表大会常务委员会第九次会议通过 根据2009年8月27日第十一届全国人民代表大会常务委员会第十次会议《关于修改部分法律的决定》第一次修正 根据2017年9月1日第十二届全国人民代表大会常务委员会第二十九次会议《关于修改〈中华人民共和国法官法〉等八部法律的决定》第二次修正)

(Adopted at the 9th session of the Standing Committee of the 8th National People's Congress on August 31, 1994; amended for the first time according to the Decision on Amending Certain Laws passed at the 10th session of the Standing Committee of the 11th National People's Congress on August 27, 2009; and amended for the second time according to the Decision of the Standing Committee of the National People's Congress on Amending Eight Laws Including the Judges Law of the People's Republic of China at the 29th session of the Standing Committee of the 12th National People's Congress on September 1, 2017)

第一章 总 则

Chapter 1 General Provisions

第一条   为了防止和纠正违法的或者不当的具体行政行为，保护公民、法人和其他组织的合法权益，保障和监督行政机关依法行使职权，根据宪法，制定本法。

Article 1 This Law is enacted in accordance with the Constitution for the purpose of preventing and setting right illegal or inappropriate specific administrative acts, protecting the lawful rights and interests of citizens, legal persons and other organizations, and ensuring and supervising the performance of functions and powers by administrative organs' according to law.

第二条   公民、法人或者其他组织认为具体行政行为侵犯其合法权益，向行政机关提出行政复议申请，行政机关受理行政复议申请、作出行政复议决定，适用本法。

Article 2 This Law shall be applicable to cases where citizens, legal persons or other organizations apply to administrative organs for administrative review when they consider that certain specific administrative acts infringe upon their lawful rights or interests, and where administrative organs accept the applications and make decisions after administrative review.

第三条   依照本法履行行政复议职责的行政机关是行政复议机关。行政复议机关负责法制工作的机构具体办理行政复议事项，履行下列职责:

Article 3 The administrative organs that perform the function of administrative reconsideration in accordance with this Law are administrative reconsideration organs. When dealing with the specific affairs in respect of administrative review, the department in charge of legal work under the administrative review organs shall perform the following functions and responsibilities:

（一）受理行政复议申请；

1. Accepting applications for administrative review;

（二）向有关组织和人员调查取证，查阅文件和资料；

2. to carry out investigations among and collect evidence from the organizations and persons concerned, refer to documents and materials;

（三）审查申请行政复议的具体行政行为是否合法与适当，拟订行政复议决定；

(III) Examining whether a specific administrative act as described in an application for administrative review is lawful and appropriate, and drafting an administrative review decision;

（四）处理或者转送对本法第七条所列有关规定的审查申请；

(IV) dealing with or transmitting applications for examination of the provisions listed under Article 7 of this Law;

（五）对行政机关违反本法规定的行为依照规定的权限和程序提出处理建议；

(V) to put forward proposals, according to statutory authorities and procedures, on handling acts committed by administrative organs in violation of the provisions of this Law;

（六）办理因不服行政复议决定提起行政诉讼的应诉事项；

(VI) to undertake response to the administrative lawsuit lodged against the administrative review decision; and

（七）法律、法规规定的其他职责。

(VII) other duties stipulated by laws and regulations.

行政机关中初次从事行政复议的人员，应当通过国家统一法律职业资格考试取得法律职业资格。

Persons engaging in administrative review for the first time in administrative organs shall pass the national unified legal professional qualification exam and obtain the legal professional qualification.

第四条   行政复议机关履行行政复议职责，应当遵循合法、公正、公开、及时、便民的原则，坚持有错必纠，保障法律、法规的正确实施。

Article 4 When performing their functions of administrative reconsideration, administrative reconsideration organs shall follow the principles of legality, impartiality, openness, promptness, and convenience to the people, and shall correct mistakes so as to guarantee the correct implementation of laws and regulations.

第五条   公民、法人或者其他组织对行政复议决定不服的，可以依照行政诉讼法的规定向人民法院提起行政诉讼，但是法律规定行政复议决定为最终裁决的除外。

Article 5 If a citizen, a legal person or any other organization refuses to accept a decision made after administrative reconsideration, he or it may, in accordance with the provisions of the Administrative Procedure Law, bring an administrative lawsuit before a People's Court, with the exception of those decisions that are final as prescribed by law.

第二章 行政复议范围

Chapter 2 Scope of Administrative Review

第六条   有下列情形之一的，公民、法人或者其他组织可以依照本法申请行政复议:

Article 6 Citizens, legal persons and other organizations may apply for administrative review according to this Law, if they:

（一）对行政机关作出的警告、罚款、没收违法所得、没收非法财物、责令停产停业、暂扣或者吊销许可证、暂扣或者吊销执照、行政拘留等行政处罚决定不服的；

1. refuse to accept decisions made by administrative organs to impose on them administrative penalties such as disciplinary warning, fine, confiscation of illegal gains, confiscation of illegal property or things of value, order for suspension of production or business operation, temporary suspension or rescission of permit, temporary suspension or rescission of license, and administrative detention;

（二）对行政机关作出的限制人身自由或者查封、扣押、冻结财产等行政强制措施决定不服的；

2. refuse to accept decisions made by administrative organs to impose on them compulsory administrative measures including restriction of the freedom of the person and sealing up, distraining or freezing of property;

（三）对行政机关作出的有关许可证、执照、资质证、资格证等证书变更、中止、撤销的决定不服的；

3. refuse to accept decisions made by administrative organs concerning alteration, suspension or revocation of such certificates as permits, licenses and qualification certificates;

（四）对行政机关作出的关于确认土地、矿藏、水流、森林、山岭、草原、荒地、滩涂、海域等自然资源的所有权或者使用权的决定不服的；

(IV) refuse to accept decisions made by administrative organs concerning the right of ownership in or the right to the use of natural resources such as land, mineral resources, waters, forests, mountains or hills, grasslands, wasteland, tidal flats and sea areas;

（五）认为行政机关侵犯合法的经营自主权的；

(V) consider that administrative organs infringe upon their lawful decision-making power for operation;

（六）认为行政机关变更或者废止农业承包合同，侵犯其合法权益的；

6. consider that administrative organs infringe upon their lawful rights and interests by altering and nullifying their agricultural contract;

（七）认为行政机关违法集资、征收财物、摊派费用或者违法要求履行其他义务的；

(VII) consider that the administrative organs raise funds, collect properties, apportion expenses or illegally require them to perform other obligations;

（八）认为符合法定条件，申请行政机关颁发许可证、执照、资质证、资格证等证书，或者申请行政机关审批、登记有关事项，行政机关没有依法办理的；

(VIII) consider that administrative organs fail to deal with, according to law, their applications for such certificates as permits, licenses and qualification certificates, or their applications for examination and approval and registration of affairs concerned, while the applications meet the statutory requirements;

（九）申请行政机关履行保护人身权利、财产权利、受教育权利的法定职责，行政机关没有依法履行的；

(IX) in case of an application for performance of the statutory duties to protect the rights of the person, property rights, and the right to receive education by an administrative organ, but the administrative organ has not performed according to law;

（十）申请行政机关依法发放抚恤金、社会保险金或者最低生活保障费，行政机关没有依法发放的；

(X) failure by administrative organs to grant, according to law, pensions for the disabled or for the family of the deceased, social insurance money or the guaranteed minimum for living expenses;

（十一）认为行政机关的其他具体行政行为侵犯其合法权益的。

(XI) consider that other specific administrative acts taken by administrative organs infringe upon their lawful rights or interests.

第七条   公民、法人或者其他组织认为行政机关的具体行政行为所依据的下列规定不合法，在对具体行政行为申请行政复议时，可以一并向行政复议机关提出对该规定的审查申请:

Article 7 If citizens, legal persons or other organizations consider illegal the following provisions, which the administrative organs take as the basis for their specific administrative acts, they may also apply for examination of these provisions when applying for administrative review of the said acts:

（一）国务院部门的规定；

1. provisions formulated by departments under the State Council;

（二）县级以上地方各级人民政府及其工作部门的规定；

(II) provisions formulated by local people's governments at or above the county level and the department under them; and

（三）乡、镇人民政府的规定。

(III) provisions made by township or town people's governments.

前款所列规定不含国务院部、委员会规章和地方人民政府规章。规章的审查依照法律、行政法规办理。

The provisions listed in the preceding paragraph do not include rules and regulations formulated by the ministries and commissions under the State Council and by local people's governments. Review on such rules shall be carried out in accordance with laws and administrative regulations.

第八条   不服行政机关作出的行政处分或者其他人事处理决定的，依照有关法律、行政法规的规定提出申诉。

Article 8 Anyone who refuses to accept administrative sanctions or other decisions concerning personnel affairs made by administrative organs may appeal in accordance with the provisions of relevant laws and administrative regulations.

不服行政机关对民事纠纷作出的调解或者其他处理，依法申请仲裁或者向人民法院提起诉讼。

Anyone who refuses to accept mediations conducted or other solutions made by administrative organs in civil disputes may, in accordance with law, apply for arbitration or bring a lawsuit before a People's Court.

第三章 行政复议申请

Chapter 3 Application for Administrative Review

第九条   公民、法人或者其他组织认为具体行政行为侵犯其合法权益的，可以自知道该具体行政行为之日起六十日内提出行政复议申请；但是法律规定的申请期限超过六十日的除外。

Article 9 Citizens, legal persons and other organizations that consider that certain specific administrative acts infringe upon their lawful rights or interests may apply for administrative review within 60 days from the date when they come to know such administrative acts, except where the time limit for application is more than 60 days as prescribed by law.

因不可抗力或者其他正当理由耽误法定申请期限的，申请期限自障碍消除之日起继续计算。

In case of delay in applying within the statutory time limit occasioned by force majeure or for other justifiable reasons, the counting of the days shall be resumed from the date when the obstacle is removed.

第十条   依照本法申请行政复议的公民、法人或者其他组织是申请人。

Article 10 Citizens, legal persons and other organizations that apply for administrative review in accordance with this Law are the applicants.

有权申请行政复议的公民死亡的，其近亲属可以申请行政复议。有权申请行政复议的公民为无民事行为能力人或者限制民事行为能力人的，其法定代理人可以代为申请行政复议。有权申请行政复议的法人或者其他组织终止的，承受其权利的法人或者其他组织可以申请行政复议。

In case a citizen who has the right to file an application for an administrative review is decreased, his close relatives may file the application. In case a citizen who has the right to file an application for an administrative review is a person without or with limited capacity for civil conduct, his statutory agent may file the application on his behalf. In case a legal person or any other organization that has the right to file an application terminates, the legal person or any other organization that succeeds to its rights may file the application.

同申请行政复议的具体行政行为有利害关系的其他公民、法人或者其他组织，可以作为第三人参加行政复议。

Any other interested citizens, legal persons or organizations involved in the specific administrative act against which an application is filed for administrative review may take part in the administrative review as a third party.

公民、法人或者其他组织对行政机关的具体行政行为不服申请行政复议的，作出具体行政行为的行政机关是被申请人。

Where a citizen, legal person or other organization refuses to accept a specific administrative act taken by an administrative organ and applies for administrative review, the said administrative organ is the defending party to the application.

申请人、第三人可以委托代理人代为参加行政复议。

An applicant or a third party may entrust an agent to take part in an administrative review.

第十一条   申请人申请行政复议，可以书面申请，也可以口头申请；口头申请的，行政复议机关应当当场记录申请人的基本情况、行政复议请求、申请行政复议的主要事实、理由和时间。

Article 11 The applicant may apply for administrative review in a written or oral form; in case of oral application, the administrative review organ shall record on the spot the basic particulars about the applicant, the requests for administrative review, and the main facts, reasons and time of the application for administrative review.

第十二条   对县级以上地方各级人民政府工作部门的具体行政行为不服的，由申请人选择，可以向该部门的本级人民政府申请行政复议，也可以向上一级主管部门申请行政复议。

Article 12 When refusing to accept a specific administrative act taken by the department of a people's government at or above the county level, the applicant may choose to apply to the people's government at the same level or to the competent department at a higher level for administrative review.

对海关、金融、国税、外汇管理等实行垂直领导的行政机关和国家安全机关的具体行政行为不服的，向上一级主管部门申请行政复议。

When refusing to accept a specific administrative act taken by the administrative organ that exercises vertical leadership over the Customs, banking, national tax and foreign exchange administration or by a State security organs, the applicant shall apply to the competent department at a higher level for administrative review.

第十三条   对地方各级人民政府的具体行政行为不服的，向上一级地方人民政府申请行政复议。

Article 13 When refusing to accept a specific administrative act taken by a local people's government at any level, the applicant shall apply to the local people's government at a higher level for administrative review.

对省、自治区人民政府依法设立的派出机关所属的县级地方人民政府的具体行政行为不服的，向该派出机关申请行政复议。

When refusing to accept a specific administrative act taken by a local people's government at the county level under the organ dispatched by a people's government of a province or autonomous region, the applicant shall apply to the said organ for administrative review.

第十四条   对国务院部门或者省、自治区、直辖市人民政府的具体行政行为不服的，向作出该具体行政行为的国务院部门或者省、自治区、直辖市人民政府申请行政复议。对行政复议决定不服的，可以向人民法院提起行政诉讼；也可以向国务院申请裁决，国务院依照本法的规定作出最终裁决。

Article 14 When refusing to accept a specific administrative act taken by a department under the State Council or by the people's government of a province, autonomous region or municipality directly under the Central Government, the applicant shall apply to the said departments or people's government for administrative review. When refusing to accept a decision made after administrative reconsideration, the applicant may bring an administrative lawsuit before a People's Court, or apply to the State Council for arbitration, which shall give a final ruling in accordance with the provisions of this Law.

第十五条   对本法第十二条、第十三条、第十四条规定以外的其他行政机关、组织的具体行政行为不服的，按照下列规定申请行政复议:

Article 15 When refusing to accept a specific administrative act taken by other administrative organs or organizations than those mentioned in Articles 12, 13 and 14 of this Law, the applicant shall apply for administrative review in accordance with the following provisions:

（一）对县级以上地方人民政府依法设立的派出机关的具体行政行为不服的，向设立该派出机关的人民政府申请行政复议；

1. When refusing to accept a specific administrative act taken by an organ dispatched, in accordance with law, by a local people's government at or above the county level, the applicant shall apply to the said people's government for administrative review;

（二）对政府工作部门依法设立的派出机构依照法律、法规或者规章规定，以自己的名义作出的具体行政行为不服的，向设立该派出机构的部门或者该部门的本级地方人民政府申请行政复议；

2. When refusing to accept a specific administrative act taken, in its own name and in accordance with the provisions of laws, rules and regulations, by an organ dispatched, in accordance with law, a governmental working department, the applicant shall apply to the said department or to the local people's government at the same level as the said department;

（三）对法律、法规授权的组织的具体行政行为不服的，分别向直接管理该组织的地方人民政府、地方人民政府工作部门或者国务院部门申请行政复议；

3. When refusing to accept a specific administrative act taken by an organization authorized by laws and regulations, the applicant shall apply for administrative review to the local people's government, the department of the local people's government or the department under the State Council that directly administers the said organization;

（四）对两个或者两个以上行政机关以共同的名义作出的具体行政行为不服的，向其共同上一级行政机关申请行政复议；

4. When refusing to accept a specific administrative act taken jointly by two or more administrative organs in their names, the applicant shall apply to their common administrative organ at a higher level;

（五）对被撤销的行政机关在撤销前所作出的具体行政行为不服的，向继续行使其职权的行政机关的上一级行政机关申请行政复议。

(V) if refuses to accept a specific act of an abolished administrative organ, it shall apply to the administrative organ at the next higher level than the administrative organ that carries on the exercise of functions and powers of the abolished organ.

有前款所列情形之一的，申请人也可以向具体行政行为发生地的县级地方人民政府提出行政复议申请，由接受申请的县级地方人民政府依照本法第十八条的规定办理。

In any of the cases mentioned in the preceding paragraph, the applicant may also apply for administrative review to the people's government at the county level in the place where the specific administrative act is taken. The said people's government, having accepted the application, shall deal with it in accordance with the provisions in article 18 of this Law.

第十六条   公民、法人或者其他组织申请行政复议，行政复议机关已经依法受理的，或者法律、法规规定应当先向行政复议机关申请行政复议、对行政复议决定不服再向人民法院提起行政诉讼的，在法定行政复议期限内不得向人民法院提起行政诉讼。

Article 16 Where citizens, legal persons or other organizations have applied for administrative reconsideration and the administrative reconsideration organs have already accepted the applications according to law, or where laws or regulations stipulate that they apply for administrative reconsideration to the administrative reconsideration organs before they can bring administrative lawsuits before the People's Courts when they refuse to accept the decisions made after administrative reconsideration, the said citizens, legal persons or other organizations may not bring administrative lawsuits before the People's Courts before the expiration of the statutory time limit set for administrative reconsideration.

公民、法人或者其他组织向人民法院提起行政诉讼，人民法院已经依法受理的，不得申请行政复议。

Where a citizen, legal person or other organization has brought an administrative lawsuit before a People's Court and the People's Court has accepted the case according to law, he or it may not apply for administrative reconsideration.

第四章 行政复议受理

Chapter 4 Acceptance of Administrative Review

第十七条   行政复议机关收到行政复议申请后，应当在五日内进行审查，对不符合本法规定的行政复议申请，决定不予受理，并书面告知申请人；对符合本法规定，但是不属于本机关受理的行政复议申请，应当告知申请人向有关行政复议机关提出。

Article 17 After receiving an application for administrative reconsideration, the administrative reconsideration organ shall examine the application within five days; when it finds that the application does not conform to the provisions of this Law, it shall decide not to accept the application and shall inform the applicant of the decision in writing; when if finds that the application conforms to the provisions of this Law but does not come under its jurisdiction, it shall inform the applicant to apply to the administrative reconsideration organ concerned.

除前款规定外，行政复议申请自行政复议机关负责法制工作的机构收到之日起即为受理。

With the exception of the provisions in the preceding paragraph, an application for administrative review is considered accepted on the date when the department in charge of legal work under the administrative review organ receives it.

第十八条   依照本法第十五条第二款的规定接受行政复议申请的县级地方人民政府，对依照本法第十五条第一款的规定属于其他行政复议机关受理的行政复议申请，应当自接到该行政复议申请之日起七日内，转送有关行政复议机关，并告知申请人。接受转送的行政复议机关应当依照本法第十七条的规定办理。

Article 18 The local people's government at the county level that accepts an application for administrative review in accordance with the provisions in Paragraph 2 of Article 15 of this Law shall, within seven days from the date it receives the said application, transmit the application that comes under the jurisdiction of another administrative review organ in accordance with the provisions in Paragraph 1 of Article 15 of this law and inform the applicant of the matter. The administrative review organ that accepts the transmitted application shall deal with it in accordance with the provisions in Article 17 of this Law.

第十九条   法律、法规规定应当先向行政复议机关申请行政复议、对行政复议决定不服再向人民法院提起行政诉讼的，行政复议机关决定不予受理或者受理后超过行政复议期限不作答复的，公民、法人或者其他组织可以自收到不予受理决定书之日起或者行政复议期满之日起十五日内，依法向人民法院提起行政诉讼。

Article 19 In cases where laws or regulations stipulate that citizens, legal persons or other organizations apply for administrative reconsideration to the administrative reconsideration organs before they can bring administrative lawsuits before the people's courts when they refuse to accept the decisions made after administrative reconsideration, if the administrative reconsideration organs decide not to accept the applications or fail to reply within the time limit for administrative reconsideration after they accept the applications, the citizens, legal persons or other organizations may bring administrative lawsuits before the people's courts according to law from the date they receive the notice that the administrative reconsideration organs decide not to accept their applications or within 15 days from the date the time limit for administrative reconsideration expires.

第二十条   公民、法人或者其他组织依法提出行政复议申请，行政复议机关无正当理由不予受理的，上级行政机关应当责令其受理；必要时，上级行政机关也可以直接受理。

Article 20 When an administrative review organ refuses, without justifiable reasons, to accept the application for administrative review submitted by a citizen, legal person or other organization in accordance with law, the administrative organ at a higher level shall order it to accept the application; or, when necessary, the administrative organ at a higher level may accept the application directly.

第二十一条   行政复议期间具体行政行为不停止执行；但是，有下列情形之一的，可以停止执行:

Article 21 During the process of administrative review, the execution of the specific administrative act shall not be suspended unless under any of the following circumstances:

（一）被申请人认为需要停止执行的；

1. The respondent deems it necessary;

（二）行政复议机关认为需要停止执行的；

(II) the suspension is considered necessary by the administrative review organ;

（三）申请人申请停止执行，行政复议机关认为其要求合理，决定停止执行的；

(III) the suspension is decided by the administrative review organ at the request of the applicant because the applicant 's request is reasonable in the view of the administrative review organ,; or

（四）法律规定停止执行的。

(IV) It shall be suspended according to the law.

第五章 行政复议决定

Chapter 5 Administrative Review Decision

第二十二条   行政复议原则上采取书面审查的办法，但是申请人提出要求或者行政复议机关负责法制工作的机构认为有必要时，可以向有关组织和人员调查情况，听取申请人、被申请人和第三人的意见。

Article 22 In principle, administrative review shall take the form of written examination; however, when the applicant requests or the departments in charge of legal work under an administrative review organ deems it necessary, investigation may be conducted among the organizations and persons concerned and the opinions of the applicant, respondent and the third party heeded.

第二十三条   行政复议机关负责法制工作的机构应当自行政复议申请受理之日起七日内，将行政复议申请书副本或者行政复议申请笔录复印件发送被申请人。被申请人应当自收到申请书副本或者申请笔录复印件之日起十日内，提出书面答复，并提交当初作出具体行政行为的证据、依据和其他有关材料。

Article 23 The department in charge of legal work under an administrative review organ shall, within seven days from the date it accepts an application for administrative review, transmit to the defending party a duplicate of the application, or a copy of the written record of an oral application for administrative review. The defending party shall, within 10 days from the date it receives the duplicate of the application or the copy of the written record of the oral application, submit a written reply, and the basis and other relevant materials on the strength of which it took the specific administrative act.

申请人、第三人可以查阅被申请人提出的书面答复、作出具体行政行为的证据、依据和其他有关材料，除涉及国家秘密、商业秘密或者个人隐私外，行政复议机关不得拒绝。

The applicant and the third party may consult the written response made by the respondent, the evidences, basis and the other related materials on which the original specific administrative act was based, which shall not be refused by the administrative review organ except that the state secrets, business secrets and personal privacies are involved.

第二十四条   在行政复议过程中，被申请人不得自行向申请人和其他有关组织或者个人收集证据。

Article 24 During the process of administrative reconsideration, the respondent shall not collect evidences from the applicant and other organizations or individuals concerned by itself.

第二十五条   行政复议决定作出前，申请人要求撤回行政复议申请的，经说明理由，可以撤回；撤回行政复议申请的，行政复议终止。

Article 25 The applicant may withdraw his application before a decision is made after administrative review and after the applicant gives the reasons for the withdrawal. The process of administrative review shall be terminated when the application is withdrawn.

第二十六条   申请人在申请行政复议时，一并提出对本法第七条所列有关规定的审查申请的，行政复议机关对该规定有权处理的，应当在三十日内依法处理；无权处理的，应当在七日内按照法定程序转送有权处理的行政机关依法处理，有权处理的行政机关应当在六十日内依法处理。处理期间，中止对具体行政行为的审查。

Article 26 When an applicant applies for administrative review, and at the same time for examination of the provisions listed in Article 7 of this Law, which comes under the jurisdiction of an administrative review organ, the said organ shall, within 30 days, handle the application according to law. Otherwise, the same organ shall, within seven days and according to statutory procedures, transmit the application to the administrative organ that has the authority to deal with it according to law, and the latter shall, within 60 days, handle it according to law. During the period of handling them, the review over the specific administrative act shall be suspended.

第二十七条   行政复议机关在对被申请人作出的具体行政行为进行审查时，认为其依据不合法，本机关有权处理的，应当在三十日内依法处理；无权处理的，应当在七日内按照法定程序转送有权处理的国家机关依法处理。处理期间，中止对具体行政行为的审查。

Article 27 If, when examining the specific administrative acts taken by the defending party to an application, the administrative review organ considers the basis of such acts illegitimate and if it has the authority to deal with the case, it shall do so within 30 days in accordance with law; if it has no authority to deal with the case, it shall, within seven days and according to statutory procedures, transmit the case to the State organ which has the authority to deal with the case in accordance with law. During the period of handling them, the review over the specific administrative act shall be suspended.

第二十八条   行政复议机关负责法制工作的机构应当对被申请人作出的具体行政行为进行审查，提出意见，经行政复议机关的负责人同意或者集体讨论通过后，按照下列规定作出行政复议决定:

Article 28 The department in charge of legal work under an administrative review organ shall examine the specific administrative acts taken by the defending party to an application and put forward suggestions. After the suggestions are approved by the leading member of the administrative review organ or adopted after collective discussion, a decision shall be made after administrative review according to the following provisions:

（一）具体行政行为认定事实清楚，证据确凿，适用依据正确，程序合法，内容适当的，决定维持；

1. in case the facts are clearly ascertained, the evidence is well-arrested, the basis is correctly applied, the procedure is legal, and the content of the act is proper, the specific administrative act shall be sustained by decision;

（二）被申请人不履行法定职责的，决定其在一定期限内履行；

(II) in case the respondent fails to perform the statutory duty, it shall be required to perform this duty in a fixed time limit by decision;

（三）具体行政行为有下列情形之一的，决定撤销、变更或者确认该具体行政行为违法；决定撤销或者确认该具体行政行为违法的，可以责令被申请人在一定期限内重新作出具体行政行为:

(III) in case a specific administrative act has been raised under any of the following circumstances, the act shall be revoked, amended or declared illegal by decision; if a specific administrative act has been revoked or declared to be illegal by decision, the respondent may be required by decision to raise a new specific administrative act within a fixed time limit:

1主要事实不清、证据不足的；

1. the main facts are unclear and evidences are insufficient;

2适用依据错误的；

2. applied based on wrong facts;

3违反法定程序的；

3 Violating legal procedures;

4超越或者滥用职权的；

4 Exceeding or abusing his power;

5具体行政行为明显不当的。

5. The concrete administrative act is obviously improper.

（四）被申请人不按照本法第二十三条的规定提出书面答复、提交当初作出具体行政行为的证据、依据和其他有关材料的，视为该具体行政行为没有证据、依据，决定撤销该具体行政行为。

(IV) if the defending party to an application, in violation of the provisions in Article 23 of this Law, fails to submit a written reply or the evidence, basis or other relevant materials on the strength of which it took the specific administrative act, the said specific administrative act shall be deemed to have been raised on no evidence or basis shall be revoked by decision.

行政复议机关责令被申请人重新作出具体行政行为的，被申请人不得以同一的事实和理由作出与原具体行政行为相同或者基本相同的具体行政行为。

Where the administrative reconsideration agency orders the respondent to remake a specific administrative action, the respondent shall not make any specific administrative action identical or basically identical to the original specific administrative action with the same facts and reasons.

第二十九条   申请人在申请行政复议时可以一并提出行政赔偿请求，行政复议机关对符合国家赔偿法的有关规定应当给予赔偿的，在决定撤销、变更具体行政行为或者确认具体行政行为违法时，应当同时决定被申请人依法给予赔偿。

Article 29 An applicant who applies for administrative review may claim administrative compensation as applying for administrative review. If the claim for administrative compensation conforms to the provisions of the State Compensation Law, the administrative review organ shall, when deciding to have the specific administrative act nullified or changed or to confirm that it is illegal, at the same time decide that the defending party make the compensation in accordance with law.

申请人在申请行政复议时没有提出行政赔偿请求的，行政复议机关在依法决定撤销或者变更罚款，撤销违法集资、没收财物、征收财物、摊派费用以及对财产的查封、扣押、冻结等具体行政行为时，应当同时责令被申请人返还财产，解除对财产的查封、扣押、冻结措施，或者赔偿相应的价款。

If the applicant does not claim administrative compensation when applying for administrative review, the administrative review organ while deciding, in accordance with law, to revoke or alter the punishment of a fine, or to revoke the specific administrative acts such as the illegal raising of funds, confiscation or collection of money or things of value, apportion of expenses, and sealing up, distraining, or freezing of property, shall, at the same time, order the defending party to return the property, to revoke such measures as sealing up, distraining, or freezing or property, or to pay an appropriate amount of money as compensation.

第三十条   公民、法人或者其他组织认为行政机关的具体行政行为侵犯其已经依法取得的土地、矿藏、水流、森林、山岭、草原、荒地、滩涂、海域等自然资源的所有权或者使用权的，应当先申请行政复议；对行政复议决定不服的，可以依法向人民法院提起行政诉讼。

Article 30 Where a citizen, legal person or other organization believes that the specific administrative act taken by an administrative organ infringes upon his or its right of ownership in or right to the use of natural resources such as land, mineral resources, waters, forests, mountains or hills, grasslands, wasteland, tidal flats and sea areas, which he or it has acquired according to law, he or it shall first apply for administrative review; if he or it refuses to accept the decision made after administrative review, he or it may bring an administrative lawsuit before a People's Court according to law.

根据国务院或者省、自治区、直辖市人民政府对行政区划的勘定、调整或者征收土地的决定，省、自治区、直辖市人民政府确认土地、矿藏、水流、森林、山岭、草原、荒地、滩涂、海域等自然资源的所有权或者使用权的行政复议决定为最终裁决。

The decisions made after administrative reconsideration by the people's governments of provinces, autonomous regions or municipalities directly under the Central Government confirming the right of ownership in or the right to the use of natural resources such as land, mineral resources, waters, forests, mountains or hills, grassland, wasteland, tidal flats and sea areas, on the basis of the decisions made by the State Council or the people's governments of provinces, autonomous regions or municipalities directly under the Central Government regarding the survey, delimitation or readjustment of administrative division or regarding land expropriation, are final.

第三十一条   行政复议机关应当自受理申请之日起六十日内作出行政复议决定；但是法律规定的行政复议期限少于六十日的除外。情况复杂，不能在规定期限内作出行政复议决定的，经行政复议机关的负责人批准，可以适当延长，并告知申请人和被申请人；但是延长期限最多不超过三十日。

Article 31 An administrative review organ shall make a decision after administrative review within 60 days from the date it accepts an application, except where the time limit for administrative review prescribed by law is less than 60 days. In case the circumstances are complicated, it is impossible to make an administrative review decision within the prescribed time limit, the time limit may be extended properly upon the approval of the person-in-charge of the administrative review organ, and shall inform the applicant and respondent, but the extension shall not exceed 30 days.

行政复议机关作出行政复议决定，应当制作行政复议决定书，并加盖印章。

The administrative reconsideration agency which makes the administrative reconsideration decision shall prepare the documents of administrative reconsideration decision and affix the seal.

行政复议决定书一经送达，即发生法律效力。

The administrative review decision shall come into force upon service.

第三十二条   被申请人应当履行行政复议决定。

Article 32 The respondent shall execute the administrative review decision.

被申请人不履行或者无正当理由拖延履行行政复议决定的，行政复议机关或者有关上级行政机关应当责令其限期履行。

In case the respondent fails to implement, or delays the implementation, the administrative review decision without any due reason, the administrative review organ or the relevant administrative organ at a higher level shall order it to implement the decision within a certain time limit.

第三十三条   申请人逾期不起诉又不履行行政复议决定的，或者不履行最终裁决的行政复议决定的，按照下列规定分别处理:

Article 33 In case an applicant fails to bring forward a lawsuit and refuses to implement the administrative review decision, or refuses to implement the final ruling as administrative review decision, it shall be handled respectively in accordance with the following provisions:

（一）维持具体行政行为的行政复议决定，由作出具体行政行为的行政机关依法强制执行，或者申请人民法院强制执行；

1. the administrative review decision sustaining a specific administrative act shall be enforced in accordance with the law by the administrative organ that has undertaken the specific administrative act or by the People's Court upon request; or

（二）变更具体行政行为的行政复议决定，由行政复议机关依法强制执行，或者申请人民法院强制执行。

(II) if the specific administrative act is amended by the administrative review decision, it shall be enforced compulsorily by the administrative review organ according to law or by the people's court upon request.

第六章 法律责任

Chapter 6 Legal Liabilities

第三十四条   行政复议机关违反本法规定，无正当理由不予受理依法提出的行政复议申请或者不按照规定转送行政复议申请的，或者在法定期限内不作出行政复议决定的，对直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的行政处分；经责令受理仍不受理或者不按照规定转送行政复议申请，造成严重后果的，依法给予降级、撤职、开除的行政处分。

Article 34 Where an administrative reconsideration organ, in violation of the provisions of this Law and without justifiable reasons, refuses to accept an application for administrative reconsideration presented in accordance with law, to transmit the application as required by provisions, or to make a decision after administrative reconsideration within the statutory time limit, the persons who are directly in charge and the other persons who are directly responsible for the violation shall be given administrative sanctions such as disciplinary warning, recording of a demerit or of a serious demerit according to law; if the said administrative reconsideration organ still refuses to accept the application for administrative reconsideration or to transmit the application as required by provisions after it is ordered to do so, thus causing serious consequences, it shall, in accordance with law, be given administrative sanctions such as demotion, dismissal from office and discharge from public service.

第三十五条   行政复议机关工作人员在行政复议活动中，徇私舞弊或者有其他渎职、失职行为的，依法给予警告、记过、记大过的行政处分；情节严重的，依法给予降级、撤职、开除的行政处分；构成犯罪的，依法追究刑事责任。

Article 35 Any member of an administrative review organ who, in the course of administrative review, engages in malpractices for personal gain or is derelict or negligent of his duty shall be given administrative sanctions such as disciplinary warning, recording of a demerit or of a serious demerit according to law; if the consequences are serious, he shall be given administrative sanctions such as demotion, dismissal from office and discharge from public service according to law; if a crime is constituted, criminal responsibility shall be investigated according to law.

第三十六条   被申请人违反本法规定，不提出书面答复或者不提交作出具体行政行为的证据、依据和其他有关材料，或者阻挠、变相阻挠公民、法人或者其他组织依法申请行政复议的，对直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的行政处分；进行报复陷害的，依法给予降级、撤职、开除的行政处分；构成犯罪的，依法追究刑事责任。

Article 36 Where the defending party to an application, in violation of the provisions of this Law, refuses to make a written reply or submit the evidence, basis and other relevant materials on the strength of which it takes the specific administrative act, or prevents in a disguised form, citizens, legal persons or other organizations from applying for administrative review according to law, the persons who are directly in charge and the other persons who are directly responsible for the violation shall be given administrative sanctions such as disciplinary warning, recording of a demerit or of a serious demerit according to law; where the said persons resort to frame-up or retaliation, they shall be given administrative sanctions such as demotion, dismissal from office and discharge from public service according to law; if a crime is constituted, criminal responsibility shall be investigated according to law.

第三十七条   被申请人不履行或者无正当理由拖延履行行政复议决定的，对直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的行政处分；经责令履行仍拒不履行的，依法给予降级、撤职、开除的行政处分。

Article 37 Where the defending party to an application refuses to carry out or, without justifiable reasons, delays carrying out the decision made after administrative review, the persons who are directly in charge and the other persons who are directly responsible for the violation shall be given administrative sanctions such as disciplinary warning, recording of a demerit or of a serious demerit according to law; if the said persons still refuse to carry out the decision after they are ordered to do so, they shall be given such administrative sanctions such as demotion, dismissal from office and discharge from public service according to law.

第三十八条   行政复议机关负责法制工作的机构发现有无正当理由不予受理行政复议申请、不按照规定期限作出行政复议决定、徇私舞弊、对申请人打击报复或者不履行行政复议决定等情形的，应当向有关行政机关提出建议，有关行政机关应当依照本法和有关法律、行政法规的规定作出处理。

Article 38 Where the department in charge of legal work under an administrative review organ finds that officials of the organ refuse, without justifiable reasons, to accept an application for administrative review, or to make a decision after administrative review within the prescribed time limit, or that they engage in malpractices for personal gain, resort to retaliation or refuse to carry out a decision made after administrative review, etc., the department shall put forward suggestions to the said organ, which shall handle the case in accordance with the provisions of this Law, other relevant laws and administrative regulations.

第七章 附 则

Chapter 7 Supplementary Provisions

第三十九条   行政复议机关受理行政复议申请，不得向申请人收取任何费用。行政复议活动所需经费，应当列入本机关的行政经费，由本级财政予以保障。

Article 39 Administrative Reconsideration Organs shall not charge the petitioner on their processing petitions for administrative reconsideration. The expenses on administrative reconsideration shall be included in and guaranteed by the budget of the organ.

第四十条   行政复议期间的计算和行政复议文书的送达，依照民事诉讼法关于期间、送达的规定执行。

Article 40 The administrative review period shall be calculated and the administrative review documents shall be served in accordance with the provisions on time periods and service in the Civil Procedure Law.

本法关于行政复议期间有关“五日”、“七日”的规定是指工作日，不含节假日。

The provisions of "five days" and "seven days" for administrative review periods in this Law refer to workdays, excluding holidays and weekends.

第四十一条   外国人、无国籍人、外国组织在中华人民共和国境内申请行政复议，适用本法。

Article 41 This Law shall be applicable to foreign nationals, stateless persons and foreign organizations that apply for administrative review within the territory of the People's Republic of China.

第四十二条   本法施行前公布的法律有关行政复议的规定与本法的规定不一致的，以本法的规定为准。

Article 42 In case of discrepancy between provisions on administrative review in law promulgated before this Law goes into effect and those of this Law, the provisions of this Law shall prevail.

第四十三条   本法自1999年10月1日起施行。1990年12月24日国务院发布、1994年10月9日国务院修订发布的《行政复议条例》同时废止。

Article 43 This Law shall go into effect as of October 1, 1999. The Regulations on Administrative Review promulgated by the State Council on 24 December 1990 and revised and promulgated by the State Council on 9 October 1994 shall be repealed simultaneously.