

Adopted on 18 February 2004

L A W
OF THE REPUBLIC OF ARMENIA

ON FUNDAMENTALS OF ADMINISTRATIVE ACTION AND
ADMINISTRATIVE PROCEEDINGS

SECTION I

FUNDAMENTALS OF ADMINISTRATIVE ACTION

CHAPTER 1

GENERAL PROVISIONS

Article 1. Subject matter of the Law

This Law lays down the fundamentals of administrative action, regulates the relations pertaining to adoption of administrative acts, appealing administrative acts, actions and inaction of administrative bodies, execution of administrative act, administrative expenses, as well as those arising between administrative bodies and natural or legal persons in relation to compensation for the damage inflicted as a result of administrative action.

Article 2. SCOPE OF THE LAW

1. The effects of Sections I and VII of this Law cover any activity of administrative bodies carried out in the public law domain.
2. The effect of Sections II-VI of this Law extends to any closure of activities through

adoption of an administrative act by administrative bodies, whilst the effect of Sections IV-VI extends also to such actions and inaction of administrative bodies, which give rise to factual consequences for persons.

3. Peculiarities of certain types of administrative proceedings are laid down by laws and international treaties of the Republic of Armenia.

4. The effect of this Law does not extend to relations regulated by norms of procedural law.

(Article 2 supplemented, amended and edited by HO-10-N of 13 December 2004)

Article 3. MAIN CONCEPTS

The main concepts used in this Law have the following meanings:

(1) administrative bodies - republican and territorial administrative bodies of the executive power, as well as local self-government bodies;

(a) Republican bodies of the executive power of the Republic of Armenia - ministries of the Republic of Armenia and other state bodies carrying out administrative action within the whole territory of the Republic;

(b) bodies of territorial administration - marzpets [regional governors];

(c) local self-government bodies - community council of elders and head of community; mayor in urban community, head of village in rural community.

Where, apart from the mentioned ones, other state bodies carry out administrative action, these shall also be considered administrative bodies within the meaning of this Law;

(2) administrative action - activities of administrative bodies with an external effect, which are finalised by adoption of administrative or regulatory acts, as well as action or inaction which gives rise to factual consequences for persons.

(Article 3 amended by HO-10-N of 13 December 2004, HO-19-N of 26 December 2008)

CHAPTER 2

FUNDAMENTAL PRINCIPLES OF ADMINISTRATIVE ACTION

Article 4. LEGALITY OF ADMINISTRATIVE ACTION

1. Administrative bodies shall ensure the observance of the laws.
2. The powers of administrative bodies shall be laid down by law or, in cases envisaged by law, other legal acts.

Article 5. PROHIBITION OF ABUSE OF FORMAL REQUIREMENTS

In carrying out administrative action, administrative bodies shall be prohibited from encumbering persons with obligations or from refusing to confer certain rights solely for the purpose of observing formal requirements, where the obligations imposed on them have been discharged in substance.

Article 6. LIMITATION OF DISCRETIONARY POWERS

1. Discretionary power is a right conferred to an administrative body by law to choose one of several possible lawful solutions. 2. In exercising discretionary power the administrative body shall be guided by the need of protection of human and citizen's rights and freedoms enshrined in the Constitution of the Republic of Armenia, by principles of their equal rights, proportionality of carrying out administrative action and prohibition of arbitrariness, as well as shall pursue other goals envisaged by law.

Article 7. PROHIBITION OF ARBITRARINESS

1. Administrative bodies shall be prohibited from displaying unequal approach towards similar factual circumstances, where there are no grounds for their differentiation. Administrative bodies shall display individual approach towards essentially different factual circumstances.
2. If the administrative body has exercised any discretionary power in a certain manner, it shall be obliged to exercise that discretionary power in the same manner in similar cases in the

future as well.

The administrative body may waive that restriction if, due to the existence of a paramount interest, it intends to consistently adopt another discretionary decision in the future.

Article 8. PROPORTIONALITY OF ADMINISTRATIVE ACTION

Administrative action must be directed at an objective pursued under the Constitution and laws of the Republic of Armenia, and the measures for achieving that objective must be suitable, necessary and proportional.

Article 9. PRINCIPLE OF THE MAXIMUM

1. Administrative bodies shall not have the right to require from individuals to perform such actions, which have already been performed by them within the framework of other activities or are included or can be included by their content in these frameworks.

2. If documents (data, information), presented by individuals to administrative bodies, include in their content other necessary documents, they may not be required anymore in an additional or separate form.

3. If permissions provided to individuals by administrative bodies in content include other permissions, the latter shall also be considered to be issued.

(Article 9 supplemented by HO-10-N of 13 December 2004)

Article 10. PRESUMPTION OF RELIABILITY

1. Data, information presented by the individual on the factual circumstances considered by the administrative body shall be deemed to be reliable in any case until an administrative body has not proved the opposite.

It shall be prohibited to require from individuals documents or other additional data confirming the data, information presented by them, if such requirement is not prescribed by law.

If the administrative body has reasonable doubts as to the authenticity of the data, information presented by individuals, it shall be obliged to take measures for ascertaining their authenticity independently and at its own expense.

2. Individuals shall bear responsibility for presenting false data or information to administrative bodies.

Article 11. EFFICIENCY

In exercising its powers the administrative body shall act in such a manner as to, without undermining the performance of its powers, ensure the most effective utilisation of means submitted to its disposal, in shortest possible term and for assuring the most favourable results.

Article 12. APPLICATION OF OTHER PRINCIPLES

Fundamental principles of administrative action as prescribed in this Chapter are not exhaustive and may not be an impediment for applying other principles of administrative action.

CHAPTER 3

JURISDICTION OVER CASES OF ADMINISTRATIVE BODIES, MUTUAL

ASSISTANCE OF ADMINISTRATIVE BODIES

Article 13. TERRITORIAL JURISDICTION

1. Settlement of matters concerning immovable property is reserved to the administrative body having jurisdiction over the territory where the immovable property is located.

2. Conferring of any right to, or imposition of any obligation on, a legal person or sole entrepreneur is reserved to the administrative body having jurisdiction over the territory where the legal person or the sole entrepreneur conducts his activities.

3. Settlement of matters concerning a natural person is reserved to the administrative body having jurisdiction over the territory where the natural person is registered or has his or her

domicile or habitual residence. 4. If settlement of a matter is subject to the concurrent jurisdiction of two and more

administrative bodies, jurisdiction shall be reserved to the administrative body to which the person applied or upon whose initiative that matter is to be settled.

5. In case of imminent threat or loss, matters requiring urgent resolution by administrative bodies shall be reserved to the administrative body exercising jurisdiction over the territory where the necessity to take action or to adopt decisions arose due to such situations, but if it is impossible, the administrative body having jurisdiction over the adjacent territory shall exercise jurisdiction, unless otherwise prescribed by law.

6. In case other laws prescribe different rules for determining the territorial jurisdiction over a case, those rules shall prevail.

Article 14. SUBJECT MATTER JURISDICTION

The issue of subject matter jurisdiction of administrative bodies over cases shall be resolved by laws concerning the factual circumstances mentioned in these cases.

Article 15. DUTY OF ADMINISTRATIVE BODIES OF MUTUAL ASSISTANCE

1. Administrative bodies shall be obliged to provide mutual assistance to each other for exercising their powers.

Mutual assistance shall be provided based on the claim of the requesting administrative body.

2. Assistance between administrative bodies that are in hierarchical relations with each other shall not be considered mutual assistance.

Article 16. APPLYING FOR MUTUAL ASSISTANCE

If more than one administrative body can provide the mutual assistance, the requesting administrative body shall request mutual assistance from the administrative body (requested administrative body), which, in its opinion, will provide the necessary mutual assistance more efficiently and in the possible shortest time period.

Article 17. GROUNDS FOR REFUSING THE PROVISION OF MUTUAL ASSISTANCE

1. The requested administrative body shall not have the right to provide mutual assistance if:

(a) the unlawfulness of the measures required for the mutual assistance is obvious for the requested administrative body; (b) the actions necessary for the provision of mutual assistance are out of the jurisdiction of

the requested administrative body;

(c) the documents (data, information) necessary for rendering mutual assistance are classified as secrets protected by law, and providing those documents to the requesting administrative body, even in a way that guarantees the secrecy of their delivery, is prohibited by law.

2. The requested administrative body shall have the right to refuse to render mutual assistance, if:

(a) administrative body, other than itself, is able to render the mutual assistance with substantively less efforts;

(b) rendering the mutual assistance would require making disproportionate efforts;

(c) provision of mutual assistance may significantly impair fulfillment of its own duties.

3. The petitioned administrative body shall not refuse to render mutual assistance based on grounds not prescribed in parts 1-2 of this Article.

4. If the requested administrative body refuses to render mutual assistance based on any ground prescribed in parts 1-2 of this Article, within three days it shall notify the administrative body requesting mutual assistance, which may challenge the refusal before the superior administrative body of the requested administrative body.

The superior administrative body shall expeditiously make a final decision on the dispute concerning the refusal to render mutual assistance. If the superior administrative body finds the refusal ungrounded, it shall order the petitioned administrative body to immediately render the mutual assistance.

(Article 17 supplemented by HO-10-N of 13 December 2004)

Article 18. LAWFULNESS OF THE MEASURES TAKEN IN MUTUAL ASSISTANCE

1. The lawfulness of the request for mutual assistance shall be determined according to the legal acts applicable to the requesting administrative body, whilst the lawfulness of the rendering of mutual assistance shall be determined according to the legal acts applicable to the requested administrative body.

2. (Part 2 repealed by HO-10-N of 13 December 2004)

3. As between the requesting and requested administrative bodies the requesting administrative body shall be liable for the lawfulness of the means requested on the basis of mutual assistance. The requested administrative body shall be liable for the lawfulness of the measures taken in rendering mutual assistance.

(Article 18 amended by HO-10-N of 13 December 2004)

SECTION II

ADMINISTRATIVE PROCEEDINGS

CHAPTER 4

GENERAL PROVISIONS

Article 19. DEFINITION OF ADMINISTRATIVE PROCEEDINGS

Administrative proceedings is the activity of administrative body directed at the adoption of an administrative act.

Article 20. STAGES OF ADMINISTRATIVE PROCEEDINGS

1. Administrative proceedings consists of interconnected stages: stage of initiation of the proceedings, stage of deliberation and final stage.

2. Administrative proceedings shall be initiated on the basis of the application of a person (persons) or the initiative of the administrative body (stage of initiation).

3. Pursuant to the application or to the initiative of the administrative body functions prescribed by this Law and connected with the examination of the administrative case shall be

carried out (stage of deliberation).

4. Administrative proceedings shall be concluded by the adoption of an administrative act (final stage).

5. In order to prevent an imminent danger or eliminate the consequences of the danger that has already occurred, as well as in other cases prescribed by law, administrative proceedings may be limited to the final stage.

Article 21. PARTICIPANTS OF ADMINISTRATIVE PROCEEDINGS

1. Participants of administrative proceedings (hereinafter referred to as “participants of the proceedings”) are:

(a) addressee of the administrative act, i.e., the person who applied for adoption of the administrative act (applicant), or the person with respect to whom the administrative body shall adopt the administrative act at its initiative;

(b) third parties, i.e., those persons whose rights or legitimate interests may be affected by the administrative act to be adopted as a result of the proceedings.

2. Participants of the proceedings referred to in point (b) of part 1 of this Article shall be involved in administrative proceedings pursuant to their application or at the initiative of the administrative body. (Article 21 amended and supplemented by HO-10-N of 13 December 2004)

Article 22. OTHER PERSONS IN ADMINISTRATIVE PROCEEDINGS

Other persons, such as witnesses, experts, translators, as well as representatives of state and local self-government bodies (hereinafter referred to as “other bodies”), may also take part in administrative proceedings.

Article 23. REPRESENTATION IN ADMINISTRATIVE PROCEEDINGS

1. Participants of the proceedings may take part in administrative proceedings independently, through their representatives or together with them.

2. Persons, including advocates, authorised according to the Civil Code of the Republic of Armenia may act during administrative proceedings as representatives of the participants of the

proceedings.

Participants of the proceedings lacking active legal capacity may be represented in administrative proceedings by their legal representatives as prescribed by the Civil Code of the Republic of Armenia.

3. Upon the demand of the administrative body authorised persons or legal representatives shall submit a power of attorney or a document affirming their legal representative status.

Notarisation shall not be required for the power of attorney.

4. If, as set forth in law, the power of attorney is no longer effective, the authorising or authorised person shall in writing notify the body conducting the administrative proceedings.

5. Witnesses, experts, translators and representatives of other bodies shall participate in the administrative proceedings only in person.

Article 24. IMPOSSIBILITY TO CONSIDER AND SOLVE THE CASE BY THE OFFICIAL OF AN ADMINISTRATIVE BODY

The official of an administrative body shall not have the right to consider and solve the case, if he or she:

(a) is a participant of the proceedings;

(b) is a representative of one of the participants of the proceedings;

(c) is employed by one of the participants of the proceedings;

(d) is a relative of one of the participants of the proceedings or of his or her representative, such as child, parent, natural mother or father, brother or sister or their child, paternal uncle or aunt or their child, maternal uncle or aunt or their child, spouse (moreover, the fact of being divorced shall not be a circumstance excluding the ground envisaged by this point), son-in-law,

daughter-in-law, parents of spouse or their child or their brother or sister; (e) participated in prior deliberation on the case.

(Article 24 edited by HO-10-N of 13 December 2004)

Article 25. GROUNDS AND PROCEDURE FOR RECUSAL

1. Participants of the proceedings may in writing recuse the official of an administrative body conducting the administrative proceedings and any member of the panel when conducting administrative proceedings by a panel of officials in cases provided for by law, where:

(a) any of the grounds provided for in Article 24 of this Law exists;

(b) the official or the member of panel has made a public statement about the possible outcome of the case or has evaluated the factual circumstances of the case prior to the closure of the case consideration or has evaluated any evidence prior to examination of the evidences;

(c) the official or member of panel has ever acted in the interest of any participant of the proceedings;

(d) there are other circumstances that attest an official's or panel member's direct or indirect interest in the outcome of the case or that raise suspicions as to his or her impartiality with regard to the case.

2. A recusal motion may be filed at the stage of proceedings before closure, during which the movant became aware of the presence of any ground prescribed in this Article.

3. A recusal motion filed once again against the same official may be considered if there are new grounds or new facts.

4. The decision on the recusal motion shall be issued no later than the first working day following the day the motion was filed.

Final decision on the recusal shall be made by the immediate superior of the official against whom the recusal was filed, and in case the administrative proceedings is conducted by a panel of officials, by the relevant panel through simple majority vote. In this case the member of the panel against whom recusal was filed shall not participate in the voting.

In the event that the recusal motion is filed against the head of the administrative body, the decision shall be made by the head of the administrative body himself or herself.

In case of upholding the recusal motion filed against the head of an administrative body, the administrative proceedings shall be conducted by the deputy head, or in the absence of the latter by other official having power to substitute the head of the administrative body.

Article 26. SELF-RECUSAL OF AN OFFICIAL CONDUCTING ADMINISTRATIVE PROCEEDINGS

1. In the presence of any ground provided for in Article 24 and in part 1 of Article 25, the head of the administrative body, the official conducting administrative proceedings (if the administrative proceedings is conducted by a collegial body - the member of the collegial body) shall recuse himself or herself.

In case of self-recusal of the head of an administrative body, the official defined by law shall conduct the administrative proceedings, and where the law does not designate the relevant official, the deputy of the official that recused himself or herself shall conduct the administrative proceedings; where the latter is absent, another official having authority to act in place of the head shall conduct the administrative proceedings.

If the official conducting administrative proceedings has recused himself or herself, the head of the administrative body shall replace him or her with another competent person within three days.

If a member of a collegial body has recused himself or herself, that body shall conduct the administrative proceedings with participation of the rest of the members of the panel .

2. Self-recusal shall be filed in writing. It shall be well reasoned. A copy of self-recusal shall be duly sent to the participants of the proceedings for their information.

3. If grounds for self-recusal by persons defined in part 1 of this Article became known after the commencement of the proceedings, they shall recuse themselves at the stage of proceedings when the relevant ground arose, subject to the requirement of part 2 of Article 25 of this Law.

Article 27. LANGUAGE OF ADMINISTRATIVE PROCEEDINGS

1. Administrative proceedings shall be conducted and administrative act shall be adopted in the Armenian language.

2. Persons mastering languages of national minorities in the Republic of Armenia may, as prescribed by law or in accordance with the international treaties of the Republic of Armenia, submit the application and documents attached to it in the language of such national minority

for conducting the administrative proceedings. In that case the administrative body shall require to submit Armenian translation of the documents.

3. The documents related to the conduct of the administrative proceedings and the records relating to the proceedings shall be in the Armenian language.

Where participants of the proceedings submit documents in another language, they shall, upon the request of the administrative body, submit also the Armenian translations carried out as prescribed by law.

4. In the course of administrative proceedings, participants may use foreign languages.

However, these persons shall ensure Armenian translation through their own translator, if the administrative body is unable to provide such translation

(Article 27 amended and edited by HO-10-N of 13 December 2004)

Article 28. MAINTAINING REGISTER AND RECORDKEEPING OF FILES RELATED TO ADMINISTRATIVE PROCEEDINGS

1. From the date of initiating the administrative proceedings, the administrative body shall compile a separate file in which all documents of the proceedings shall be kept, including the administrative act (certified copy thereof) adopted as a result of the administrative proceedings. At the same time the administrative body shall maintain chronological and subject-matter recordkeeping registers of administrative cases, as well as a separate register for recordkeeping of administrative acts adopted as a result of administrative proceedings.

2. The procedure and conditions for maintaining register of files related to administrative proceedings, their recordkeeping registers as well as recordkeeping register of administrative acts, shall be established by the administrative body based on the model rules approved by the Government of the Republic of Armenia.

3. The files related to administrative proceedings shall be maintained according to the rules for maintaining public documents set forth by law and shall be archived as prescribed by law.

4. Unless otherwise required by law, record management and recordkeeping with regard to administrative acts adopted orally or in other form shall not be maintained.

(Article 28 amended by HO-10-N of 13 December 2004)

Article 29. DRAWING UP OF PROTOCOL IN ADMINISTRATIVE PROCEEDINGS

1. Where participants of the proceedings, witnesses, experts or representatives of other bodies take part in the consideration of the case, the administrative body shall draw up a protocol of the consideration.

2. The protocol shall contain:

(a) the name of the administrative body conducting the proceedings;

(b) place, year, month and day of conducting the proceedings;

(c) name and surname of persons referred to in part 1 of this Article, with an indication of their status in the case (applicant, third party, witness etc.);

(d) substance of the issue under consideration;

(e) summary of presentations by participants of the proceedings and other persons in the proceedings;

(f) concluding part of the decision made. The protocol may also contain additional information.

3. If the consideration was conducted interruptedly, reasons for the adjournments shall be indicated. In case of conducting several considerations, a separate record shall be made for each. Appendixes may be attached to the protocol, including the list of all documents presented at the case, as per the submitting party. CHAPTER 5

STAGE OF INITIATION OF ADMINISTRATIVE PROCEEDINGS

Article 30. GROUNDS FOR INITIATING ADMINISTRATIVE PROCEEDINGS

AND INITIATION OF PROCEEDINGS

1. Grounds for initiating administrative proceedings are:

(a) the application or complaint of a person;

(b) initiative of the administrative body.

2. In cases provided for in point (a) of part 1 of this Article, administrative proceedings shall be considered initiated from the date when administrative body received the application or

complaint, except for the cases when application or complaint was readdressed to the competent administrative body or was returned to the applicant (complainant) pursuant to Article 33 of this Law.

3. In cases provided for in point (b) of part 1 of this Article, administrative proceedings shall be initiated from the date of the start of action (actions) which is aimed at adoption of the administrative act at the initiative of the administrative body.

4. (Part 4 repealed by HO-10-N of 13 December 2004)

5. In cases provided for in points (a) and (b) of part 1 of this Article, the relevant provisions of Section II of this Law shall be applicable, while in case prescribed by the part of point (a) concerning filing a complaint, provisions of Section IV shall also be applicable.

(Article 30 supplemented and amended by HO-10-N of 13 December 2004)

Article 31. GENERAL REQUIREMENTS FOR APPLICATION

1. Application to administrative body shall be submitted in writing and shall contain:

- (a) name, surname of the applicant, full name in case of a legal person;
- (b) address of the applicant (registered office of a legal person);
- (c) name of the administrative body to which application is submitted;
- (d) claim filed under the application (subject-matter of the application);
- (e) list of the documents attached to the application (if any);
- (f) year, month and day of drawing up the application;
- (g) signature of the applicant, while in case of a legal person - signature of the competent official and seal of the legal person.

If law requires payment of state or local duty or payment of other mandatory fee for an administrative act, a document evidencing the payment shall also be submitted.

Where the application is submitted through a representative, a power of attorney issued as prescribed by law shall also be submitted. A protocol prepared by the administrative body as a result of meetings with persons shall be

deemed an application within the meaning of this Article, if it contains the information required by points (a), (b) and (d) of part 1 of this Article and if the law does not require that the

application be submitted subject to all other points of part 1 of this Article.

(Article 31 supplemented by HO-10-N of 13 December 2004)

Article 32. ELIMINATION OF FORMAL ERRORS

If application contains formal errors that can be corrected, the administrative body shall show these errors to the applicant, providing an opportunity for him or her to correct those or, upon prior or later notice to the applicant, shall himself correct the errors. If the list of submitted documents attached to the application is incomplete, the administrative body shall suggest the applicant to complete that list within the prescribed period.

Article 33. READDRESSING AND RETURNING THE APPLICATION

1. Where the application was submitted to the administrative body not authorised therefor, the administrative body that received the application shall, within three days, readdress the application to the authorised administrative body and shall notify the applicant accordingly.

2. If one or more issues raised in the application are within the jurisdiction of another administrative body, the administrative body that received the application shall readdress the application on those issues to the authorised administrative body, notifying the applicant accordingly.

As to the part of the application within its jurisdiction, the administrative body shall initiate proceedings as prescribed in Article 31 of this Law.

3. If the claim raised in the application is neither within the jurisdiction of the administrative body that received the application, nor within the jurisdiction of any other administrative body, the administrative body shall return the application and documents attached to it to the applicant, within three days after receipt, stating the reasons for return.

4. In cases provided for in this Article, the administrative body shall retain copies of readdressed or returned applications, while in case of necessity the administrative body shall also retain copies of the documents attached, to the application in whole or in part, or their list.

(Article 33 amended by HO-10-N of 13 December 2004)

Article 34. GROUNDS FOR INITIATING ADMINISTRATIVE PROCEEDINGS AT
THE INITIATIVE OF THE ADMINISTRATIVE BODY

Grounds for initiating administrative proceedings at the initiative of the administrative body shall be the requirement of law to adopt an administrative act, the necessity emanating from it or the discretionary power reserved to the administrative body by law.

Article 35. NOTIFICATION ABOUT ADMINISTRATIVE PROCEEDINGS

1. Within three days after the initiation of administrative proceedings on the basis of application, the administrative body shall notify the participants of the proceedings or their representatives about initiation of administrative proceedings. Administrative body shall notify the above-mentioned persons, and as necessary, also the witness, expert, translator and representatives of other bodies, about the place, day, time and other conditions for activities necessary for conducting the administrative proceedings.

2. The administrative body, when initiating administrative proceedings at its own initiative, shall properly notify the participants of the proceedings or their representatives about initiation of administrative proceedings, if the time period between initiation of administrative proceedings and adoption of the administrative act exceeds three days.

(Article 35 amended and edited by HO-10-N of 13 December 2004)

CHAPTER 6

DELIBERATION STAGE OF ADMINISTRATIVE PROCEEDINGS

Article 36. DUTY OF THE ADMINISTRATIVE BODY TO ACT PROMPTLY

1. Administrative proceedings shall be conducted in the shortest possible time period.
2. The administrative body shall conduct administrative proceedings without complicating it, such as additional hearings, additional expert examinations or inspections, if there are no reasons necessary for clarification of the factual circumstances of the case.

3. If after initiation of administrative proceedings the documents necessary for adoption of the administrative act are at the disposal of the administrative body, the factual circumstances of the case are sufficiently clarified and verified, the administrative body, shall, within reasonable time period after the aforementioned conditions are met, adopt an administrative act, without waiting for the expiration of general or special deadlines.

(Article 36 amended by HO-10-N of 13 December 2004) Article 37. COMPREHENSIVENESS, COMPLETENESS AND OBJECTIVITY OF

ADMINISTRATIVE PROCEEDINGS

1. The administrative body shall ensure comprehensive, complete and objective consideration of factual circumstances revealing all circumstances of the case, including those in favor of the participants of the proceedings.

2. The administrative body shall not have the right to refuse to receive applications and documents submitted by the participants of the proceedings concerning the proceedings, consideration of which is within its jurisdiction.

Article 38. HEARING THE PARTICIPANTS OF THE PROCEEDINGS

1. During administrative proceedings, the administrative body shall ensure that participants of the proceedings and their representatives have the opportunity to be heard as regards the factual circumstances under discussion in the administrative proceedings.

2. Hearings need not be held if:

(a) a favorable administrative act will be adopted as a result of administrative proceedings, which does not interfere in the enjoyment of the rights of other persons, or the addressee of the administrative act does not insist on the holding of hearings;

(b) the application is apparently ill-founded;

(c) an oral administrative act is being adopted.

3. Hearings shall not be held, if:

(a) there is an immediate need for adopting an administrative act for delay may pose a public danger;

(b) the administrative act is adopted in another form.

4. Hearings shall not be held or need not be held also in other cases prescribed by law.

(Article 38 amended by HO-10-N of 13 December 2004)

Article 39. ACCESSIBILITY OF THE MATERIALS OF ADMINISTRATIVE PROCEEDINGS

1. For the purpose of ensuring that the operations of the administrative body are public and impartial throughout the administrative proceedings, the participants of the proceedings shall have access to the materials of the administrative proceedings held by the administrative body conducting the proceedings.

2. Access to the materials of the administrative proceedings shall be granted within three days after a request is duly submitted.

Participants of the proceedings may make carbon copies, photocopies of, and excerpts from, the materials of the administrative proceedings. 3. In the granting of access to the materials of the administrative proceedings, the administrative body shall be obliged to keep the state and official secret, as well as other secrets protected by law, and in case of disclosure, the administrative body shall adhere to the procedure and conditions relating to the respective secret as provided by law.

Article 40. ASSISTING THE PARTICIPANTS OF THE PROCEEDINGS

1. The administrative body shall be obliged to explain to natural persons their rights and obligations in administrative proceedings in connection with the matter set forth in their application, assist in drafting applications and documents attached, to it and when possible, draw them up itself.

2. The administrative body shall be obliged to assure that persons have access to regulatory legal acts adopted by the administrative body, as well as laws and other legal acts related to the activity of the administrative body.

(Article 40 amended by HO-10-N of 13 December 2004)

Article 41. ELIMINATION OF ERRORS IN THE FILE RELATED TO
ADMINISTRATIVE PROCEEDINGS

1. If errors, deletions, scratch-outs, misprints are found in the documents submitted by the participants of the proceedings, the administrative body shall draw the participants' attention to the documents with the intent of correcting them, or, the administrative body itself shall correct patent errors and typos of submitted documents in the presence of the participants of the proceedings.

The administrative body shall not have the right to refuse receiving such documents solely on the ground that they contain such errors, deletions, scratch-outs or misprints.

2. The provisions of part 1 of this Article do not apply to the correction of such errors, deletions, scratch-outs, misprints or elimination of other documentary defects, if the right to make corrections is reserved by law to the bodies that adopted or issued the documents.

Article 42. EVIDENCE IN ADMINISTRATIVE PROCEEDINGS

1. In administrative proceedings the administrative body shall evaluate as evidence the explanations, testimony, expert opinions, documents, materials, items, as well as those circumstances which the body considers useful and necessary for discovering and assessing factual circumstances of the case.

2. An administrative body shall not have the right to require documents or their notarised or otherwise certified copies, unless the submission thereof or the submission with the appropriate certification is provided for by law.

Article 43. ALLOCATION OF BURDEN OF PROOF

1. In the relationship between a person and the administrative body, the burden of proof shall rest upon:

(a) the person in case of presence of factual circumstances favourable for him or her;

(b) the administrative body in case of presence of factual circumstances unfavourable for

the person.

2. Where in case envisaged in point (a) of part 1 of this Article, a person can become aware of the data (information) related to such factual circumstances only from that administrative body, the burden of proof shall rest upon that administrative body.

3. Where in case envisaged in point (b) of part 1 of this Article, the administrative body can become aware of the data (information) related to such factual circumstances only from the person, the burden of proof shall rest upon that person.

(Article 43 amended by HO-10-N of 13 December 2004)

Article 44. TESTIMONY OF WITNESSES

The administrative body shall, either at the request of the participants of the proceedings or upon its own initiative, invite and hear testimonies of such persons who may be aware of information related to the case. Witnesses may choose to present testimony in writing without appearing before the administrative body. Witnesses shall sign each page of written testimony, which shall be certified by the seal of the administrative body; the testimony shall bear the year, month and day of the signature. If it is necessary to ask the witness questions, the administrative body shall summon the witness.

Article 45. APPOINTMENT OF AN EXPERT, CARRYING OUT INSPECTIONS

1. If appointment of an expert to examine factual circumstances is necessary, the administrative body shall apply to the head of the relevant organisation or to the relevant person and shall notify the participants of the proceedings accordingly.

2. Only a person possessing knowledge in the relevant field may be appointed as an expert.

The expert shall present an opinion based on his or her examinations.

3. Participants of the proceedings may be present during the examination, if their presence will not interfere with the examination.

4. At the request of the administrative body or participants of the proceedings, the expert

shall provide additional clarification concerning opinion of the expert examination. 5. The administrative body may also designate inspection of a natural person, site, object or material, if necessary. Upon the decision of the administrative body, participants of the proceedings may be present at the examination.

(Article 45 supplemented and amended by HO-10-N of 13 December 2004)

Article 46. TIME LIMITS OF ADMINISTRATIVE PROCEEDINGS

1. The maximum time limit for administrative proceedings shall be 30 days. The law may envisage special time limits which are shorter or longer than 30 days.

2. The time limit for an administrative proceedings shall commence from the day of registration of an application by the administrative body, while for administrative acts to be adopted at the initiative of the administrative body - from the day of such initiative.

3. The time limits provided for by this Law shall be calculated in calendar days.

If the time limit expires on a non-working day, the time limit shall be considered to have expired at 18:00 of the first working day following the non-working day.

Article 47. EXTENSION OF THE TIME LIMIT OF ADMINISTRATIVE PROCEEDINGS

1. The time limit of administrative proceedings may be extended where:

(a) it is necessary to obtain additional information or documents for the purpose of clarifying the circumstances that are substantial for the consideration of the case, which the applicant is obliged to present according to part 3 of Article 43 of this Law, and where it is impossible to make a decision on the merits during the remainder of the time limit allotted for the proceedings;

(b) more time is needed for issuing an expert opinion than the time limit prescribed for the proceedings by law;

(c) more time is needed to take measures for mutual assistance than the time limit

prescribed for the proceedings by law;

(d) several administrative bodies participate in the adoption of an administrative act.

2. In cases provided for in point (a) of part 1 of this Article, the time limit of the administrative proceedings may be extended for a period of up to 10 days. In this case the extension may be applied for up to two times, preserving the mentioned time period.

In case provided for in paragraph (b) of part 1 of this Article, the time limit of administrative proceedings may be extended until the relevant expert opinion is received.

In cases provided for in points (c) and (d) of part 1 of this Article, the time limit of administrative proceedings may be extended for a period of up to 30 days.

3. Where more than one ground for extension of the time limit of administrative proceedings provided for in part 1 of this Article arise, the administrative body shall apply only the one that provides an opportunity to conduct the proceedings more speedily and efficiently and to adopt the decision on the merits.

4. The administrative body conducting the proceedings shall adopt a decision relating to the extension of the time limit of administrative proceedings, whereabout it shall notify the participants of the proceedings or their representatives as well as other persons participating in the proceedings.

Article 48. CONSEQUENCES OF FAILURE TO ADOPT AN ADMINISTRATIVE ACT WITHIN THE TIME LIMIT OF ADMINISTRATIVE PROCEEDINGS

In case of failure to adopt an administrative act by the administrative body competent to adopt such act within the time limit envisaged by law as a result of administrative proceedings initiated on the basis of application:

(a) administrative act shall be considered to have been adopted and the applicant may take steps in the enjoyment of the relevant right;

(b) if the application relates to the provision of a document prescribed by law in regard to affirmation or recording of a fact (birth, death, absence of a person etc.), the person who has not received the relevant act pursuant to his or her application or the person who has submitted the application for that act shall be exempted from such obligations or any liability prescribed by

law for not holding such documents.

(Article 48 amended by HO-10-N of 13 December 2004)

Article 49. SUSPENSION OF ADMINISTRATIVE PROCEEDINGS

1. The administrative body shall be obliged to suspend the administrative proceedings, if:

- (a) it is impossible to adopt the administrative act expected as a result of the proceedings, until decision (judicial act) is rendered on the case heard in constitutional, administrative, civil or criminal proceedings;
- (b) addressee of the administrative act has not appeared at the proceedings and the law excludes the adoption of the relevant administrative act without his or her presence;
- (c) adoption of an administrative act is possible only if the addressee of the administrative act is revealed.

2. The administrative body may suspend the administrative proceedings, if:

- (a) the addressee of the administrative act is absent, and prior to adoption of the administrative act the administrative body finds that his or her presence is necessary for ascertaining certain circumstances important for the proceedings;
- (b) the legal person, which is the addressee of the administrative act to be adopted, is in the process of reorganisation.

Administrative proceedings may also be suspended in other cases provided for by law. 3. In cases provided for in point (a) of part 1 of this Article, the administrative proceedings

shall be resumed after elimination of the circumstances causing the suspension.

In cases provided for in points (b) and (c) of part 1, as well as in part 2 of this Article, the administrative proceedings shall resume after elimination of the circumstances causing the suspension, but not later than the 60-th day from the day the decision on suspension was made.

4. The administrative body shall make a decision on the suspension of administrative proceedings, which shall be duly communicated to the participants of the proceedings within three days.

A decision on suspension of the administrative proceedings may be made at any stage of the proceedings.

(Article 49 amended and supplemented by HO-10-N of 13 December 2004)

Article 50. TERMINATION OF ADMINISTRATIVE PROCEEDINGS

1. Administrative proceedings initiated on the basis of application shall be terminated, if:

(a) the application was submitted without signature and the administrative body, taking necessary measures in order to reveal the applicant, could not find out the person requesting adoption of the administrative act;

(b) the applicant renounces his or her application in writing;

(c) there is an administrative or judicial act having entered into force concerning the same person, on the same subject matter and on the same grounds;

(d) there is a case pending in court proceedings concerning the same person, on the same subject matter and on the same grounds;

(e) the status of the applicant has changed, which, according to law, excludes adoption of the administrative act requested in the application;

(e

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) the time limit provided for in the second paragraph of part 3 of Article 49 of this Law has expired, during which the circumstance causing the suspension has not been eliminated;

(f) the application is impermissible.

Administrative proceedings initiated on the basis of application shall be terminated also in cases provided for in Article 70 of this Law.

2. Administrative proceedings initiated at the initiative of the administrative body may be terminated, if:

(a) the future addressee of the administrative act has eliminated violations of the requirements of law or other legal act or took appropriate measures for prevention of violations, and, in such cases, the law does not require adoption of administrative act concerning the violations;

(b) the necessity to adopt an administrative act has disappeared on the ground of violation of

requirements of law or other legal acts or of alteration in situation not related to the prevention of such violations. 3. The administrative body shall adopt a decision on the termination of administrative proceedings, which shall be duly communicated to the participants of the proceedings within three days.

4. In case of termination of administrative proceedings on the grounds prescribed in points (c), (d), (e) and (f) of part 1 of this Article, resumption of the proceedings and adoption of an administrative act on the same issue shall not be allowed, unless otherwise provided for by law.

5. Decision on termination of administrative proceedings may be appealed according to the general procedure prescribed by this Law

(Article 50 supplemented by HO-10-N of 13 December 2004)

Article 51. RESUMPTION OF ADMINISTRATIVE PROCEEDINGS

1. Upon the application of the participants of the proceedings, the administrative body shall make a decision regarding amendment, invalidation or repealing of an administrative act not subject to appeal, if:

(a) after adoption of an administrative act the factual circumstances on which it is based or the status of the addressee of the administrative act have changed in favour of a person who has submitted the application for the resumption of the proceedings;

(b) there is new evidence that may lead to the adoption of a more favourable decision for the person who has requested the resumption of the proceedings;

(c) new circumstances that have substantial significance for the case have appeared, which were not and could not be known to persons requesting the resumption of the proceedings, or, even if they were known to them, they were not presented to the administrative body adopting the administrative act due to circumstances not depending on them;

(d) there are other grounds provided for by law.

In cases provided for in this part, administrative proceedings shall resume. During those proceedings, general norms on administrative proceedings provided for by this Law shall apply.

2. Application shall be submitted within three months from the day the person who has requested the resumption of the proceedings became aware of any circumstance (circumstances)

— provided for in part 1 of this Article — that have served as a ground for resumption of the administrative proceedings.

3. Decision based on the application shall be made by the administrative body that has adopted the administrative act subject to amendment, invalidation or repealing, or by a relevant superior or other competent administrative body who is authorised under the law to invalidate or repeal that act through resumption of administrative proceedings.

(Article 51 amended by HO-10-N of 13 December 2004)

Article 52. PARTICIPATION OF SEVERAL ADMINISTRATIVE BODIES IN THE ADOPTION OF AN ADMINISTRATIVE ACT

1. If permission or consent of other administrative bodies is also necessary for the adoption of an administrative act, the necessary actions for requesting and obtaining those, including collection of additional documents, shall be taken by the administrative body that has initiated the administrative proceedings.

2. Permissions and consents obtained by the administrative body according to the procedure provided for in part 1 of this Article shall not be subject to appeal separately; they may be appealed against together with the administrative act.

SECTION III

ADMINISTRATIVE ACT

CHAPTER 7

ADMINISARTIVE ACTS, TYPES AND FORMS THEREOF

Article 53. DEFINITION AND TYPES OF ADMINISTRATIVE ACTS

An administrative act is the decision, executive order, order or other individual legal act having an external effect that administrative body adopted for the purpose of settlement of a concrete matter in the field of public law, and is directed to the prescription, amendment, elimination or recognition of rights and obligations for persons.

An administrative act may also be directed to a group of persons classified according to a

certain individual criteria.

2. Within the meaning of this Law:

(a) favourable administrative act is the administrative act through which administrative bodies confer rights upon persons or create for them any other condition that improves the legal or factual situation of those persons;

(b) interfering administrative act is the administrative act through which administrative bodies refuse, interfere, or right up to restrict the enjoyment of the rights of persons, impose any obligation on them or in any other way aggravate their legal or factual situation;

(c) combined administrative act is the administrative act which contains provisions laid down both in favourable and interfering administrative acts for a person.

(Article 53 amended by HO-10-N of 13 December 2004)

Article 54. FORMS OF ADMINISTRATIVE ACTS

1. As a rule, administrative acts shall be adopted in writing in the form of a decision, order, executive order or in another form provided for by law.

Only a written administrative act may be adopted as a result of administrative proceedings initiated on the basis of application.

2. In cases provided for by law, administrative acts may be adopted orally.

Pursuant to an oral or written request of the addressee of an act, the oral administrative act shall be subject to subsequent formulation in writing in cases provided for by law, as well as in case the addressee of the act has a justified interest.

In that case, the requirements for written administrative acts provided by this Law shall be preserved.

3. Administrative acts may also be adopted in the form of lights, sound, image, signals, signs or other forms provided for by law (hereinafter referred to as "administrative acts of other forms").

(Article 54 edited by HO-10-N of 13 December 2004)

Article 55. REQUIREMENTS PROVIDED FOR WRITTEN ADMINISTRATIVE

ACTS

1. Written administrative acts shall meet the following requirements:

(a) the content of the administrative act shall be in conformity with the requirements prescribed by law for the adoption of such act, shall contain notice about all those substantial factual and legal circumstances that served as a basis for making the decision by the administrative body;

(b) the administrative act shall be formulated on the paper of a prescribed form and standard.

2. As a rule, the administrative act shall also contain information on the expenses, and those who bear them, which were incurred in connection with the adoption of the act. In case of adopting an act on refund of the expenses, the amount to be returned and conditions and procedure for refund shall be indicated.

3. The administrative act may include enclosures, appendixes or other additional documents operation of which may not exceed the time period of operation of the administrative act.

Enclosures, appendixes and other additional documents are not separate administrative acts, but are component parts of the administrative act and shall operate in so far as the administrative act operates.

4. The administrative act shall contain:

(a) the full name of the administrative body that conducted the proceedings; (b) the name, surname of the addressee of the administrative act, and the full name in case

of a legal person;

(c) the full name of the act, year, month, day and number of its adoption;

(d) the description of the issue being resolved by the act (descriptive part);

(e) reasoning for adopting the act (reasoning part);

(f) statement of the decision made (conclusive part);

(g) time period of the operation of the act, if the act is adopted for a specific time period;

(h) time period for appeal and the appellate body, including the court where the act may be appealed;

(i) position, name, surname, signature of the official of the administrative body adopting the act;

(j) official seal of the administrative body that has adopted the act.

5. An administrative act regulating a similar question may have a unified sample form (standard form).

Article 56. CERTAINTY OF ADMINISTRATIVE ACTS

1. Administrative acts shall be formulated clearly and comprehensively.

2. The content of administrative acts shall be formulated in such a way as to make it clear to the addressee of the act what right is conferred upon him or her, which of his or her rights is restricted, which of his or her rights he or she is deprived of, or what obligation is imposed on him or her.

Article 57. REASONING OF ADMINISTRATIVE ACTS

1. Written administrative acts or administrative acts approved in writing shall contain reasoning where all substantial factual and legal grounds for adopting the respective decision shall be specified.

The reasoning of an administrative act adopted as a result of exercise of discretionary powers of an administrative body shall clearly indicate the considerations on the basis of which the administrative body chose the given solution.

2. No reasoning shall be required where:

(a) the administrative body grants an application, and the administrative act does not affect the rights of third persons;

(b) the addressee of the administrative act or the person whose interests are affected by the act is already aware of the position of the administrative body with regard to factual or legal consequences, or that position apparently flows from the text of the act; (c) the administrative body issues similar administrative acts in large quantity or publishes

administrative acts through use of technical means, and there is no need for reasoning in every separate case.

3. Reasoning of administrative acts adopted by an administrative body based on arguments

not related to the jurisdiction of that body shall be prohibited.

(Article 57 amended by HO-10-N of 13 December 2004)

CHAPTER 8

ADOPTION OF THE ADMINISTRATIVE ACT, NOTIFICATION

THEREON, ENTRY INTO FORCE OF THE ADMINISTRATIVE ACT

Article 58. ADOPTION OF THE ADMINISTRATIVE ACT

1. A written administrative act shall be considered adopted from the day the competent official of the administrative body signs it.
2. Administrative acts in oral or other form shall be considered adopted from the moment of their publication .

(Article 58 amended by HO-10-N of 13 December 2004)

Article 59. NOTIFICATION ON ADOPTION OF THE ADMINISTRATIVE ACT

(DELIVERY AND PUBLICATION OF THE ADMINISTRATIVE ACT)

1. The administrative body shall notify the participants of the proceedings on the adoption of the administrative act by means of delivery or publication provided for in this Article.
2. The written administrative act shall be delivered to the participants of the proceedings within three days following its adoption. It may be delivered by a registered letter, including by receipt of delivery, personally handing over to the addressee upon signature, as well as by other ways provided for by law.

As a rule, the written administrative act shall be delivered to the participants of the proceedings personally by signature.

The other means of delivery provided for in this part shall be used in case where there is no such possibility for personal delivery by signature due to any valid reason, including when the addressee requested to use other means of delivery.

While delivering the administrative act to the addressee, the administrative body shall be obliged to deliver the documents that are considered as component part of that act together with the act.

The failure to deliver the mentioned documents together with the administrative act or late delivery shall not affect the operation of the administrative act and therefore shall not be a reason for disputing the lawfulness of the act. 3. In case of making amendments and supplements to the written administrative act, as well

as documents constituting its component part as prescribed by law, the administrative body that has made such amendments and supplements, shall be obliged to deliver them to the addressee of the administrative act as prescribed by law.

4. The administrative body having adopted the act may, upon the request of the addressee of the written administrative act, provide him or her the copy of the administrative act translated into a foreign language, which should be endorsed with the official seal of the relevant administrative body.

Only the text of the administrative act in the language of administrative proceedings shall have legal effect. The copy translated into a foreign language shall not be a basis for interpretation or explanation of the meaning or content of the act, while in case when a dispute arises or an appeal is filed, the text of the administrative act adopted in the Armenian language shall be taken as a basis

5. Publication of the administrative act shall be carried out by publishing it in the journal of the administrative body or in another official journal or by publishing it through other mass media.

Written administrative act shall be subject to mandatory publication, if the information concerning persons directly affected by the act is unknown to the administrative body, as well as in other cases provided for by law.

Written administrative act may also be published at the initiative of the administrative body, if the administrative body considers that publication of the act is appropriate for the state and public interests, as well as due to the necessity of effective protection of the rights of persons.

The concluding part of a written administrative act shall be published in the press, in other mass media or in other means of spreading information. This means of publication shall contain notice on the place where the whole administrative act is available, including its reasoning.

6. Oral administrative acts shall be published in oral form, by stating it to the addressee

(addressees). Oral administrative acts may be published in a foreign language comprehensible for its addressee.

7. Administrative acts of other form shall be published in a way prescribed by law, which makes them immediately visible or perceivable for the addressee (addressees) or which makes them available in any other way.

(Article 59 amended by HO-10-N of 13 December 2004)

Article 60. ENTRY INTO FORCE OF THE ADMINISTRATIVE ACT

1. The written administrative act shall enter into force on the day following the notification of the adoption of the act concerned in the manner prescribed in Article 59 of this Law, unless otherwise provided for by law or the act concerned. 2. If the administrative act contains such provisions which connect the entry into force of a

part of the act with the emergence of certain conditions and circumstances, that part of the administrative act shall enter into force from the moment of the emergence of the relevant condition or circumstance (act with a condition).

3. Administrative acts in oral or other forms shall enter into force from the moment of publication of those acts.

(Article 60 amended by HO-10-N of 13 December 2004)

Article 61. VALIDITY PERIOD OF THE ADMINISTRATIVE ACT

1. An administrative act may operate for an indefinite or definite period. A written administrative act adopted for an indefinite period shall operate as long as it is not replaced with another administrative act, annulled or repealed as prescribed by this Law or terminated on any other ground provided for by law.

A written administrative act adopted for a definite period shall operate until the expiry of the term provided for by the act concerned. Until the expiry of the term of the administrative act adopted for a definite period or within 15 days following its expiry, the validity period of

such administrative act may be extended by another administrative act for a new time period or for an indefinite time period.

2. In cases prescribed by law, the administrative act may lack notice about its validity period, if the solution of the matter regulated by the administrative act is connected to the fulfilment of a certain or several activities or emergence of events and from the moment of completion of fulfilment or emergence of which the validity period of that act is determined (act with a condition).

The validity period of the act shall expire upon the occurrence of the condition provided for by the act.

3. An oral administrative act shall, following its entry into force, operate until the moment when the administrative body having adopted the act concerned, finalises the actions provided for by law in this regard or somehow announces the addressee of the act about the termination of the act.

4. Administrative acts of other form shall operate until the moment when the addressee of the act is informed about the termination of the act in audiovisual or any other accessible form.

(Article 61 amended by HO-10-N of 13 December 2004)

CHAPTER 9

VOID ADMINISTRATIVE ACT, GROUNDS, PROCEDURE AND CONSEQUENCES OF DECLARING THE ADMINISTRATIVE ACT INVALID OR REPEALED

Article 62. GROUNDS FOR VOIDNESS OF AN ADMINISTRATIVE ACT

1. An administrative act shall be void where, particularly, there are the following apparent serious errors:

(a) the act does not expressly specify or it is not definitely clear therefrom which administrative body has adopted it;

(b) the act has been adopted by an incompetent administrative body;

(c) it is not clear from the act who its concrete addressee is, or it is unknown what issue it

regulates;

(d) an obviously unlawful obligation is imposed on the addressee of the act or an obviously unlawful right is conferred upon the addressee.

2. A void administrative act shall have no legal force from the moment of its adoption and shall not be subject to execution or application.

3. Incompliance with a void administrative act shall not entail any responsibility for persons to whom it is addressed.

Execution or application of a void administrative act shall entail responsibility prescribed by law.

4. The administrative body having adopted a void administrative act shall be obliged to immediately confirm the voidness of the act at its initiative or based on the application of any person who has a justified interest.

(Title amended by HO-10-N of 13 December 2004)

Article 63. DECLARING AN UNLAWFUL ADMINISTRATIVE ACT INVALID

1. Invalid shall be the unlawful non-void administrative act, which was adopted:

(a) in violation of the law, including as a result of incorrect application or incorrect interpretation of the law;

(b) on the basis of false documents or information, or if it is obvious from the documents submitted that in substance another decision should have been adopted.

2. The unlawful administrative act provided for in part 1 of this Article may be declared invalid by the administrative body having adopted the act or by its superior body, as well as

through judicial procedure. 3. An unlawful administrative act may not be declared invalid, if the addressee of the act

has legitimate expectation as to the existence of the administrative act, and operation of which cannot cause damage to the rights of any person, to the Republic of Armenia or to any community.

Addressee of the administrative act shall be entitled to have legitimate expectation as to the

existence of the administrative act, if he or she has already used or disposed of what he or she has obtained based on the administrative act, as well as if the returning of what was obtained on the basis of the administrative act will cause damage to the addressee of the administrative act.

4. The addressee of an administrative act shall not be entitled to have legitimate expectation as to the existence of the administrative act, if he or she:

(a) has achieved the adoption of the relevant administrative act through a bribe, threat, or intentionally leading the official of the administrative body into delusion,

(b) has achieved the adoption of the relevant administrative act through submission of false or incomplete documents;

(c) knew in advance about the unlawful administrative act or, on the basis of information available to him or her, should have known about it;

5. As a rule, an administrative act shall be declared invalid in whole.

An administrative act may be declared invalid in part, if the valid part may remain in force without the invalid part.

If an administrative act has been declared invalid in part, the rules of this Article shall apply only to the part of the act declared invalid.

(Article 63 amended by HO-10-N of 13 December 2004)

Article 64. CONSEQUENCES OF DECLARING AN UNLAWFUL ADMINISTRATIVE ACT INVALID

1. An unlawful administrative act shall be repealed from the moment of adoption of the decision on its invalidation, as well as from the moment of adoption of the administrative act, with the exceptions prescribed in the second paragraph of this part and in part 2 of this Article.

In cases prescribed in Article 63(4) of this Law, an unlawful administrative act shall be declared invalid from the moment of its adoption, unless otherwise prescribed by law.

An unlawful administrative act, which has been declared invalid, shall not entail legal consequences. However, if, prior to declaring the unlawful administrative act invalid, it caused damages to any person or to the Republic of Armenia or to any community as a result of its execution or application, it shall be subject to compensation according to the provisions

prescribed in Section VII of this Law.

2. A favourable unlawful administrative act, on the basis of which simultaneous or current property obligations arise, or which serves as a background for such obligations, may be repealed only from the moment of its invalidation, if the person who benefits from that act by virtue of the entitlement to legitimate expectation with regard to the administrative act has already acquired the granted benefits or has already disposed of the property, as a consequence of which those cannot be returned, or, in case of return, substantial damage may be caused to the person who has obtained a benefit. In this case, the provisions of the Civil Code of the Republic of Armenia concerning unjust enrichment shall apply.

The administrative body that has declared an unlawful administrative act invalid, shall determine the amount of the benefit subject to compensation.

Moreover, the person who has obtained a benefit may not invoke the entitlement to legitimate expectation, if the administrative body has sufficient evidence proving that the person who has obtained the benefit has reached to the adoption of the relevant administrative act through violations referred to in Article 63(4) of this Law.

3. If an unlawful administrative act has been declared invalid only in part, the consequences prescribed in this Article shall apply to the invalidated part of the administrative act.

Article 65. TIME LIMIT FOR DECLARING AN UNLAWFUL ADMINISTRATIVE ACT INVALID

An unlawful administrative act, which has not been disputed as prescribed by this Law, may be declared invalid within six months from the day when the competent administrative body became aware of the facts that could serve as a ground for declaring the administrative act invalid.

An administrative act shall become undisputable, and the administrative body shall be deprived of the right provided for in this Article, if 10 years have passed from the day of adoption of the administrative act, except for the cases provided for by law.

(Article 65 amended and supplemented by HO-10-N of 13 December 2004)

Article 66. REPEALING A LAWFUL ADMINISTRATIVE ACT

1. A lawful administrative act shall be the administrative act which was adopted in accordance with the requirements of the law.
2. A lawful interfering administrative act may be repealed, except for the cases when a new administrative act with the same content has to be adopted, or if repealing of that act is prohibited on the basis of other reasons prescribed by law.
3. A lawful favourable administrative act may be repealed, if
 - (a) there is no longer any necessity of such administrative act because of an amendment in law, or operation of that act is terminated;
 - (b) repealing is permitted by law or is due to such a reservation in the lawful administrative act;
 - (c) any obligation prescribed by law is connected to the administrative act, and the addressee of that act had to fulfill it but has not fulfilled or has fulfilled improperly;
 - (d) the administrative body would have the right not to adopt the administrative act as a result of change of factual circumstances after adoption of the act, and if paramount public interest may be violated in case the administrative act is not repealed;
 - (e) the administrative body would have the right not to adopt the administrative act as a result of amendment of a regulatory legal act, until the addressee of the administrative act has disposed of the benefits granted by the administrative act, or the activities guaranteed by the administrative act have been performed towards the addressee, and if paramount public interest may be violated in case the administrative act is not repealed;
 - (f) it is necessary to eliminate grave consequences for the protection of life, health or property of other persons, as well as state security or particularly important public interests, or to avoid emergence of such consequences.

Article 67. REVIEWING AN ADMINISTRATIVE ACT BY WAY OF SUPERIORITY

In case of absence of an appeal in regard to an administrative act adopted by the administrative body, the superior administrative body (official) of the administrative body

having adopted such administrative act shall, at his initiative and in the exercise of supervisory power, have the right to review the administrative act adopted by the inferior administrative body.

(Article 67 supplemented and amended by HO-10-N of 13 December 2004)

Article 68. RETURNING DOCUMENTS AND ITEMS

1. Documents and items given pursuant to the administrative act that was declared invalid or repealed shall be subject to return by the persons possessing them, unless otherwise prescribed by law.

If documents are not returned according to this Article, the administrative body having adopted the act shall have the right to declare that the administrative act does not have effect any longer through the means of official publication.

2. When returning the documents, pursuant to the wish of the owner of the document, the administrative body shall give the copy of the document by making a relevant note on it and verifying it by its seal.

SECTION IV

APPEAL PROCEDURE

CHAPTER 10

GROUND AND PROCEDURE FOR BRINGING AN ADMINISTRATIVE APPEAL

Article 69. RIGHT TO APPEAL

For the purpose of protection of their rights, persons shall have the right to appeal the administrative acts, the action or inaction of the administrative body (hereinafter referred to as "the act").

Article 70. APPEAL PROCEDURE

1. The act may be appealed through administrative or judicial procedure.

2. An appeal may be filed through administrative procedure with:

(a) the administrative body having adopted the act;

(b) superior administrative body of the administrative body having adopted the act.

Where the act has been appealed before the administrative body having adopted the act and/or the superior administrative body of the administrative body having adopted the disputed act, the appeal shall be subject to consideration in the superior administrative body of the administrative body having adopted the act being appealed. In this case, the proceedings in regard with the appeal initiated in the administrative body having adopted the act being appealed shall be subject to termination.

3. Where the act has been appealed through administrative and judicial procedure simultaneously, the appeal shall be subject to court review; in such case the proceedings initiated in the administrative body shall be terminated.

(Article 70 amended by HO-10-N of 13 December 2004)

Article 71. TIME LIMITS FOR APPEAL

1. An administrative appeal may be brought:

(a) within six months from the day of entry into force of the administrative act;

(b) within one month from the day of performing any action by the administrative body;

(c) within three months following the day of demonstrating inaction by the administrative body;

(d) within one year from the day of entry into force of the administrative act, in case of

failure to indicate in the written administrative act the time limit for its appeal. 2. The act may not be appealed after missing the time limit specified in part 1 of this

Article. The time limit for appeal may be restored in case of missing it for a valid reason.

Circumstance for considering the missing of the time limit for appeal as valid may be the missing of the time limit for appeal by reasons not depending on the participant of the proceedings.

After eliminating the reason (reasons) due to which the time limit for appeal was missed, the participant of the proceedings may bring an appeal within 15 days, indicating the reason (reasons) of missing the time limit for appeal. The administrative body conducting administrative proceedings shall restore the missed time limit for appeal and shall consider the appeal on the merits and settle it, if the circumstance of missing the time limit for appeal by reasons not depending on the person bringing the appeal (the absence of the fault of the person bringing the appeal) is substantiated under the appeal or during the consideration of the appeal. One year after the expiry of the time limit for appeal, the participant of the proceedings shall forfeit the right to appeal on the ground of missing the time limit for appeal for a valid reason, except for the cases, when the missing of the time limit for appeal is connected with the consequences caused by force major.

Article 72. REQUIREMENTS FOR APPEAL

The appeal must contain:

- (a) the name of the administrative body to which the appeal is submitted;
- (b) the name, surname, address of the natural person bringing the appeal, and in case of a legal person - the name, registered office of the legal person, name, surname and position of the person bringing the appeal on behalf of the legal person;
- (c) the subject matter of the appeal;
- (d) the claim of the person bringing the appeal;
- (e) the list of the documents attached to the appeal,
- (f) the year, month and day of drawing up the appeal;
- (g) the signature of the person bringing the appeal; in case of a legal person - the signature of the person bringing the appeal on behalf of the legal person and the seal of the legal person.

Article 73. DECISION OF THE ADMINISTRATIVE BODY ON THE APPEAL

1. Administrative proceedings conducted on the ground of appeal shall be initiated on the day of registration of the appeal in the administrative body.

2. When accepting the appeal, the administrative body shall check the compatibility of the appeal with the requirements of Article 70 of this Law and ascertain whether the appeal has been brought within the time limit defined in Article 71 of this Law. 3. When making a decision concerning the appeal, it shall be dismissed, if it is brought after the expiry of the time limit defined by this Law, and missing of the time limit was not declared valid as prescribed in Article 71(2) of this Law. In other cases, the general rules defined for the decisions of administrative bodies concerning applications shall apply.

4. After the initiation of administrative proceedings, the superior administrative body shall immediately request the file (materials) related to the administrative proceedings from the inferior administrative body. The inferior administrative body shall be obliged to submit the administrative case (materials) to the superior administrative body within five days after receiving the request.

(Article 73 supplemented by HO-10-N of 13 December 2004)

Article 74. LEGAL CONSEQUENCES OF BRINGING AN ADMINISTRATIVE APPEAL

1. Bringing an administrative appeal shall suspend the execution of the disputed administrative act, except for

(a) cases prescribed by law, when the administrative act is subject to execution without delay;

(b) cases, when execution without delay is necessary for the public interests.

In cases prescribed in this part, the need (interest) for execution without delay of the administrative act shall be substantiated in writing. Substantiation shall not be required, if suspension of the execution of the administrative act may result in immediate danger to life, health, or property of persons, and for the prevention of such danger the administrative body will have to take extraordinary measures, as well as when the danger has already arose.

In the case prescribed in point (b) of this part, the suspension of the execution of an administrative act may be waived, pursuant to the initiative of the administrative body or the application of the respondent.

2. The administrative body may adopt a reasoned decision concerning not suspension of the administrative act, if the appeal has been brought only for the suspension of the execution of the administrative act.

(Article 74 amended by HO-10-N of 13 December 2004)

CHAPTER 11

CONSIDERATION AND SETTLEMENT OF AN ADMINISTRATIVE APPEAL

Article 75. PROCEDURE AND SCOPE OF CONSIDERATION OF AN ADMINISTRATIVE APPEAL

1. Consideration of an administrative appeal shall be carried out according to the provisions prescribed in Section II of this Law, unless otherwise prescribed in this Section.
2. An administrative appeal shall be considered from the perspective of lawfulness of the disputed administrative act, and in case of exercise of discretionary power, the administrative appeal shall also be considered from the perspective of appropriateness.
3. While considering the administrative appeal, the administrative body shall be guided by the evidence before it, as well as evidence to be presented additionally.

(Article 75 supplemented by HO-10-N of 13 December 2004)

Article 76. MAKING A DECISION ON THE MERITS WITH REGARD TO THE ADMINISTRATIVE APPEAL

1. Considering the administrative appeal brought against the administrative act, the administrative body that has adopted the disputed administrative act shall be competent to:
 - (a) grant the appeal in whole or in part by declaring the administrative act invalid or void or adopting a new administrative act;
 - (b) reject the appeal leaving the administrative act unchanged.
2. Considering the administrative appeal brought against the actions of the administrative

body, the administrative body, whose actions have been appealed, shall be competent to:

(a) grant the appeal in whole or in part by declaring the action which is being appealed unlawful in whole or in part and terminating that action, if the action has been continuing on the moment of acceptance of the application concerning the appeal;

(b) reject the appeal due to lawfulness of the action.

3. Considering the administrative appeal brought against inaction of the administrative body, the administrative body against whose inaction the appeal is brought shall be competent to:

(a) grant the appeal in whole or in part and perform the action requested in whole or in part, respectively;

(b) reject the appeal due to the lawfulness of the inaction.

4. In cases provided for in parts 1, 2 and 3, if the relevant appeal is considered according to this Law by the superior administrative body of the administrative body having adopted the administrative act, then in case of considering the appeal as subject to satisfaction in whole or in part, the superior administrative body may adopt one of the decisions prescribed in the mentioned parts or quash the written administrative act in whole or in part and order the inferior administrative body having adopted the administrative acts to adopt a new administrative act or terminate the unlawful action or perform the requested action.

(Article 76 edited by HO-10-N of 13 December 2004)

Article 77. GROUNDS FOR AMENDING OR QUASHING THE ADMINISTRATIVE

ACT

1. The grounds for amending or quashing the administrative act shall be:

(a) the grounds prescribed in Articles 63-64 of this Law;

(b) the administrative proceedings have been conducted by the official who was not competent to conduct it, as well as in case administrative proceedings have been conducted by a collegial body in which there was an official who did not have the right to participate in the proceedings;

(c) the administrative act is not signed by the official (officials) having conducted the proceedings or the administrative act is signed by an official (officials) that did not have the right to sign it.

2. Violation of rules of procedure may be a ground for quashing the administrative act only in case when the administrative body considering the appeal is not competent to adopt the administrative act being appealed.

3. The administrative act may be quashed in part, if the administrative act contains the grounds prescribed in part 1 of this Article, and, after such quashing, the part not quashed may have effect independently.

(Title amended by HO-10-N of 13 December 2004)

(Article 77 amended and edited by HO-10-N of 13 December 2004)

SECTION V

PROCEEDINGS OF COMPULSORY ENFORCEMENT OF THE

ADMINISTRATIVE ACT

CHAPTER 12

COMPULSORY ENFORCEMENT OF THE ADMINISTRATIVE ACT

Article 78. ADMINISTRATIVE ENFORCEMENT

1. The administrative act requiring performance of an action or abstaining from performance of an action may be compulsorily enforced through applying the coercive measures prescribed in part 2 of this Article.

2. The coercive measures are:

(a) performance of action by another person (substitutive action);

(b) fine;

(c) immediate coercion.

3. The coercive measure shall be proportionate to its aim. The coercive measure must be chosen so that the damage of the obligor or the public are minimised.

Article 79. Obligor

The obligor shall be the addressee of the administrative act adopted with regard to performance of certain action or abstaining from performance of an action.

Article 80. ENFORCEMENT AUTHORITY

1. Compulsory enforcement of the administrative act shall be carried out by the administrative body having adopted the administrative act, except for the cases prescribed by law.

2. The administrative body shall also enforce the administrative acts adopted by the superior administrative body in regard to appeals.

Article 81. SUBSTITUTIVE ACTION

If the obligor does not fulfil the obligation prescribed by the administrative act on performance of an action, but its performance is possible by another person, the enforcement authority may order the latter to perform the action at the expense of the obligor. The enforcement authority itself may perform that action at the expense of the obligor, if it is possible, and unless otherwise prescribed by law.

Article 82. FINE

1. If the action has not been performed, a fine may be imposed on the obligor.
2. A fine may also be imposed on the obligor, if the obligor does not abstain from performing an action in regard of which the relevant administrative act has been adopted.
3. In cases prescribed in this Article, the fine may be imposed in the amount of 50 to 500-fold of the minimum salary.
4. The fine may be imposed only by a court judgment, upon the request of the administrative body.

(Article 82 amended by HO-10-N of 13 December 2004)

Article 83. IMMEDIATE COERCION

If substitutive action or fine cannot achieve its purpose or cannot be implemented due to objective circumstances, the administrative body that has the relevant power by law may immediately compel the performance of the relevant action or prohibit performance of a certain action.

Article 84. WARNING ABOUT THE APPLICATION OF COERCIVE MEASURES

1. The obligor shall be warned about implementation of coercive measures. The warning shall contain the time period of fulfilment of the relevant obligation, during which the obligor may be given an opportunity to fulfil the obligation in a way acceptable for him or her and not prohibited by law.
2. The warning regarding substitutive action shall contain estimate of expenses, which shall not hinder the submission of a further request, if the performance of substitutive action gives rise to much greater expenses.
3. The warning regarding imposition of a fine shall contain the concrete amount of the fine.
4. The warning may be repeated until the fulfilment of the obligation, or application of immediate coercive measures by the enforcement authority. During that period, the warning may undergo changes.
5. The warning shall be drawn up in writing and delivered to the obligor according to the procedure prescribed by this Law for the delivery of administrative acts.

Article 85. IMPOSING COERCIVE MEASURES

Coercive measures shall be imposed in case the obligor does not fulfil the relevant obligation during the time period specified by the warning on application of coercive measures.

Article 86. APPLICATION OF COERCIVE MEASURES

1. The coercive measure imposed shall be applied according to its imposition.
2. If the obligor shows resistance during application of the substitutive action or immediate coercion, the resistance may be suppressed by using force as prescribed by law.

In that case, the relevant authorities shall, upon the request of the enforcement authority, provide assistance in suppressing the resistance.

3. When enforcement reaches its purpose, the enforcement proceedings shall cease.

CHAPTER 13

ENFORCEMENT OF MONETARY CLAIMS

Article 87. PUBLIC LAW MONETARY CLAIMS

Public law monetary claims are claims on mandatory payment — as prescribed by law — of monetary amounts to the state or community budget of the Republic of Armenia (hereinafter referred to as “monetary claims”) based on administrative acts.

Article 88. PROCEDURE FOR ENFORCEMENT OF MONETARY CLAIMS

Monetary claims shall be subject to enforcement on the basis of judicial acts, as prescribed by the Law of the Republic of Armenia “On compulsory enforcement of judicial acts”.

Article 89. PERSON BEARING THE OBLIGATION

The obligation for payment of the amounts specified by monetary claims shall be borne by the person who is obliged to pay the amount:

- (a) for infringements committed for or by him or her;
- (b) instead of another person.

SECTION VI

ADMINISTRATIVE EXPENSES

CHAPTER 14

TYPES OF ADMINISTRATIVE EXPENSES

Article 90. ADMINISTRATIVE EXPENSES

Administrative expenses are the state or local duty paid in cases and as prescribed by law for the consideration of a case in administrative proceedings, as well as other expenses specified in this Chapter.

Article 91. PAYMENT OF DUTY FOR CASES RELATING TO ADMINISTRATIVE
PRECEEDINGS

1. The applicant, as well as third persons in cases provided for by law, shall be obliged to pay — for consideration of a case relating to administrative proceedings — state or local duty in the amount and as prescribed by law.

2. The procedure for the payment of state and local duty during administrative proceedings, the procedure for its refund, amount, matters relating to exemption from the payment of the duty, postponement or deferment of payment and reduction of its amount shall be regulated by law.

Article 92. OTHER EXPENSES INCURRED IN ADMINISTRATIVE
PRECEEDINGS

1. Other expenses incurred during administrative proceedings are expenses which are connected with:

- (a) delivery of the administrative act or other documents to their addressees, as well as inviting witnesses, experts and translators;
- (b) making public statements, publication of the administrative act;
- (c) provision of additional copies of the administrative act or other documents pertaining to the administrative proceedings, making and providing carbon copies (photocopies) of, or excerpts from, those documents;
- (d) sending telegrams and making intercity telephone calls for securing participation in the proceedings or for another purpose connected with the proceedings;
- (e) covering expenses of business trips;
- (f) payments made to other administrative bodies or for the assistance or services provided

- by other persons; (g) transportation and maintenance of items;
- (h) conducting enforcement proceedings by the administrative body;
- (i) remuneration of experts and translators during the administrative proceedings.

2. The expenses provided for in part 1 of this Article shall be borne by the body conducting the administrative proceedings, while the expenses connected with inviting an expert or translator shall be reimbursed as prescribed in Article 93 of this Law.

Expenses connected with making carbon copies, photocopies, excerpts from materials of an administrative case shall be borne by the person having requested them. In that case the amount of the expenses shall not exceed the amount of actual expenses incurred by the administrative body for making copies, photocopies or drawing excerpts.

(Article 92 amended by HO-10-N of 13 December 2004)

Article 93. AMOUNTS PAID TO WITNESSES, EXPERTS AND TRANSLATORS DURING ADMINISTRATIVE PROCEEDINGS

1. Experts and translators shall be remunerated for the work performed by them during administrative proceedings, if such work is not part of their official or employment duties in the administrative body concerned.

2. Payments to witnesses, experts and translators shall be made from the budget of the Republic of Armenia or from the budget of the respective community, depending on which administrative body has invited those persons (state or local self-government body).

If the expert or translator has been invited by a participant of the administrative proceedings, the relevant expenses shall be borne by that participant.

3. The relevant payments to the persons specified in this Article shall be made as and in the amount prescribed by the Government of the Republic of Armenia, while in case of being invited by one of the participants of the administrative proceedings — as and in the amount specified in the agreement between the inviting and invited persons.

Article 94. EXPENSES OF MUTUAL ASSISTANCE

Expenses connected with provision of mutual assistance shall be borne by the administrative body providing mutual assistance. SECTION VII

LIABILITY FOR DAMAGE CAUSED BY ADMINISTRATIVE ACTION

CHAPTER 15

LIABLE PARTY, GROUNDS AND PROCEDURE FOR LIABILITY,

COMPENSATION FOR DAMAGE

Article 95. LIABLE PARTY AND GROUNDS FOR LIABILITY

1. The damage caused to persons as a result of administrative action carried out by administrative bodies shall be subject to compensation in accordance with the provisions of this Section.

2. The liability for the damage caused to persons as a result of unlawful administrative action, and, in cases prescribed by this Law, also the damage caused to persons as a result of lawful administrative action, shall be borne by:

(a) the Republic of Armenia, in case of the administrative bodies referred to in Article 3(1)(a) and (b) of this Law;

(b) the relevant community, in case of the administrative bodies referred to in Article 3(1)(c) of this Law.

3. In the case provided for in subpoint (a) of part 2 of this Article compensation for the damage shall be made at the expense of the funds of the State Budget of the Republic of Armenia, while in the case provided for in subpoint (b) — at the expense of the funds of the budget of the respective community.

4. In cases provided for in Articles 106-108 and Article 109(1) of this Law, the lost benefit shall not be subject to compensation.

Article 96. PRECONDITION FOR COMPENSATING THE DAMAGE

Compensation for damage shall not be carried out until the legal act, action or inaction of the administrative body, which has caused damage to the person, is declared unlawful according

to the prescribed procedure, except for the cases provided for in Article 109 of this Law.

Article 97. MEANS OF COMPENSATING THE DAMAGE

The compensation shall be carried out by means of elimination of the consequences caused by administrative action or by means of compensation by monetary means.

Article 98. ELIMINATION OF CONSEQUENCES

1. If the damage is in the change of a factual situation to the detriment of the person, the liable person shall be obliged to eliminate the consequences caused, through restoration of prior situation, and where this is impossible or ineffective - through restoration of another situation equivalent thereto.

The mentioned rule shall also apply in cases when the situation caused by the administrative action of the liable party is subsequently rendered unlawful by virtue of adoption or amendment of a law or other legal act, and the consequences of that situation may be attributed to the liable party concerned and are not subject to elimination in another way.

2. Elimination of consequences shall be excluded, if due to factual or legal grounds, restoration of prior situation is impossible, as well as in case when the existing situation corresponds to the administrative act which became undisputable for the person.

3. If a person has fault in the causing of the unlawful situation, he or she may claim elimination of consequences, if [he or she] wishes and is able to bear the part of expenses for the elimination of consequences caused by his or her fault.

If the expenses incurred by the person's fault exceed the amount of expenses caused by the fault of the liable party, no claim on elimination of consequences may be filed, while the person may claim compensation in accordance with the provisions of Article 99(2) of this Law.

Article 99. COMPENSATION FOR THE DAMAGE BY MONETARY MEANS

1. The liable party shall compensate the damage by monetary means, if elimination of consequences is impossible or insufficient, or more expenses are necessary for the elimination of consequences than the inflicted property damage.

2. Person claiming damage compensation shall bear the expenses of elimination of consequences to the extent those expenses were incurred by his or her fault.

If the person is not able to bear the expenses, he or she shall be obliged to restrict the claim of compensating the damage to the amount of expenses caused by the fault of the liable party.

Article 100. FILING OF A DAMAGE COMPENSATION CLAIM

1. The damage compensation claim must be filed with the administrative body whose administrative action has caused the damage.

2. The damage compensation claim shall be filed by an application which shall be subject to the rules of Article 31 of this Law.

Article 101. TIME-LIMIT FOR FILING A CLAIM

The damage compensation claim may be filed within three years from the moment when the person became aware or should have become aware of the damage caused to him or her, but not later than ten years from the moment of taking such action or inaction or entry into force of such legal act that caused damage to him or her.

Article 102. CONSIDERATION AND SETTLEMENT OF THE CLAIM

1. The damage compensation claim shall be considered and settled in the administrative body, in accordance with the general rules prescribed by this Law for consideration of applications.

2. In case of full or partial rejection or non-consideration of the damage compensation claim by the administrative body, the person who has suffered the damage may file an appeal against it according to the general procedure prescribed by this Law for appealing against administrative acts, as well as against action or inaction of administrative bodies.

Article 103. JOINT AND SEVERAL LIABILITY

If more than one liable parties have caused the damage, they shall bear joint and several liability before the person who has suffered the damage.

Article 104. GROUNDS AND PROCEDURE FOR COMPENSATION FOR NONPROPERTY DAMAGE

1. In cases of causing non-property damage through restriction of the freedom of a natural person, breach of his or her security, inviolability of home, privacy of persons and family life, discrediting his or her honour, good reputation or dignity by unlawful administrative action, the person shall have the right to claim compensation by monetary means or elimination of consequences caused, in the amount equivalent to the non-property damage caused.

2. If, in cases prescribed in part 1 of this Article, damage has been caused to the health of a natural person, he or she may claim compensation by monetary means. The scope of compensation shall be determined in accordance with Article 1078(1)-(2) of the Civil Code of the Republic of Armenia.

3. In case of full or partial loss of professional working capacity of a natural person, the size of the amount subject to compensation shall be determined in the following manner:

(a) in case of full loss of professional working capacity, compensation shall be paid to the natural person in the amount of at least 70 % of his or her salary for the preceding year in the main workplace, until reaching the maximum age prescribed for the given profession, and where no such age is prescribed - until reaching the age when employment relations in such profession may usually be terminated with him or her;

(b) in case of partial loss of working capacity, compensation shall be paid to the natural person in the amount of not more than 70 % of his or her salary for the preceding one year in the main workplace, as per the degree of loss of professional working capacity, until the person reaches the age specified in point (a) of this part.

If the professional working capacity of a person recovers, the compensation paid to him or her shall be reduced as per the degree of recovery of the professional working capacity.

4. In case of absence of professional working capacity, the size of the amount subject to compensation shall be determined in the following manner:

(a) in case of full loss of general working capacity when the person had been employed — in the amount of at least 85 % of his or her annual salary in the last workplace, until the person reaches the retirement age;

(a) in case of partial loss of general working capacity when the person had been employed — as per the degree of loss of general working capacity, in the amount of not more than 85 % of his or her annual salary in the last workplace, until the person reaches the retirement age;

(c) in case of full loss of general working capacity when the person had not been employed — in the amount of one thousand-fold of the minimum salary;

(d) in case of partial loss of general working capacity when the person had not been employed — as per the degree of loss of general working capacity, in the amount of not more than five hundred-fold of the minimum salary.

In case of recovery of general working capacity, the rules of the fourth paragraph of part 3 of this Article shall apply.

5. In case of full recovery of professional or general working capacity, the payment of the amount subject to compensation shall cease.

6. The property damage, including lost benefit, caused to a sole entrepreneur or legal person as a result of discrediting their business reputation, shall be subject to compensation in accordance with Articles 98-99 of this Law.

In the meantime, the sole entrepreneur or legal person may apply for the protection of their business reputation, in accordance with Article 19(1)-(3) and (5)-(6) of the Civil Code of the Republic of Armenia.

7. The damage compensation claim provided for in this Article may not be rejected solely on the ground that, besides the liable party, another person or body or organisation must also pay an insurance amount or subsistence or other means to the person who has suffered such damage.

(Article 104 amended by HO-10-N of 13 December 2004)

Article 105. FORMS OF COMPENSATING NON-PROPERTY DAMAGE BY
MONETARY MEANS

1. In cases provided for in Article 104 of this Law, when non-property damage caused to a person may be compensated by monetary means, such payment may be carried out by monthly payments or a lump-sum payment. 2. Monthly payments shall be subject to payment in every month. The size of monthly payments shall be determined by dividing the total amount subject to compensation by the number of months in the payment period. Monthly payments shall be subject to payment also for the month when the person died.

3. Instead of monthly payments, the person who has suffered the damage may claim compensation for the damage by lump-sum payment of the total amount of the damage subject to compensation, if a valid reason exists.

Article 106. COMPENSATION FOR DAMAGE IN CASE OF DEATH OF A PERSON

1. In case of death of a person as a result of unlawful administrative action, a lump-sum compensation in the amount not less than one thousand-fold of the minimum salary shall be paid to his or her first priority heirs, and in case of absence thereof - to the second priority heirs.

2. Where the death of a person entails consequences of losing the breadwinner, the scope of persons who have the right to claim compensation for damage based on that ground shall be determined in accordance with Article 1081 of the Civil Code of the Republic of Armenia, and the damage shall be compensated to the persons referred to in points 1, 3, 4 and 5 of part 2 of the same Article.

Where the person having the right to compensation for the damage under the first paragraph of this part is a minor and has, before reaching the age of eighteen, been admitted to, and studying in, a secondary vocational or higher educational institution, the compensation for the damage shall be carried out before the completion of his or her studies in the relevant institution.

Meanwhile, where the person having the right to compensation for the damage under the first paragraph of this part has been admitted to a secondary vocational or higher educational

institution before reaching the age of twenty two, the payment of compensation shall resume from the date of being admitted to the relevant educational institution, for every academic year completed with passing grades, and shall end upon graduation from the relevant educational institution.

Monthly compensation shall be paid to the persons specified in this part, in the amount of 70 % of the average monthly salary of the deceased during one year preceding the death.

3. In case of death of a person, compensation in the amount of five hundred-fold of the minimum salary shall be paid to the person (persons) that have covered the expenses of his or her funeral.

4. The compensation amounts provided for in this Article may be reduced, in the amount not exceeding half of the sum subject to payment, if the person's death was partly caused by his or her unlawful actions. Moreover, the burden of proof of unlawfulness of actions of the deceased shall bear the administrative body whose administrative action caused the person's death. (Article 106 edited and amended by HO-10-N of 13 December 2004)

Article 107. COMPENSATION IN CASE OF OTHER NON-PROPERTY DAMAGE

If the person to whom non-property damage has been caused bore obligations as against other persons by virtue of law, and, as a result of causing non-property damage to him or her, indirect damage was caused also to those persons, that damage shall be subject to compensation by means prescribed in Articles 98-99 of this Law, in the actual amount of indirect damage, unless another amount is prescribed by law.

Article 108. FILING OF REGRESSIVE CLAIMS

1. The Republic of Armenia or the community which has compensated the damage caused shall have the right to file regressive claims against the official of the administrative body, whose actions or inaction resulted in illegitimate administrative action, and as a consequence of which damage was caused to the person.

2. The ground for filing regressive claims shall be the existence of intent or negligence in the actions or inaction of the official.

CHAPTER 16

SPECIAL RULES OF LIABILITY

Article 109. LIABILITY FOR DAMAGE CAUSED BY LAWFUL

ADMINISTRATIVE ACTION

1. Damage caused as a result of lawful administrative action shall be subject to compensation only in cases prescribed by the Constitution and laws of the Republic of Armenia, as well as in cases when, pursuant to Article 63(3) of this Law, the person is entitled to have legitimate expectation.

In case of possibility of receiving compensation from other subjects of law, no compensation from the liable parties provided for in Article 95(2) may be claimed.

2. If a favourable lawful administrative act has been repealed, as a result of which damage has been caused to its addressee or a third person, the damage shall be subject to compensation based on the application of the latter, to the extent that the person has, having legitimate expectation as to the existence of the administrative act, suffered damage as a result of its adoption or execution.

(Article 109 amended by HO-10-N of 13 December 2004)

Article 110. COMPENSATION FOR DAMAGE CAUSED AS A RESULT OF

ADOPTING AN UNLAWFUL ADMINISTRATIVE ACT

1. If an unlawful administrative act has been adopted, which is void or has been declared invalid, the administrative body shall, based on the application of an interested person, be obliged to compensate to him or her the property damage which the person has suffered as a result of legitimate expectation as to the existence of the unlawful administrative act, except for the cases provided for in Article 63(4) of this Law.

The amount of compensation shall be determined by the administrative body. The amount

of compensation for the damage shall be equivalent to the amount of the benefit which the interested person could receive in case of execution of the administrative act.

2. The claim for compensation may be filed within three years starting from the date when the administrative authority has, as prescribed by this Law, notified the participants of the administrative proceedings on declaring the administrative act invalid or on confirmation of the voidness of the administrative act.

Article 111. LIABILITY IN CASE OF UNJUST ENRICHMENT

1. Unless otherwise provided for by law, the property that went under the possession of the administrative body in the public law relations without legal ground shall be returned.

2. The relevant rules of the Civil Code of the Republic of Armenia shall apply to unjust enrichment in public law relations, unless their application contradicts this Law.

3. In cases of unjust enrichment in public law relations, the person shall, along with the claim referred to in part 1 of this Article, have the right to claim also the whole income (amount) received during the period of usage of the property under unjust possession, as well as six per cent of such income (amount) for each year.

4. The claims of compensating the damage caused as a result of unjust enrichment in public law relations shall be settled by the administrative body that actually possesses the property acquired without legal ground.

The matters connected with the means of returning the property and amount of compensation shall also be settled by the administrative act.

SECTION VIII

TRANSITIONAL AND FINAL PROVISIONS

CHAPTER 17

TRANSITIONAL PROVISIONS

Article 112. TRANSITIONAL PROVISIONS

Administrative proceedings initiated before the entry into force of this Law, but not yet

concluded after the entry into force of this Law, shall be conducted according to the legislation in force before the entry into force of this Law, unless the applicant, or, in case of administrative proceedings initiated at the initiative of the administrative body, the addressee of the administrative act to be adopted, request in writing that the remaining part of the administrative proceedings be conducted in accordance with this Law.

(Article 112 amended by HO-10-N of 13 December 2004)

CHAPTER 18

FINAL PROVISIONS

Article 113. ENTRY INTO FORCE OF THE LAW

1. This Law shall enter into force after nine months following the date of [its] official publication.
2. During the period provided for in part 1 of this Article the administrative bodies referred to in Article 3(1) of this Law shall be obliged to ensure that their legal acts containing provisions concerning administrative action and administrative proceedings are brought into conformity with this Law.
3. After the entry into force of this Law, the Law of the Republic of Armenia “On procedure for consideration of citizens’ proposals, applications and complaints” (of 22 December 1999, HO-24) shall be effective only with regard to citizens’ proposals.

President

of the Republic of Armenia R. Kocharyan

16 March 2004

Yerevan

HO-41-N