

# Act on the Authority of the Minister of Justice over Suits Relating to the Interests of the State

(Act No. 194 of December 17, 1947)

Article 1 The Minister of Justice represents the State with regard to suits in which the State is a party or an intervenor.

Article 2 (1) The Minister of Justice may designate an official of the Ministry of Justice to conduct a suit referred to in the preceding Article.

(2) If the Minister of Justice finds it to be necessary with regard to the suit referred to in the preceding Article which relates to the functions under the jurisdiction or supervision of an administrative agency (limited to those that belong to the State; the same applies in Articles 5, 6 and 8), after hearing an opinion from the administrative agency, the Minister may designate an official of the administrative agency to conduct the suit. In this case, the designated official is to be subject to the direction of the Minister of Justice with regard to the suit.

(3) If the issue in the suit referred to in the preceding Article relates to the administration of an item (i) statutory entrusted function provided in Article 2, paragraph (9), item (i) of the Local Autonomy Act (Act No. 67 of 1947; hereinafter referred to as an "Item (i) Statutory Entrusted Function"), and the Minister of Justice finds it to be particularly necessary, after hearing an opinion from a local public entity that administers the Item (i) Statutory Entrusted Function, the Minister may designate an official from among the officials nominated by the local public entity to conduct the suit. In this case, the designated official is to be subject to the instruction of the Minister of Justice with regard to the suit.

(4) If the issue in the suit referred to in the preceding Article relates to the functions of an incorporated administrative agency provided in Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agencies (Act No. 103 of 1999; hereinafter referred to as an "Incorporated Administrative Agency"), and the Minister of Justice finds it to be particularly necessary, after hearing an opinion from the Incorporated Administrative Agency, the Minister may designate an employee from among those nominated by the Incorporated Administrative Agency to conduct the suit. In this case, the designated employee is to be subject to the instruction of the Minister of Justice with regard to the suit.

Article 3 The provisions of the preceding Article do not prohibit the Minister of

Justice from appointing an attorney as counsel and having the attorney conduct the suit referred to in Article 1.

Article 4 In a suit that gravely affects the interests of the State or public welfare, with the permission of the court, the Minister of Justice may state the Minister's opinion or designate an official of the Ministry of Justice to state the opinion to the court.

Article 5 (1) An administrative agency may designate one of its officials to conduct a suit in which the State is a defendant and which relates to the administrative agency's original administrative disposition (meaning the original administrative disposition provided in Article 3, paragraph (2) of the Administrative Case Litigation Act (Act No. 139 of 1962)) or administrative disposition on appeal (meaning the administrative disposition on appeal provided in paragraph (3) of said Article) and that is filed pursuant to the provisions of Article 11, paragraph (1) of said Act (including the cases where applied mutatis mutandis pursuant to Article 38, paragraph (1) of said Act (including the cases where applied mutatis mutandis pursuant to Article 43, paragraph (2) of said Act) or Article 43, paragraph (1) of said Act), or a suit in which said administrative agency is a party or intervenor.

(2) With regard to the application of the provisions of the preceding paragraph, an official of a higher administrative agency of the administrative agency involved in the suit referred to in the preceding paragraph is deemed to be an official of said administrative agency.

(3) The provisions of paragraph (1) do not prohibit an administrative agency from appointing an attorney as counsel and having the attorney conduct the suit referred to in said paragraph.

Article 6 (1) With regard to the suit referred to in paragraph (1) of the preceding Article, an administrative agency is to be subject to the direction of the Minister of Justice.

(2) If the Minister of Justice finds it to be necessary with regard to the suit referred to in paragraph (1) of the preceding Article, the Minister may cause an official of the ministry whom the Minister designates, or an attorney whom the Minister has appointed as counsel to conduct the suit, or may dismiss the official designated or attorney appointed by the administrative agency pursuant to the provisions of said paragraph or paragraph (3) of said Article.

Article 6-2 (1) If a suit relating to an Item (i) Statutory Entrusted Function in which a local public entity is a defendant under the provisions of Article 11, paragraph (1) of the Administrative Case Litigation Act (including the cases

where applied mutatis mutandis pursuant to Article 38, paragraph (1) of said Act (including the cases where applied mutatis mutandis pursuant to Article 43, paragraph (2) of said Act) or Article 43, paragraph (1) of said Act) or a suit relating to an Item (i) Statutory Entrusted Function in which an administrative agency of a local public entity is a party has been filed, the local public entity must immediately report this to the Minister of Justice.

- (2) If an administrative agency of a local public entity intends to intervene in a suit, and the issue in the suit relates to the administration of an Item (i) Statutory Entrusted Function, the local public entity must in advance report such intention to intervene in the suit to the Minister of Justice.
- (3) With regard to a local public entity's function concerning the suits provided in the preceding two paragraphs in which the local public entity is a party or an administrative agency of the local public entity is a party or intervener (including the functions concerning the intervention referred to in the preceding paragraph), the Minister of Justice may provide advice and make recommendations to, request the submission of materials from, and give instructions to the local public entity; provided, however, that giving instructions is allowed only when the Minister of Justice finds it to be necessary in consideration of the interests of the State.
- (4) If the Minister of Justice finds it to be necessary with regard to the suit referred to in the preceding paragraph in consideration of the interests of the State, through consultation with the head of the local public entity referred to in said paragraph, the Minister may cause an official of the ministry whom the Minister designates, or an attorney whom the Minister has appointed as counsel to conduct the suit.
- (5) If the Minister of Justice finds it to be necessary in the case referred to in the preceding paragraph, through consultation with the head of the local public entity referred to in said paragraph and the relevant minister (meaning the Prime Minister, who is the minister to take charge of and manage the functions provided in Article 4, paragraph (3) of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999), or a minister of any of the ministries provided in Article 5, paragraph (1) of the National Government Organization Act (Act No. 120 of 1948)) who engages in the Item (i) Statutory Entrusted Function administered by said local public entity, the Minister may designate an official of the relevant minister's ministry to conduct the suit. In this case, the designated official is to be subject to the direction of the Minister of Justice with regard to the suit.

Article 6-3 (1) If a suit in which an Incorporated Administrative Agency or its administrative agency is a party has been filed, the Incorporated Administrative Agency must immediately report this to the Minister of Justice.

- (2) If an Incorporated Administrative Agency intends to file a suit or an Incorporated Administrative Agency or its administrative agency intends to intervene in a suit, the Incorporated Administrative Agency must in advance report such intention to the Minister of Justice.
- (3) With regard to an Incorporated Administrative Agency's functions (including the functions concerning the filing of and intervention in a suit as referred to in the preceding paragraph) concerning the suits provided in the preceding two paragraphs in which the Incorporated Administrative Agency or its administrative agency is a party or intervener, the Minister of Justice may give instructions to the Incorporated Administrative Agency if the Minister finds it to be necessary in consideration of the interests of the State.
- (4) If the Minister of Justice finds it to be necessary in consideration of the interests of the State with regard to the suit referred to in the preceding paragraph, through consultation with the head of the Incorporated Administrative Agency referred to in said paragraph, the Minister may cause an official of the ministry whom the Minister designates, or an attorney whom the Minister has appointed as counsel to conduct the suit.
- (5) If the Minister of Justice finds it to be necessary in the case referred to in the preceding paragraph, after hearing an opinion from the minister who has jurisdiction over the Incorporated Administrative Agency referred to in said paragraph, the Minister may designate an official of the relevant minister's ministry to conduct the suit. In this case, the designated official is to be subject to the direction of the Minister of Justice with regard to the suit.

Article 7 (1) With regard to a suit relating to their functions, a local public entity, Incorporated Administrative Agency and any other public corporation specified by Cabinet Order may request the Minister of Justice to designate an official of the Ministry of Justice to conduct the suit.

- (2) If a local public entity makes a request as referred to in the preceding paragraph with regard to a suit relating to its functions, it must also notify the Minister for Internal Affairs and Communications of this.
- (3) If the request referred to in paragraph (1) has been made, and the Minister of Justice finds it to be necessary in consideration of the interests of the State, the Minister may designate an official of the Ministry of Justice to conduct the suit. In this case, with regard to a suit relating to the functions of a local public entity, the Minister of Justice is to seek an opinion from the Minister for Internal Affairs and Communications.
- (4) The provisions of the preceding paragraph do not prohibit a local public entity, Incorporated Administrative Agency or any other public corporation from appointing an attorney as its counsel and having the attorney conduct the suit referred to in paragraph (1).

Article 8 Persons designated by the Minister of Justice or an administrative agency pursuant to the provisions of Article 2, Article 5, paragraph (1), Article 6, paragraph (2), Article 6-2, paragraph (4) or paragraph (5), Article 6-3, paragraph (4) or paragraph (5), or paragraph (3) of the preceding Article have the authority to perform any and all acts in court with regard to the relevant suit, except for the appointment of a counsel; provided, however, that the provisions of Article 55, paragraph (2) (excluding item (v)) of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to persons designated by the Minister of Justice pursuant to the provisions of paragraph (3) of the preceding Article with regard to a suit relating to the functions of a local public entity.

Article 9 The provisions of each of the preceding Articles apply mutatis mutandis to a conciliation case and other non-contentious cases. In this case, the term "intervene in a suit" and the term "issue in the suit" in Article 6-2, paragraph (2) are deemed to be replaced respectively with "file a petition for a case" and "case regarding the petition."

Article 10 Among the functions that a local public entity is to administer pursuant to the provisions of this Act, those concerning the official prescribed in Article 2, paragraph (3) (including the cases where applied mutatis mutandis pursuant to the preceding Article) and those administered pursuant to Article 6-2, paragraphs (1) and (2) (including the cases where applied mutatis mutandis pursuant to the preceding Article) are categorized as Item (i) Statutory Entrusted Functions.

#### **Supplementary Provisions [Extract]**

(1) This Act comes into effect as of the date on which the Act for Establishment of the Attorney-General's Office comes into effect.

#### **Supplementary Provisions [Act Partially Amending the Administrative Case Litigation Act Act No. 84 of June 9, 2004] [Extract]**

(The Date on Which the Act Comes into Effect)

Article 1 This Act comes into effect as of the day specified by Cabinet Order within a period not exceeding one year from the date of promulgation. (The rest omitted)