

行政事件訴訟法 Administrative Case Litigation Act

(昭和三十七年五月十六日法律第百三十九号)
(Act No. 139 of May 16, 1962)

第一章 総則 (第一条—第七条)

Chapter I General Provisions (Articles 1 to 7)

第二章 抗告訴訟

Chapter II Actions for the Judicial Review of Administrative Dispositions

第一節 取消訴訟 (第八条—第三十五条)

Section 1 Actions for the Revocation of Administrative Dispositions (Articles 8 to 35)

第二節 その他の抗告訴訟 (第三十六条—第三十八条)

Section 2 Other Actions for the Judicial Review of Administrative Dispositions (Articles 36 to 38)

第三章 当事者訴訟 (第三十九条—第四十一条)

Chapter III Public Law-Related Actions (Articles 39 to 41)

第四章 民衆訴訟及び機関訴訟 (第四十二条・第四十三条)

Chapter IV Citizen Actions and Interagency Actions (Articles 42 and 43)

第五章 補則 (第四十四条—第四十六条)

Chapter V Auxiliary Provisions (Articles 44 to 46)

附 則

Supplementary Provisions

第一章 総則

Chapter I General Provisions

(この法律の趣旨)

(Purport of This Act)

第一条 行政事件訴訟については、他の法律に特別の定めがある場合を除くほか、この法律の定めるところによる。

Article 1 Administrative case litigation is governed by the provisions of this Act, except as otherwise provided by other laws.

(行政事件訴訟)

(Administrative Case Litigation)

第二条 この法律において「行政事件訴訟」とは、抗告訴訟、当事者訴訟、民衆訴訟及び機関訴訟をいう。

Article 2 The term "administrative case litigation" as used in this Act means

actions for the judicial review of administrative dispositions, public law-related actions, citizen actions and interagency actions.

(抗告訴訟)

(Actions for the Judicial Review of Administrative Dispositions)

第三条 この法律において「抗告訴訟」とは、行政庁の公権力の行使に関する不服の訴訟をいう。

Article 3 (1) The term "action for the judicial review of an administrative disposition" as used in this Act means an action to appeal against the exercise of public authority by an administrative authority.

2 この法律において「処分の取消しの訴え」とは、行政庁の処分その他公権力の行使に当たる行為（次項に規定する裁決、決定その他の行為を除く。以下単に「処分」という。）の取消しを求める訴訟をいう。

(2) The term "action for the revocation of the original administrative disposition" as used in this Act means an action seeking the revocation of an original administrative disposition and any other act constituting the exercise of public authority by an administrative authority (excluding an administrative determination, decision or any other act prescribed in the following paragraph; hereinafter simply referred to as an "original administrative disposition").

3 この法律において「裁決の取消しの訴え」とは、審査請求、異議申立てその他の不服申立て（以下単に「審査請求」という。）に対する行政庁の裁決、決定その他の行為（以下単に「裁決」という。）の取消しを求める訴訟をいう。

(3) The term "action for the revocation of an administrative determination" as used in this Act means an action for the revocation of an administrative determination, decision or any other act by an administrative authority in response to a request for an administrative review, objection and any other appeal (hereinafter simply referred to as a "request for an administrative review") (hereinafter simply referred to as an "administrative determination").

4 この法律において「無効等確認の訴え」とは、処分若しくは裁決の存否又はその効力の有無の確認を求める訴訟をいう。

(4) The term "action for the declaration of nullity, etc." as used in this Act means an action seeking the declaration of the existence or non-existence of or validity or invalidity of an original administrative disposition or administrative determination.

5 この法律において「不作為の違法確認の訴え」とは、行政庁が法令に基づく申請に対し、相当の期間内に何らかの処分又は裁決をすべきであるにもかかわらず、これをしていないことについての違法の確認を求める訴訟をいう。

(5) The term "action for the declaration of illegality of inaction" as used in this Act means an action seeking the declaration of illegality of an administrative authority's failure to make an original administrative disposition or an administrative determination which it should make within a reasonable period

of time in response to an application filed under laws and regulations.

6 この法律において「義務付けの訴え」とは、次に掲げる場合において、行政庁がその処分又は裁決をすべき旨を命ずることを求める訴訟をいう。

(6) The term "mandamus action" as used in this Act means an action seeking an order to the effect that an administrative authority should make an original administrative disposition or an administrative determination in the following cases:

一 行政庁が一定の処分をすべきであるにかかわらずこれがされないとき（次号に掲げる場合を除く。）。

(i) where the administrative authority has not made a certain original administrative disposition which it should make (excluding the case set forth in the following item);

二 行政庁に対し一定の処分又は裁決を求める旨の法令に基づく申請又は審査請求がされた場合において、当該行政庁がその処分又は裁決をすべきであるにかかわらずこれがされないとき。

(ii) where an application or request for administrative review has been filed or made under laws and regulations to request that the administrative authority make a certain original administrative disposition or administrative determination, but the administrative authority has not made the original administrative disposition or administrative determination which it should make.

7 この法律において「差止めの訴え」とは、行政庁が一定の処分又は裁決をすべきでないにかかわらずこれがされようとしている場合において、行政庁がその処分又は裁決をしてはならない旨を命ずることを求める訴訟をいう。

(7) The term "action for an injunctive order" as used in this Act means an action seeking an order, in cases where an administrative authority is about to make a certain original administrative disposition or administrative determination which it should not make, to the effect that the administrative authority should not make the original administrative disposition or administrative determination.

(当事者訴訟)

(Public Law-Related Actions)

第四条 この法律において「当事者訴訟」とは、当事者間の法律関係を確認し又は形成する処分又は裁決に関する訴訟で法令の規定によりその法律関係の当事者の一方を被告とするもの及び公法上の法律関係に関する確認の訴えその他の公法上の法律関係に関する訴訟をいう。

Article 4 The term "public law-related action" as used in this Act means an action relating to an original administrative disposition or administrative determination in which a legal relationship between parties is confirmed or created, and either party to the legal relationship stands as a defendant

pursuant to the provisions of laws and regulations, an action for a declaratory judgment on a legal relationship under public law and any other action relating to a legal relationship under public law.

(民衆訴訟)

(Citizen Actions)

第五条 この法律において「民衆訴訟」とは、国又は公共団体の機関の法規に適合しない行為の是正を求める訴訟で、選挙人たる資格その他自己の法律上の利益にかかわらない資格で提起するものをいう。

Article 5 The term "citizen action" as used in this Act means an action seeking correction of an act conducted by an agency of the State or of a public entity which does not conform to laws, regulations, and rules, which is filed by a person based on their status as a voter or any other status that is irrelevant to their legal interest.

(機関訴訟)

(Interagency Actions)

第六条 この法律において「機関訴訟」とは、国又は公共団体の機関相互間における権限の存否又はその行使に関する紛争についての訴訟をいう。

Article 6 The term "interagency action" as used in this Act means an action relating to a dispute between agencies of the State and/or a public entity(ies) over issues concerning which of these agencies has the power, or the exercise thereof.

(この法律に定めがない事項)

(Matters Not Provided for in This Act)

第七条 行政事件訴訟に関し、この法律に定めがない事項については、民事訴訟の例による。

Article 7 Any matters concerning administrative case litigation which are not provided for in this Act are governed by the provisions on civil actions.

第二章 抗告訴訟

Chapter II Actions for the Judicial Review of Administrative Dispositions

第一節 取消訴訟

Section 1 Actions for the Revocation of Administrative Dispositions

(処分の取消しの訴えと審査請求との関係)

(Relationship between an Action for the Revocation of the Original

Administrative Disposition and a Request for an Administrative Review)

第八条 処分の取消しの訴えは、当該処分につき法令の規定により審査請求をすることができる場合においても、直ちに提起することを妨げない。ただし、法律に当該処分

についての審査請求に対する裁決を経た後でなければ処分の取消しの訴えを提起することができない旨の定めがあるときは、この限りでない。

Article 8 (1) Even where a request for an administrative review of the original administrative disposition may be made pursuant to the provisions of laws and regulations, this does not preclude the immediate filing of an action for the revocation of the original administrative disposition; provided, however, that this does not apply if there are provisions in any law that no action for the revocation of an original administrative disposition may be filed until an administrative determination is made in response to a request for an administrative review of the original administrative disposition.

2 前項ただし書の場合においても、次の各号の一に該当するときは、裁決を経ないで、処分の取消しの訴えを提起することができる。

(2) Even in the case referred to in the proviso to the preceding paragraph, if the case falls under any of the following items, an action for the revocation of the original administrative disposition may be filed without obtaining an administrative determination:

一 審査請求があつた日から三箇月を経過しても裁決がないとき。

(i) where no administrative determination is made after a period of three months has elapsed from the day on which the request for an administrative review was made;

二 処分、処分の執行又は手続の続行により生ずる著しい損害を避けるため緊急の必要があるとき。

(ii) where there is an urgent necessity in order to avoid any considerable damage that would be caused by the original administrative disposition, the execution of the original administrative disposition or the continuation of any subsequent procedure; or

三 その他裁決を経ないことにつき正当な理由があるとき。

(iii) where there are other reasonable grounds not to obtain an administrative determination.

3 第一項本文の場合において、当該処分につき審査請求がされているときは、裁判所は、その審査請求に対する裁決があるまで（審査請求があつた日から三箇月を経過しても裁決がないときは、その期間を経過するまで）、訴訟手続を中止することができる。

(3) In the case referred to in the main clause of paragraph (1), if a request for an administrative review of the original administrative disposition has already been made, the court may suspend litigation proceedings until an administrative determination is made in response to the request for the administrative review (in cases where no administrative determination is made after a period of three months has elapsed from the day on which the request for the administrative review was made, until that period expires).

(原告適格)

(Standing to Sue)

第九条 処分の取消しの訴え及び裁決の取消しの訴え（以下「取消訴訟」という。）は、当該処分又は裁決の取消しを求めるにつき法律上の利益を有する者（処分又は裁決の効果が期間の経過その他の理由によりなくなつた後においてもなお処分又は裁決の取消しによつて回復すべき法律上の利益を有する者を含む。）に限り、提起することができる。

Article 9 (1) An action for the revocation of an original administrative disposition and an action for the revocation of an administrative determination (hereinafter referred to as "actions for the revocation of administrative dispositions") may be filed only by a person who has legal interest to seek the revocation of the original administrative disposition or of the administrative determination (including a person who has legal interest to be recovered by revoking the original administrative disposition or administrative determination even after it has lost its effect due to the expiration of a certain period or for other reasons).

2 裁判所は、処分又は裁決の相手方以外の者について前項に規定する法律上の利益の有無を判断するに当たつては、当該処分又は裁決の根拠となる法令の規定の文言のみによることなく、当該法令の趣旨及び目的並びに当該処分において考慮されるべき利益の内容及び性質を考慮するものとする。この場合において、当該法令の趣旨及び目的を考慮するに当たつては、当該法令と目的を共通にする関係法令があるときはその趣旨及び目的をも参酌するものとし、当該利益の内容及び性質を考慮するに当たつては、当該処分又は裁決がその根拠となる法令に違反してされた場合に害されることとなる利益の内容及び性質並びにこれが害される態様及び程度をも勘案するものとする。

(2) When judging whether or not any person, other than the person to whom an original administrative disposition or administrative determination is addressed, has the legal interest prescribed in the preceding paragraph, the court is not to rely only on the language of the provisions of the laws and regulations which give a basis for the original administrative disposition or administrative determination, but is to consider the purport and objectives of the laws and regulations as well as the content and nature of the interest that should be taken into consideration in making the original administrative disposition. In this case, when considering the purport and objectives of those laws and regulations, the court is take into consideration the purport and objectives of any related laws and regulations which share the objective in common with those laws and regulations, and when considering the content and nature of that interest, the court is to take into consideration the content and nature of the interest that would be harmed if the original administrative disposition or administrative determination were made in violation of the laws and regulations which give a basis therefor, as well as in what manner and to what extent that interest would be harmed.

(取消しの理由の制限)

(Restriction on Grounds for Revocation)

第十条 取消訴訟においては、自己の法律上の利益に関係のない違法を理由として取消しを求めることができない。

Article 10 (1) In an action for the revocation of an administrative disposition, the plaintiff may not seek revocation on the grounds of breach of law which is irrelevant to their interest.

2 処分の取消しの訴えとその処分についての審査請求を棄却した裁決の取消しの訴えとを提起することができる場合には、裁決の取消しの訴えにおいては、処分の違法を理由として取消しを求めることができない。

(2) Where both an action for the revocation of the original administrative disposition and an action for the revocation of an administrative determination that has dismissed a request for an administrative review of the original administrative disposition may be filed, it may not be allowed to seek the revocation of the original administrative disposition on the grounds of illegality thereof in an action for the revocation of an administrative determination.

(被告適格等)

(Standing to Be Sued)

第十一条 処分又は裁決をした行政庁（処分又は裁決があつた後に当該行政庁の権限が他の行政庁に承継されたときは、当該他の行政庁。以下同じ。）が国又は公共団体に所属する場合には、取消訴訟は、次の各号に掲げる訴えの区分に応じてそれぞれ当該各号に定める者を被告として提起しなければならない。

Article 11 (1) Where an administrative authority that has made an original administrative disposition or administrative determination (in cases where the power of the administrative authority that made the original administrative disposition or administrative determination has later been succeeded to by another administrative authority, that other administrative authority; the same applies hereinafter) is affiliated with the State or a public entity, any action for the revocation of that administrative disposition must be filed against the person specified in each of the following items according to the categories of actions listed in the respective items:

一 処分の取消しの訴え 当該処分をした行政庁の所属する国又は公共団体

(i) an action for the revocation of the original administrative disposition: the State or public entity with which the administrative authority that has made the original administrative disposition is affiliated; or

二 裁決の取消しの訴え 当該裁決をした行政庁の所属する国又は公共団体

(ii) an action for the revocation of an administrative determination: the State or public entity with which the administrative authority that has made the administrative determination is affiliated.

- 2 処分又は裁決をした行政庁が国又は公共団体に所属しない場合には、取消訴訟は、当該行政庁を被告として提起しなければならない。
- (2) Where an administrative authority that has made the original administrative disposition or administrative determination is not affiliated with the State or any public entity, any action for the revocation of that administrative disposition must be filed against the administrative authority.
- 3 前二項の規定により被告とすべき国若しくは公共団体又は行政庁がない場合には、取消訴訟は、当該処分又は裁決に係る事務の帰属する国又は公共団体を被告として提起しなければならない。
- (3) Where neither the State nor any public entity or administrative authority can be identified as the party to be sued under the provisions of the preceding two paragraphs, any action for the revocation of an administrative disposition must be filed against the State or public entity in which the affairs pertaining to the original administrative disposition or administrative determination are vested.
- 4 第一項又は前項の規定により国又は公共団体を被告として取消訴訟を提起する場合には、訴状には、民事訴訟の例により記載すべき事項のほか、次の各号に掲げる訴えの区分に応じてそれぞれ当該各号に定める行政庁を記載するものとする。
- (4) When filing an action for the revocation of an administrative disposition against the State or a public entity pursuant to the provisions of paragraph (1) or the preceding paragraph, the administrative authority specified in each of the following items according to the categories of actions listed in the respective items is to be stated in a complaint, in addition to the matters to be stated under the provisions on civil actions:
- 一 処分の取消しの訴え 当該処分をした行政庁
 - (i) an action for the revocation of the original administrative disposition: the administrative authority that has made the original administrative disposition; or
 - 二 裁決の取消しの訴え 当該裁決をした行政庁
 - (ii) an action for the revocation of an administrative determination: the administrative authority that has made the administrative determination.
- 5 第一項又は第三項の規定により国又は公共団体を被告として取消訴訟が提起された場合には、被告は、遅滞なく、裁判所に対し、前項各号に掲げる訴えの区分に応じてそれぞれ当該各号に定める行政庁を明らかにしなければならない。
- (5) Where an action for the revocation of an administrative disposition is filed against the State or a public entity pursuant to the provisions of paragraph (1) or paragraph (3), the defendant must clearly indicate to the court, without delay, the administrative authority specified in each of the following items according to the categories of actions listed in the respective items.
- 6 処分又は裁決をした行政庁は、当該処分又は裁決に係る第一項の規定による国又は公共団体を被告とする訴訟について、裁判上の一切の行為をする権限を有する。
- (6) An administrative authority that has made an original administrative

disposition or administrative determination has the power to conduct any and all acts in court in an action filed against the State or the public entity under the provisions of paragraph (1) with regard to the original administrative disposition or administrative determination.

(管轄)

(Jurisdiction)

第十二条 取消訴訟は、被告の普通裁判籍の所在地を管轄する裁判所又は処分若しくは裁決をした行政庁の所在地を管轄する裁判所の管轄に属する。

Article 12 (1) An action for the revocation of an administrative disposition is subject to the jurisdiction of the court that has jurisdiction over the location of the general venue of the defendant or the court that has jurisdiction over the location of the administrative authority that has made the original administrative disposition or administrative determination.

2 土地の収用、鉱業権の設定その他不動産又は特定の場所に係る処分又は裁決についての取消訴訟は、その不動産又は場所の所在地の裁判所にも、提起することができる。

(2) An action for the revocation of administrative dispositions pertaining to condemnation of land or establishment of a mining right or any other original administrative disposition or administrative determination pertaining to real property or a particular place may also be filed with the court that has jurisdiction over the location of the real property or place.

3 取消訴訟は、当該処分又は裁決に関し事案の処理に当たつた下級行政機関の所在地の裁判所にも、提起することができる。

(3) An action for the revocation of an administrative disposition may also be filed with the court that has jurisdiction over the location of the lower administrative organ that has handled the case regarding the original administrative disposition or administrative determination.

4 国又は独立行政法人通則法（平成十一年法律第百三号）第二条第一項に規定する独立行政法人若しくは別表に掲げる法人を被告とする取消訴訟は、原告の普通裁判籍の所在地を管轄する高等裁判所の所在地を管轄する地方裁判所（次項において「特定管轄裁判所」という。）にも、提起することができる。

(4) An action for the revocation of an administrative disposition against the State or an incorporated administrative agency prescribed in Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agencies (Act No. 103 of 1999) or any of the juridical persons listed in the appended table may also be filed with the district court that has jurisdiction over the location of the high court that has jurisdiction over the location of the plaintiff's general venue (hereinafter referred to as a "specified court with jurisdiction" in the following paragraph).

5 前項の規定により特定管轄裁判所に同項の取消訴訟が提起された場合であつて、他の裁判所に事実上及び法律上同一の原因に基づいてされた処分又は裁決に係る抗告訴

訟が係属している場合においては、当該特定管轄裁判所は、当事者の住所又は所在地、尋問を受けるべき証人の住所、争点又は証拠の共通性その他の事情を考慮して、相当と認めるときは、申立てにより又は職権で、訴訟の全部又は一部について、当該他の裁判所又は第一項から第三項までに定める裁判所に移送することができる。

(5) Where an action for the revocation of an administrative disposition set forth in the preceding paragraph is filed with a specified court with jurisdiction pursuant to the provisions of that paragraph while an action for the judicial review of an administrative disposition is pending at another court with regard to another original administrative disposition or administrative determination that was made based on the de facto or de jure same cause as that of the former, the specified court with jurisdiction may, upon petition or by its own authority, transfer the whole or part of the action to that other court or any of the courts specified in paragraph (1) through paragraph (3), when it finds it appropriate while taking into consideration the address or location of each party, the address of each witness to be examined, the points at issue or evidence common to both cases, and other circumstances concerned.

(関連請求に係る訴訟の移送)

(Transfer of Action Pertaining to Related Claim)

第十三条 取消訴訟と次の各号の一に該当する請求（以下「関連請求」という。）に係る訴訟とが各別の裁判所に係属する場合において、相当と認めるときは、関連請求に係る訴訟の係属する裁判所は、申立てにより又は職権で、その訴訟を取消訴訟の係属する裁判所に移送することができる。ただし、取消訴訟又は関連請求に係る訴訟の係属する裁判所が高等裁判所であるときは、この限りでない。

Article 13 Where an action for the revocation of an administrative disposition and an action pertaining to a claim that falls under any of the following items (hereinafter referred to as a "related claim") are pending before different courts, the court before which the action pertaining to a related claim is pending may, upon petition or by its own authority, transfer the action to the other court before which the action for the revocation of the administrative disposition is pending, when it finds it appropriate; provided, however, that this does not apply where either the action for the revocation of the administrative disposition or the action pertaining to a related claim is pending before a high court:

一 当該処分又は裁決に関連する原状回復又は損害賠償の請求

(i) a claim for restoration or for compensation for damages related to the relevant original administrative disposition or administrative determination;

二 当該処分とともに一個の手續を構成する他の処分の取消しの請求

(ii) a claim for the revocation of another original administrative disposition which forms a single procedure together with the relevant original administrative disposition;

三 当該処分に係る裁決の取消しの請求

(iii) a claim for the revocation of an administrative determination pertaining to the relevant original administrative disposition;

四 当該裁決に係る処分の取消しの請求

(iv) a claim for the revocation of an original administrative disposition pertaining to the relevant administrative determination;

五 当該処分又は裁決の取消しを求める他の請求

(v) another claim to seek the revocation of the relevant original administrative disposition or administrative determination; or

六 その他当該処分又は裁決の取消しの請求と関連する請求

(vi) any other claim related to the claim for the revocation of the relevant original administrative disposition or administrative determination.

(出訴期間)

(Statute of Limitations for Filing an Action)

第十四条 取消訴訟は、処分又は裁決があつたことを知つた日から六箇月を経過したときは、提起することができない。ただし、正当な理由があるときは、この限りでない。

Article 14 (1) No action for the revocation of an administrative disposition may be filed when a period of six months has elapsed from the day on which the person who seeks revocation became aware of the fact that the original administrative disposition or administrative determination was made; provided, however, that this does not apply if there are reasonable grounds for failing to meet that time limit.

2 取消訴訟は、処分又は裁決の日から一年を経過したときは、提起することができない。ただし、正当な理由があるときは、この限りでない。

(2) No action for the revocation of an administrative disposition may be filed when a period of one year has elapsed from the date of the original administrative disposition or administrative determination; provided, however, that this does not apply if there are reasonable grounds for failing to meet that time limit.

3 処分又は裁決につき審査請求をすることができる場合又は行政庁が誤つて審査請求をすることができる旨を教示した場合において、審査請求があつたときは、処分又は裁決に係る取消訴訟は、その審査請求をした者については、前二項の規定にかかわらず、これに対する裁決があつたことを知つた日から六箇月を経過したとき又は当該裁決の日から一年を経過したときは、提起することができない。ただし、正当な理由があるときは、この限りでない。

(3) If a request for administrative review is made with regard to an original administrative disposition or administrative determination in cases where a request for administrative review may be made or where an administrative authority has mistakenly informed that a request for administrative review may be made, the person who has made the request, notwithstanding the

provisions of the preceding two paragraphs, may not file an action for the revocation of an administrative disposition when a period of six months has elapsed from the day on which the person became aware of the fact that an administrative determination was made in response to their request for an administrative review or when a period of one year has elapsed from the date of the administrative determination; provided, however, that this does not apply if there are reasonable grounds for failing to meet that time limit.

(被告を誤った訴えの救済)

(Remedy for Action Against Wrong Defendant)

第十五条 取消訴訟において、原告が故意又は重大な過失によらないで被告とすべき者を誤ったときは、裁判所は、原告の申立てにより、決定をもつて、被告を変更することを許すことができる。

Article 15 (1) When a plaintiff has, unintentionally or without gross negligence, sued a wrong person in an action for the revocation of an administrative disposition, the court may, upon the petition of the plaintiff, by an order, permit the plaintiff to change the defendant.

2 前項の決定は、書面とするものとし、その正本を新たな被告に送達しなければならない。

(2) An order set forth in the preceding paragraph is to be made in writing, and the authenticated copy thereof is to be served upon a new defendant.

3 第一項の決定があつたときは、出訴期間の遵守については、新たな被告に対する訴えは、最初に訴えを提起した時に提起されたものとみなす。

(3) When an order set forth in paragraph (1) is made, it is deemed, with regard to compliance with the statute of limitations for filing an action, that an action against a new defendant was filed at the time of the filing of the initial action.

4 第一項の決定があつたときは、従前の被告に対しては、訴えの取下げがあつたものとみなす。

(4) When an order set forth in paragraph (1) is made, it is to be deemed that the action against the initial defendant has been withdrawn.

5 第一項の決定に対しては、不服を申し立てることができない。

(5) No appeal may be entered against an order set forth in paragraph (1).

6 第一項の申立てを却下する決定に対しては、即時抗告をすることができる。

(6) An immediate appeal may be filed against an order to dismiss without prejudice a petition set forth in paragraph (1).

7 上訴審において第一項の決定をしたときは、裁判所は、その訴訟を管轄裁判所に移送しなければならない。

(7) When a court has made an order set forth in paragraph (1) in an appellate instance, the court must transfer the action to the court with jurisdiction.

(請求の客観的併合)

(Objective Joinder of Claims)

第十六条 取消訴訟には、関連請求に係る訴えを併合することができる。

Article 16 (1) An action for the revocation of an administrative disposition may be joined with an action pertaining to a related claim.

2 前項の規定により訴えを併合する場合において、取消訴訟の第一審裁判所が高等裁判所であるときは、関連請求に係る訴えの被告の同意を得なければならない。被告が異議を述べないで、本案について弁論をし、又は弁論準備手続において申述をしたときは、同意したものとみなす。

(2) In the case of the joinder of actions under the provisions of the preceding paragraph, if the court of first instance of the action for the revocation of an administrative disposition is a high court, it must obtain consent from the defendant in the action pertaining to a related claim. If the defendant has presented oral arguments on the merits or made statements in preparatory proceedings without making any objection, that defendant is deemed to have consented to the joinder of actions.

(共同訴訟)

(Joint Action)

第十七条 数人は、その数人の請求又はその数人に対する請求が処分又は裁決の取消しの請求と関連請求とである場合に限り、共同訴訟人として訴え、又は訴えられることができる。

Article 17 (1) Two or more persons may sue or be sued as coparties only in cases where claims made by or against those persons are a claim for the revocation of an original administrative disposition or administrative determination and its related claim.

2 前項の場合には、前条第二項の規定を準用する。

(2) In the case referred to in the preceding paragraph, the provisions of paragraph (2) of the preceding Article apply mutatis mutandis.

(第三者による請求の追加的併合)

(Joinder of Additional Claim by Third Party)

第十八条 第三者は、取消訴訟の口頭弁論の終結に至るまで、その訴訟の当事者の一方を被告として、関連請求に係る訴えをこれに併合して提起することができる。この場合において、当該取消訴訟が高等裁判所に係属しているときは、第十六条第二項の規定を準用する。

Article 18 A third party, until the conclusion of the oral argument of an action for the revocation of an administrative disposition, may file an additional action pertaining to a related claim against either of the parties to the action for revocation, by joining these actions. In this case, if the action for the revocation of that administrative disposition is pending before a high court, the provisions of Article 16, paragraph (2) apply mutatis mutandis.

(原告による請求の追加的併合)

(Joinder of Additional Claim by Plaintiff)

第十九条 原告は、取消訴訟の口頭弁論の終結に至るまで、関連請求に係る訴えをこれに併合して提起することができる。この場合において、当該取消訴訟が高等裁判所に係属しているときは、第十六条第二項の規定を準用する。

Article 19 (1) A plaintiff, until the conclusion of the oral argument of an action for the revocation of an administrative disposition, may file an additional action pertaining to a related claim, by joining these actions. In this case, if the action for the revocation of that administrative disposition is pending before a high court, the provisions of Article 16, paragraph (2) apply mutatis mutandis.

2 前項の規定は、取消訴訟について民事訴訟法（平成八年法律第九号）第四百三十三條の規定の例によることを妨げない。

(2) The provisions of the preceding paragraph do not preclude an action for the revocation of an administrative disposition from being governed by the provisions of the Code of Civil Procedure (Act No. 109 of 1996).

第二十条 前条第一項前段の規定により、処分取消しの訴えをその処分についての審査請求を棄却した裁決の取消しの訴えに併合して提起する場合には、同項後段において準用する第十六条第二項の規定にかかわらず、処分取消しの訴えの被告の同意を得ることを要せず、また、その提起があつたときは、出訴期間の遵守については、処分取消しの訴えは、裁決の取消しの訴えを提起した時に提起されたものとみなす。

Article 20 When filing an action for the revocation of the original administrative disposition by joining it, pursuant to the provisions of the first sentence of paragraph (1) of the preceding Article, with an action for the revocation of an administrative determination that has dismissed a request for an administrative review of the original administrative disposition, it is not be required to obtain consent from the defendant in the action for the revocation of the original administrative disposition, notwithstanding the provisions of Article 16, paragraph (2) as applied mutatis mutandis pursuant to the second sentence of paragraph (1) of the preceding Article, and when an action for the revocation of the original administrative disposition is thus filed, it is deemed, with regard to compliance with the statute of limitations for filing an action, to have been filed at the time of the filing of the action for the revocation of an administrative determination.

(国又は公共団体に対する請求への訴えの変更)

(Amendment of a Claim to a Claim Against the State or Public Entity)

第二十一条 裁判所は、取消訴訟の目的たる請求を当該処分又は裁決に係る事務の帰属する国又は公共団体に対する損害賠償その他の請求に変更することが相当であると認めるときは、請求の基礎に変更がない限り、口頭弁論の終結に至るまで、原告の申立

てにより、決定をもつて、訴えの変更を許すことができる。

Article 21 (1) When the court finds it appropriate to amend the claim that is subject matter of an action for the revocation of an administrative disposition, to a claim for compensation for damages or any other claim against the State or a public entity in which the affairs pertaining to the original administrative disposition or administrative determination are vested, the court may, until the conclusion of the oral argument, upon the petition of the plaintiff, by an order, permit that amendment of the claim, unless there is any change to the basis for the claim.

2 前項の決定には、第十五条第二項の規定を準用する。

(2) The provisions of Article 15, paragraph (2) apply mutatis mutandis to an order set forth in the preceding paragraph.

3 裁判所は、第一項の規定により訴えの変更を許す決定をするには、あらかじめ、当事者及び損害賠償その他の請求に係る訴えの被告の意見をきかなければならない。

(3) The court, when making an order to permit amendment of a claim pursuant to the provisions of paragraph (1), must hear opinions in advance from the parties and the defendant in an action pertaining to a claim for compensation for damages or any other claim.

4 訴えの変更を許す決定に対しては、即時抗告をすることができる。

(4) An immediate appeal may be filed against an order to permit amendment of a claim.

5 訴えの変更を許さない決定に対しては、不服を申し立てることができない。

(5) No appeal may be entered against an order not to permit amendment of a claim.

(第三者の訴訟参加)

(Intervention by Third Party)

第二十二條 裁判所は、訴訟の結果により権利を害される第三者があるときは、当事者若しくはその第三者の申立てにより又は職権で、決定をもつて、その第三者を訴訟に参加させることができる。

Article 22 (1) If the outcome of an action would prejudice a right of any third party, the court may, upon the petition of a party or the third party or by its own authority, by an order, have the third party intervene in the action.

2 裁判所は、前項の決定をするには、あらかじめ、当事者及び第三者の意見をきかなければならない。

(2) The court, when making an order set forth in the preceding paragraph, must hear opinions in advance from the parties and the third party.

3 第一項の申立てをした第三者は、その申立てを却下する決定に対して即時抗告をすることができる。

(3) A third party who has filed a petition set forth in paragraph (1) may file an immediate appeal against an order to dismiss the petition without prejudice.

4 第一項の規定により訴訟に参加した第三者については、民事訴訟法第四十条第一項から第三項までの規定を準用する。

(4) The provisions of Article 40, paragraph (1) through paragraph (3) of the Code of Civil Procedure apply mutatis mutandis to a third party who has intervened in an action pursuant to the provisions of paragraph (1).

5 第一項の規定により第三者が参加の申立てをした場合には、民事訴訟法第四十五条第三項及び第四項の規定を準用する。

(5) Where a third party has filed a petition for intervention pursuant to the provisions of paragraph (1), the provisions of Article 45, paragraph (3) and paragraph (4) of the Code of Civil Procedure apply mutatis mutandis.

(行政庁の訴訟参加)

(Intervention by Administrative Authority)

第二十三条 裁判所は、処分又は裁決をした行政庁以外の行政庁を訴訟に参加させることが必要であると認めるときは、当事者若しくはその行政庁の申立てにより又は職権で、決定をもつて、その行政庁を訴訟に参加させることができる。

Article 23 (1) When the court finds it necessary to have an administrative authority other than the one that has made an original administrative disposition or administrative determination intervene in an action, the court may, upon the petition of a party or that other administrative authority or by the court's own authority, by an order, have the administrative authority intervene in the action.

2 裁判所は、前項の決定をするには、あらかじめ、当事者及び当該行政庁の意見をきかなければならない。

(2) The court, when making an order set forth in the preceding paragraph, must hear opinions in advance from the parties and the administrative authority.

3 第一項の規定により訴訟に参加した行政庁については、民事訴訟法第四十五条第一項及び第二項の規定を準用する。

(3) The provisions of Article 45, paragraph (1) and paragraph (2) of the Code of Civil Procedure apply mutatis mutandis to an administrative authority which has intervened in an action pursuant to the provisions of paragraph (1).

(釈明処分の特則)

(Special Provisions on Order for Clarification)

第二十三条の二 裁判所は、訴訟関係を明瞭にするため、必要があると認めるときは、次に掲げる処分をすることができる。

Article 23-2 (1) The court, when it finds it necessary in order to clarify the matters related to the action, may make the following dispositions:

一 被告である国若しくは公共団体に所属する行政庁又は被告である行政庁に対し、処分又は裁決の内容、処分又は裁決の根拠となる法令の条項、処分又は裁決の原因となる事実その他処分又は裁決の理由を明らかにする資料（次項に規定する審査請

求に係る事件の記録を除く。) であつて当該行政庁が保有するものの全部又は一部の提出を求めること。

- (i) request any administrative authority affiliated with the State or the public entity that stands as a defendant, or the administrative authority that stands as a defendant, to submit the whole or part of the materials that clarify the content of the original administrative disposition or administrative determination, the provisions of the laws and regulations which give a basis for the original administrative disposition or administrative determination, the facts constituting the cause of the original administrative disposition or administrative determination and other grounds for the original administrative disposition or administrative determination (excluding the records of a case of request for an administrative review prescribed in the following paragraph), which are held by the administrative authority; and

二 前号に規定する行政庁以外の行政庁に対し、同号に規定する資料であつて当該行政庁が保有するものの全部又は一部の送付を囑託すること。

- (ii) commission any administrative authority other than those prescribed in the preceding item to send the whole or part of the materials prescribed in that item, which are held by the administrative authority.

2 裁判所は、処分についての審査請求に対する裁決を経た後に取消訴訟の提起があつたときは、次に掲げる処分をすることができる。

- (2) When an action for the revocation of an administrative disposition is filed after an administrative determination is made in response to a request for administrative review of an original administrative disposition, the court may make the following dispositions:

一 被告である国若しくは公共団体に所属する行政庁又は被告である行政庁に対し、当該審査請求に係る事件の記録であつて当該行政庁が保有するものの全部又は一部の提出を求めること。

- (i) request any administrative authority affiliated with the State or the public entity that stands as a defendant, or the administrative authority that stands as a defendant, to submit the whole or part of the records of the case of the request for administrative review, which are held by the administrative authority; and

二 前号に規定する行政庁以外の行政庁に対し、同号に規定する事件の記録であつて当該行政庁が保有するものの全部又は一部の送付を囑託すること。

- (ii) commission any administrative authority other than those prescribed in the preceding item to send the whole or part of the records of the case prescribed in that item, which are held by the administrative authority.

(職権証拠調べ)

(Examination of Evidence by the Court's Own Authority)

第二十四条 裁判所は、必要があると認めるときは、職権で、証拠調べをすることができる。ただし、その証拠調べの結果について、当事者の意見をきかなければならない。

Article 24 The court, when it finds it necessary, may examine evidence by its own authority; provided, however, that the court must hear opinions from the parties with regard to the results of the examination of evidence.

(執行停止)

(Stay of Execution)

第二十五条 処分の取消しの訴えの提起は、処分の効力、処分の執行又は手続の続行を妨げない。

Article 25 (1) The filing of an action for the revocation of the original administrative disposition does not preclude the effect of the original administrative disposition, the execution of the original administrative disposition or the continuation of any subsequent procedure.

2 処分の取消しの訴えの提起があつた場合において、処分、処分の執行又は手続の続行により生ずる重大な損害を避けるため緊急の必要があるときは、裁判所は、申立てにより、決定をもつて、処分の効力、処分の執行又は手続の続行の全部又は一部の停止（以下「執行停止」という。）をすることができる。ただし、処分の効力の停止は、処分の執行又は手続の続行の停止によつて目的を達することができる場合には、することができない。

(2) Where an action for the revocation of the original administrative disposition is filed, if there is an urgent necessity in order to avoid any serious damage that would be caused by the original administrative disposition, the execution of the original administrative disposition or the continuation of any subsequent procedure, the court may, upon petition, by an order, stay the whole or part of the effect of the original administrative disposition, the execution of the original administrative disposition or the continuation of any subsequent procedure (hereinafter referred to as "stay of execution"); provided, however, that the court may not stay the effect of an original administrative disposition if the purpose can be achieved by staying the execution of the original administrative disposition or staying the continuation of any subsequent procedure.

3 裁判所は、前項に規定する重大な損害を生ずるか否かを判断するに当たつては、損害の回復の困難の程度を考慮するものとし、損害の性質及び程度並びに処分内容及び性質をも勘案するものとする。

(3) When judging whether or not any serious damage would be caused as prescribed in the preceding paragraph, the court is to consider the degree of difficulty in recovering from the damage and to take into consideration the nature and extent of the damage as well as the content and nature of the original administrative disposition.

4 執行停止は、公共の福祉に重大な影響を及ぼすおそれがあるとき、又は本案につい

て理由がないとみえるときは、することができない。

(4) Stay of execution may not be allowed when it is likely to seriously affect public welfare or when the action on the merits seems groundless.

5 第二項の決定は、疎明に基づいてする。

(5) An order set forth in paragraph (2) is made based on a prima facie showing.

6 第二項の決定は、口頭弁論を経ないですることができる。ただし、あらかじめ、当事者の意見をきかなければならない。

(6) An order set forth in paragraph (2) may be made without oral argument; provided, however, that the court must hear opinions in advance from the parties before making the order.

7 第二項の申立てに対する決定に対しては、即時抗告をすることができる。

(7) An immediate appeal may be filed against an order on a petition set forth in paragraph (2).

8 第二項の決定に対する即時抗告は、その決定の執行を停止する効力を有しない。

(8) An immediate appeal against an order set forth in paragraph (2) does not have the effect of staying the execution of the order.

(事情変更による執行停止の取消し)

(Revocation of Stay of Execution by reason of Change in Circumstances)

第二十六条 執行停止の決定が確定した後に、その理由が消滅し、その他事情が変更したときは、裁判所は、相手方の申立てにより、決定をもつて、執行停止の決定を取り消すことができる。

Article 26 (1) If, after an order of stay of execution has become final and binding, the reasons for stay of execution have ceased to exist or the circumstances have otherwise changed, the court may, upon the petition of the party subject to stay of execution, by an order, revoke the order of stay of execution.

2 前項の申立てに対する決定及びこれに対する不服については、前条第五項から第八項までの規定を準用する。

(2) The provisions of paragraph (5) through paragraph (8) of the preceding Article apply mutatis mutandis to an order on a petition set forth in the preceding paragraph and any objection against that order.

(内閣総理大臣の異議)

(Objection by the Prime Minister)

第二十七条 第二十五条第二項の申立てがあつた場合には、内閣総理大臣は、裁判所に対し、異議を述べるることができる。執行停止の決定があつた後においても、同様とする。

Article 27 (1) Where a petition set forth in Article 25, paragraph (2) is filed, the Prime Minister may make an objection to the petition to the court. An objection may also be made after an order of stay of execution is made.

2 前項の異議には、理由を附さなければならない。

(2) An objection set forth in the preceding paragraph must be accompanied by the reasons therefor.

3 前項の異議の理由においては、内閣総理大臣は、処分の効力を存続し、処分を執行し、又は手続を続行しなければ、公共の福祉に重大な影響を及ぼすおそれのある事情を示すものとする。

(3) As for the reasons for an objection set forth in the preceding paragraph, the Prime Minister is to explain the circumstances where public welfare is likely to be seriously affected unless the effect of the original administrative disposition is maintained, the original administrative disposition is executed or any subsequent procedure is continued.

4 第一項の異議があつたときは、裁判所は、執行停止をすることができず、また、すでに執行停止の決定をしているときは、これを取り消さなければならない。

(4) When an objection set forth in paragraph (1) is made, the court may not order stay of execution, and if the court has already made an order of stay of execution, it must revoke the order.

5 第一項後段の異議は、執行停止の決定をした裁判所に対して述べなければならない。ただし、その決定に対する抗告が抗告裁判所に係属しているときは、抗告裁判所に対して述べなければならない。

(5) An objection set forth in the second sentence of paragraph (1) must be made to the court that has made the order of stay of execution; provided, however, that when an appeal against the order is pending before a court in charge of the appeal, that objection must be made to the court in charge of the appeal.

6 内閣総理大臣は、やむをえない場合でなければ、第一項の異議を述べてはならず、また、異議を述べたときは、次の常会において国会にこれを報告しなければならない。

(6) Except where it is unavoidable, the Prime Minister may not make an objection set forth in paragraph (1), and if the Prime Minister has made an objection, the Prime Minister must report it to the Diet at the next ordinary session.

(執行停止等の管轄裁判所)

(Court with Jurisdiction over Stay of Execution)

第二十八条 執行停止又はその決定の取消しの申立ての管轄裁判所は、本案の係属する裁判所とする。

Article 28 The court with jurisdiction over a petition for a stay of execution or for the revocation of an order of stay of execution is the court before which the action on the merits is pending.

(執行停止に関する規定の準用)

(Application Mutatis Mutandis of Provisions on Stay of Execution)

第二十九条 前四条の規定は、裁決の取消しの訴えの提起があつた場合における執行停止に関する事項について準用する。

Article 29 The provisions of the preceding four Articles apply mutatis mutandis to the matters concerning stay of execution in cases where an action for the revocation of an administrative determination is filed.

(裁量処分の取消し)

(Revocation of Discretionary Disposition)

第三十条 行政庁の裁量処分については、裁量権の範囲をこえ又はその濫用があつた場合限り、裁判所は、その処分を取り消すことができる。

Article 30 The court may revoke an original administrative disposition made by an administrative authority at its discretion only in cases where the disposition has been made beyond the bounds of the agency's discretionary power or through an abuse of that power.

(特別の事情による請求の棄却)

(Dismissal of Claim by reason of Special Circumstances)

第三十一条 取消訴訟については、処分又は裁決が違法ではあるが、これを取り消すことにより公の利益に著しい障害を生ずる場合において、原告の受ける損害の程度、その損害の賠償又は防止の程度及び方法その他一切の事情を考慮したうえ、処分又は裁決を取り消すことが公共の福祉に適合しないと認めるときは、裁判所は、請求を棄却することができる。この場合には、当該判決の主文において、処分又は裁決が違法であることを宣言しなければならない。

Article 31 (1) In an action for the revocation of an administrative disposition, the court may dismiss a claim with prejudice on the merits in cases where the original administrative disposition or administrative determination is illegal but the revocation thereof is likely to seriously affect public welfare, if the court, having considered the extent of any possible damage to be suffered by the plaintiff, the extent and method of compensation for or prevention of that damage and all other circumstances concerned, finds that the revocation of the original administrative disposition or administrative determination is not in line with public welfare. In this case, the court must declare the illegality of the original administrative disposition or administrative determination in the main text of the judgment of dismissal.

2 裁判所は、相当と認めるときは、終局判決前に、判決をもつて、処分又は裁決が違法であることを宣言することができる。

(2) The court, when it finds it appropriate, may declare the illegality of an original administrative disposition or administrative determination by a judgment before making a final judgment.

3 終局判決に事実及び理由を記載するには、前項の判決を引用することができる。

(3) The court may cite a judgment set forth in the preceding paragraph when stating the facts and reasons in a final judgment.

(取消判決等の効力)

(Effect of Judgment of Revocation)

第三十二条 処分又は裁決を取り消す判決は、第三者に対しても効力を有する。

Article 32 (1) A judgment to revoke an original administrative disposition or administrative determination may also be effective against a third party.

2 前項の規定は、執行停止の決定又はこれを取り消す決定に準用する。

(2) The provisions of the preceding paragraph apply mutatis mutandis to an order of stay of execution or an order to revoke an order of stay of execution.

第三十三条 処分又は裁決を取り消す判決は、その事件について、処分又は裁決をした行政庁その他の関係行政庁を拘束する。

Article 33 (1) A judgment to revoke an original administrative disposition or administrative determination is binding on the administrative authority that has made the original administrative disposition or administrative determination and any other relevant administrative authority with regard to the case.

2 申請を却下し若しくは棄却した処分又は審査請求を却下し若しくは棄却した裁決が判決により取り消されたときは、その処分又は裁決をした行政庁は、判決の趣旨に従い、改めて申請に対する処分又は審査請求に対する裁決をしなければならない。

(2) When a judgment is made to revoke an original administrative disposition that has dismissed an application with or without prejudice or to revoke an administrative determination that has dismissed a request for administrative review with or without prejudice, the administrative authority that has made the original administrative disposition or administrative determination must, according to the purport of the judgment, make another original administrative disposition on the application or another administrative determination on the request for administrative review.

3 前項の規定は、申請に基づいてした処分又は審査請求を認容した裁決が判決により手続に違法があることを理由として取り消された場合に準用する。

(3) The provisions of the preceding paragraph apply mutatis mutandis where an original administrative disposition made based on an application or an administrative determination upholding a request for administrative review is revoked by a judgment by reason of an illegal procedural defect.

4 第一項の規定は、執行停止の決定に準用する。

(4) The provisions of paragraph (1) apply mutatis mutandis to an order of stay of execution.

(第三者の再審の訴え)

(Action for Retrial by Third Party)

第三十四条 処分又は裁決を取り消す判決により権利を害された第三者で、自己の責めに帰することができない理由により訴訟に参加することができなかつたため判決に影

響を及ぼすべき攻撃又は防御の方法を提出することができなかつたものは、これを理由として、確定の終局判決に対し、再審の訴えをもつて、不服の申立てをすることができる。

Article 34 (1) Where a third party whose right is prejudiced by a judgment to revoke an original administrative disposition or administrative determination has failed to intervene in the action due to any grounds not attributable to that person and therefore failed to advance any allegation or evidence that should have affected a judgment, that person may file an action for retrial to enter an appeal against a final judgment that has become final and binding on the grounds of that failure.

2 前項の訴えは、確定判決を知った日から三十日以内に提起しなければならない。

(2) An action set forth in the preceding paragraph must be filed within 30 days from the day on which the third party became aware of the final and binding judgment.

3 前項の期間は、不変期間とする。

(3) The period set forth in the preceding paragraph may not be an unextendable period.

4 第一項の訴えは、判決が確定した日から一年を経過したときは、提起することができない。

(4) No action set forth in paragraph (1) may be filed when a period of one year has elapsed from the day on which the judgment became final and binding.

(訴訟費用の裁判の効力)

(Effect of Judicial Decision on Burden of Court Costs)

第三十五条 国又は公共団体に所属する行政庁が当事者又は参加人である訴訟における確定した訴訟費用の裁判は、当該行政庁が所属する国又は公共団体に対し、又はそれらの者のために、効力を有する。

Article 35 A final and binding judicial decision on the burden of court costs in an action wherein an administrative authority affiliated with the State or a public entity stands as a party or intervener is effective against or in the interest of the State or the public entity with which the administrative authority is affiliated.

第二節 その他の抗告訴訟

Section 2 Other Actions for the Judicial Review of Administrative Dispositions

(無効等確認の訴えの原告適格)

(Standing to Sue in an Action for Declaration of Nullity, etc.)

第三十六条 無効等確認の訴えは、当該処分又は裁決に続く処分により損害を受けるおそれのある者その他当該処分又は裁決の無効等の確認を求めるにつき法律上の利益を

有する者で、当該処分若しくは裁決の存否又はその効力の有無を前提とする現在の法律関係に関する訴えによつて目的を達することができないものに限り、提起することができる。

Article 36 An action for the declaration of nullity, etc. of an original administrative disposition or administrative determination may be filed only by a person who is likely to suffer damage from that original administrative disposition or any disposition following that administrative determination or any other person who has legal interest to seek the declaration of nullity, etc. of the original administrative disposition or administrative determination, where the person is unable to achieve the purpose by filing an action concerning the existing legal relationship which is based on the existence or non-existence of or validity or invalidity of the original administrative disposition or administrative determination.

(不作為の違法確認の訴えの原告適格)

(Standing to Sue in an Action for Declaration of Illegality of Inaction)

第三十七条 不作為の違法確認の訴えは、処分又は裁決についての申請をした者に限り、提起することができる。

Article 37 An action for the declaration of illegality of inaction may be filed only by a person who has filed an application for an original administrative disposition or administrative determination.

(義務付けの訴えの要件等)

(Requirements for Mandamus Actions)

第三十七条の二 第三条第六項第一号に掲げる場合において、義務付けの訴えは、一定の処分がされないことにより重大な損害を生ずるおそれがあり、かつ、その損害を避けるため他に適当な方法がないときに限り、提起することができる。

Article 37-2 (1) In the case set forth in Article 3, paragraph (6), item (i), a mandamus action may be filed only when any serious damage is likely to be caused if a certain original administrative disposition is not made and there are no other appropriate means to avoid that damage.

2 裁判所は、前項に規定する重大な損害を生ずるか否かを判断するに当たっては、損害の回復の困難の程度を考慮するものとし、損害の性質及び程度並びに処分内容及び性質をも勘案するものとする。

(2) When judging whether or not any serious damage would be caused as prescribed in the preceding paragraph, the court is to consider the degree of difficulty in recovering from the damage and to take into consideration the nature and extent of the damage as well as the content and nature of the original administrative disposition.

3 第一項の義務付けの訴えは、行政庁が一定の処分をすべき旨を命ずることを求めるにつき法律上の利益を有する者に限り、提起することができる。

(3) A mandamus action set forth in paragraph (1) may be filed only by a person who has legal interest to seek an order to the effect that an administrative authority should make a certain original administrative disposition.

4 前項に規定する法律上の利益の有無の判断については、第九条第二項の規定を準用する。

(4) The provisions of Article 9, paragraph (2) apply mutatis mutandis with regard to the judging of whether or not there is legal interest prescribed in the preceding paragraph.

5 義務付けの訴えが第一項及び第三項に規定する要件に該当する場合において、その義務付けの訴えに係る処分につき、行政庁がその処分をすべきであることがその処分の根拠となる法令の規定から明らかであると認められ又は行政庁がその処分をしないことがその裁量権の範囲を超え若しくはその濫用となると認められるときは、裁判所は、行政庁がその処分をすべき旨を命ずる判決をする。

(5) Where a mandamus action satisfies the requirements prescribed in paragraph (1) and paragraph (3), if it is found that the provisions of the laws and regulations which give a basis for an original administrative disposition pertaining to a mandamus action clearly show that the administrative authority should make the original administrative disposition, or it is found that the administrative authority's inaction to make the original administrative disposition goes beyond the bounds of the agency's discretionary power or constitutes an abuse of that power, the court makes a judgment to order that the administrative authority should make the original administrative disposition.

第三十七条の三 第三条第六項第二号に掲げる場合において、義務付けの訴えは、次の各号に掲げる要件のいずれかに該当するときに限り、提起することができる。

Article 37-3 (1) In the case set forth in Article 3, paragraph (6), item (ii), a mandamus action may be filed only when any of the requirements listed in the following items is satisfied:

一 当該法令に基づく申請又は審査請求に対し相当の期間内に何らの処分又は裁決がされないこと。

(i) no original administrative disposition or administrative determination is made within a reasonable period of time in response to an application filed or request for administrative review made under the laws and regulations; or

二 当該法令に基づく申請又は審査請求を却下し又は棄却する旨の処分又は裁決がされた場合において、当該処分又は裁決が取り消されるべきものであり、又は無効若しくは不存在であること。

(ii) an original administrative disposition or administrative determination is made to dismiss with or without prejudice an application filed or a request for administrative review made under the laws and regulations, but the original administrative disposition or administrative determination should

be revoked or is invalid or has never existed.

2 前項の義務付けの訴えは、同項各号に規定する法令に基づく申請又は審査請求をした者に限り、提起することができる。

(2) A mandamus action set forth in the preceding paragraph may be filed only by a person who has filed an application or made a request for administrative review under the laws and regulations prescribed in each item of that paragraph.

3 第一項の義務付けの訴えを提起するときは、次の各号に掲げる区分に応じてそれぞれ当該各号に定める訴えをその義務付けの訴えに併合して提起しなければならない。この場合において、当該各号に定める訴えに係る訴訟の管轄について他の法律に特別の定めがあるときは、当該義務付けの訴えに係る訴訟の管轄は、第三十八条第一項において準用する第十二条の規定にかかわらず、その定めに従う。

(3) A mandamus action set forth in paragraph (1) must be filed by joining with it each of the actions specified in the following items according to the categories of cases listed in the respective items. In this case, if there are special provisions in any other law with regard to the jurisdiction over a suit pertaining to each of the actions specified in those items, those special provisions govern the jurisdiction over the suit pertaining to the mandamus action, notwithstanding the provisions of Article 12 as applied mutatis mutandis pursuant to Article 38, paragraph (1):

一 第一項第一号に掲げる要件に該当する場合 同号に規定する処分又は裁決に係る不作為の違法確認の訴え

(i) in the case where the requirement set forth in paragraph (1), item (i) is satisfied: an action for the declaration of illegality of inaction to make the original administrative disposition or administrative determination prescribed in that item; or

二 第一項第二号に掲げる要件に該当する場合 同号に規定する処分又は裁決に係る取消訴訟又は無効等確認の訴え

(ii) in the case where the requirement set forth in paragraph (1), item (ii) is satisfied: an action for the revocation of an administrative disposition or action for the declaration of nullity, etc. of the original administrative disposition or administrative determination prescribed in that item.

4 前項の規定により併合して提起された義務付けの訴え及び同項各号に定める訴えに係る弁論及び裁判は、分離しないでしなければならない。

(4) Oral arguments and judicial decisions in a mandamus action and the action specified in each item of the preceding paragraph, which are filed and joined pursuant to the provisions of that paragraph, must not be made separately.

5 義務付けの訴えが第一項から第三項までに規定する要件に該当する場合において、同項各号に定める訴えに係る請求に理由があると認められ、かつ、その義務付けの訴えに係る処分又は裁決につき、行政庁がその処分若しくは裁決をすべきであることがその処分若しくは裁決の根拠となる法令の規定から明らかであると認められ又は行政

庁がその処分若しくは裁決をしないことがその裁量権の範囲を超え若しくはその濫用となると認められるときは、裁判所は、その義務付けの訴えに係る処分又は裁決をすべき旨を命ずる判決をする。

(5) Where a mandamus action satisfies the requirements prescribed in paragraph (1) to paragraph (3), if it is found that the claim pertaining to the action specified in each item of paragraph (3) is well-grounded, and it is also found that the provisions of the laws and regulations which give a basis for an original administrative disposition or administrative determination pertaining to a mandamus action clearly show that the administrative authority should make the original administrative disposition or administrative determination, or it is found that the administrative authority's inaction to make the original administrative disposition or administrative determination goes beyond the bounds of the authority's discretionary power or constitutes an abuse of that power, the court makes a judgment to order that the administrative authority should make the original administrative disposition or administrative determination pertaining to the mandamus action.

6 第四項の規定にかかわらず、裁判所は、審理の状況その他の事情を考慮して、第三項各号に定める訴えについてのみ終局判決をすることがより迅速な争訟の解決に資すると認めるときは、当該訴えについてのみ終局判決をすることができる。この場合において、裁判所は、当該訴えについてのみ終局判決をしたときは、当事者の意見を聴いて、当該訴えに係る訴訟手続が完結するまでの間、義務付けの訴えに係る訴訟手続を中止することができる。

(6) Notwithstanding the provisions of paragraph (4), when the court finds, in consideration of the developments in proceedings and other circumstances, that it will contribute to more expeditious settlement of the dispute to make a final judgment only with regard to the action specified in each item of paragraph (3), the court may make a final judgment only with regard to that action. In this case, when the court has made a final judgment only with regard to that action, it may, until litigation proceedings for that action are completed, suspend litigation proceedings for a mandamus action, hearing opinions from the parties.

7 第一項の義務付けの訴えのうち、行政庁が一定の裁決をすべき旨を命ずることを求めるものは、処分についての審査請求がされた場合において、当該処分に係る処分の取消しの訴え又は無効等確認の訴えを提起することができないときに限り、提起することができる。

(7) A mandamus action set forth in paragraph (1) which seeks an order to the effect that an administrative authority should make a certain administrative determination may be filed only in cases where a request for an administrative review of the original administrative disposition has been made and no action for the revocation of the original administrative disposition or action for the declaration of nullity, etc. of the original administrative disposition may be

filed.

(差止めの訴えの要件)

(Requirements for Action for Injunctive Order)

第三十七条の四 差止めの訴えは、一定の処分又は裁決がされることにより重大な損害を生ずるおそれがある場合に限り、提起することができる。ただし、その損害を避けるため他に適当な方法があるときは、この限りでない。

Article 37-4 (1) An action for an injunctive order may be filed only in cases where any serious damage is likely to be caused if a certain original administrative disposition or administrative determination is made; provided, however, that this does not apply if there are any other appropriate means to avoid that damage.

2 裁判所は、前項に規定する重大な損害を生ずるか否かを判断するに当たっては、損害の回復の困難の程度を考慮するものとし、損害の性質及び程度並びに処分又は裁決の内容及び性質をも勘案するものとする。

(2) When judging whether or not any serious damage would be caused as prescribed in the preceding paragraph, the court is to consider the degree of difficulty in recovering from the damage and to take into consideration the nature and extent of the damage as well as the content and nature of the original administrative disposition or administrative determination.

3 差止めの訴えは、行政庁が一定の処分又は裁決をしてはならない旨を命ずることを求めるにつき法律上の利益を有する者に限り、提起することができる。

(3) An action for an injunctive order may be filed only by a person who has legal interest to seek an order to the effect that an administrative authority should not make a certain original administrative disposition or administrative determination.

4 前項に規定する法律上の利益の有無の判断については、第九条第二項の規定を準用する。

(4) The provisions of Article 9, paragraph (2) apply mutatis mutandis with regard to the judging of whether or not there is legal interest prescribed in the preceding paragraph.

5 差止めの訴えが第一項及び第三項に規定する要件に該当する場合において、その差止めの訴えに係る処分又は裁決につき、行政庁がその処分若しくは裁決をすべきでないことがその処分若しくは裁決の根拠となる法令の規定から明らかであると認められ又は行政庁がその処分若しくは裁決をすることがその裁量権の範囲を超え若しくはその濫用となると認められるときは、裁判所は、行政庁がその処分又は裁決をしてはならない旨を命ずる判決をする。

(5) Where an action for an injunctive order satisfies the requirements prescribed in paragraph (1) and paragraph (3), if it is found that the provisions of the laws and regulations which give a basis for an original administrative disposition or administrative determination pertaining to an action for an injunctive order

clearly show that the administrative authority should not make the original administrative disposition or administrative determination, or it is found that the administrative authority's act to make the original administrative disposition or administrative determination goes beyond the bounds of the authority's discretionary power or constitutes an abuse of that power, the court makes a judgment to order that the administrative authority should not make the original administrative disposition or administrative determination.

(仮の義務付け及び仮の差止め)

(Provisional Order of Mandamus and Provisional Injunctive Order)

第三十七条の五 義務付けの訴えの提起があつた場合において、その義務付けの訴えに係る処分又は裁決がされないことにより生ずる償うことのできない損害を避けるため緊急の必要があり、かつ、本案について理由があるとみえるときは、裁判所は、申立てにより、決定をもつて、仮に行政庁がその処分又は裁決をすべき旨を命ずること（以下この条において「仮の義務付け」という。）ができる。

Article 37-5 (1) Where a mandamus action is filed, if there is an urgent necessity in order to avoid any damage that cannot be compensated, which would be caused due to an original administrative disposition or administrative determination pertaining to the mandamus action not being made, and the action on the merits seems well-grounded, the court may, upon petition, make an order to the effect that an administrative authority should make the original administrative disposition or administrative determination on a provisional basis (hereinafter referred to as a "provisional order of mandamus" in this Article).

2 差止めの訴えの提起があつた場合において、その差止めの訴えに係る処分又は裁決がされることにより生ずる償うことのできない損害を避けるため緊急の必要があり、かつ、本案について理由があるとみえるときは、裁判所は、申立てにより、決定をもつて、仮に行政庁がその処分又は裁決をしてはならない旨を命ずること（以下この条において「仮の差止め」という。）ができる。

(2) Where an action for an injunctive order is filed, if there is an urgent necessity in order to avoid any damage that cannot be compensated, which would be caused due to an original administrative disposition or administrative determination pertaining to the action for injunctive order being made, and the action on the merits seems well-grounded, the court may, upon petition, make an order to the effect that an administrative authority should not make the original administrative disposition or administrative determination on a provisional basis (hereinafter referred to as a "provisional injunctive order" in this Article).

3 仮の義務付け又は仮の差止めは、公共の福祉に重大な影響を及ぼすおそれがあるときは、することができない。

(3) No provisional order of mandamus or provisional injunctive order may be

made when that order is likely to seriously affect public welfare.

4 第二十五条第五項から第八項まで、第二十六条から第二十八条まで及び第三十三条第一項の規定は、仮の義務付け又は仮の差止めに関する事項について準用する。

(4) The provisions of Article 25, paragraph (5) through paragraph (8), Article 26 through Article 28, and Article 33, paragraph (1) apply mutatis mutandis to the matters concerning a provisional order of mandamus or provisional injunctive order.

5 前項において準用する第二十五条第七項の即時抗告についての裁判又は前項において準用する第二十六条第一項の決定により仮の義務付けの決定が取り消されたときは、当該行政庁は、当該仮の義務付けの決定に基づいてした処分又は裁決を取り消さなければならない。

(5) When a provisional order of mandamus is revoked by a judicial decision on an immediate appeal set forth in Article 25, paragraph (7) as applied mutatis mutandis pursuant to the preceding paragraph or by an order set forth in Article 26, paragraph (1) as applied mutatis mutandis pursuant to the preceding paragraph, the administrative authority must revoke the original administrative disposition or administrative determination that it has made based on the provisional order of mandamus.

(取消訴訟に関する規定の準用)

(Application, Mutatis Mutandis, of Provisions on Actions for the Revocation of Administrative Dispositions)

第三十八条 第十一条から第十三条まで、第十六条から第十九条まで、第二十一条から第二十三条まで、第二十四条、第三十三条及び第三十五条の規定は、取消訴訟以外の抗告訴訟について準用する。

Article 38 (1) The provisions of Article 11 through Article 13, Article 16 through Article 19, Article 21 through Article 23, Article 24, Article 33, and Article 35 apply mutatis mutandis to actions for the judicial review of an administrative disposition which are other than actions for the revocation of an administrative disposition.

2 第十条第二項の規定は、処分の無効等確認の訴えとその処分についての審査請求を棄却した裁決に係る抗告訴訟とを提起することができる場合に、第二十条の規定は、処分の無効等確認の訴えをその処分についての審査請求を棄却した裁決に係る抗告訴訟に併合して提起する場合に準用する。

(2) The provisions of Article 10, paragraph (2) apply mutatis mutandis where both an action for the declaration of nullity, etc. of an original administrative disposition and an action for the judicial review of an administrative disposition against an administrative determination that has dismissed a request for an administrative review of that original administrative disposition may be filed, and the provisions of Article 20 apply mutatis mutandis where an action for the declaration of nullity, etc. of an original administrative

disposition may be filed by joining it with an action for the judicial review of an administrative disposition against an administrative determination that has dismissed a request for an administrative review of that original administrative disposition.

3 第二十三条の二、第二十五条から第二十九条まで及び第三十二条第二項の規定は、無効等確認の訴えについて準用する。

(3) The provisions of Article 23-2, Article 25 through Article 29, and Article 32, paragraph (2) apply mutatis mutandis to an action for the declaration of nullity, etc.

4 第八条及び第十条第二項の規定は、不作為の違法確認の訴えに準用する。

(4) The provisions of Article 8 and Article 10, paragraph (2) apply mutatis mutandis to an action for the declaration of illegality of inaction.

第三章 当事者訴訟

Chapter III Public Law-Related Actions

(出訴の通知)

(Notice of Filing of Action)

第三十九条 当事者間の法律関係を確認し又は形成する処分又は裁決に関する訴訟で、法令の規定によりその法律関係の当事者の一方を被告とするものが提起されたときは、裁判所は、当該処分又は裁決をした行政庁にその旨を通知するものとする。

Article 39 Upon the filing of an action relating to an original administrative disposition or administrative determination that confirms or creates a legal relationship between parties, wherein either party to the legal relationship stands as a defendant pursuant to the provisions of laws and regulations, the court is to give notice to the administrative authority that has made that original administrative disposition or administrative determination to that effect.

(出訴期間の定めがある当事者訴訟)

(Public Law-Related Actions Subject to Statute of Limitations for Filing an Action)

第四十条 法令に出訴期間の定めがある当事者訴訟は、その法令に別段の定めがある場合を除き、正当な理由があるときは、その期間を経過した後であつても、これを提起することができる。

Article 40 (1) A public law-related action that is subject to the statute of limitations prescribed in laws and regulations may be filed even after the expiration of the statute of limitations for filing that action if there are reasonable grounds for failing to meet that statute of limitations, unless otherwise provided for in the laws and regulations.

2 第十五条の規定は、法令に出訴期間の定めがある当事者訴訟について準用する。

(2) The provisions of Article 15 apply mutatis mutandis to a public law-related action that is subject to the statute of limitations for filing an action prescribed in laws and regulations.

(抗告訴訟に関する規定の準用)

(Application, Mutatis Mutandis, of Provisions on Actions for the Judicial Review of Administrative Dispositions)

第四十一条 第二十三条、第二十四条、第三十三条第一項及び第三十五条の規定は当事者訴訟について、第二十三条の二の規定は当事者訴訟における処分又は裁決の理由を明らかにする資料の提出について準用する。

Article 41 (1) The provisions of Article 23, Article 24, Article 33, paragraph (1), and Article 35 apply mutatis mutandis to public law-related actions, and the provision of Article 23-2 apply mutatis mutandis to the submission of materials that clarify the grounds for the original administrative disposition or administrative determination in a public law-related action.

2 第十三条の規定は、当事者訴訟とその目的たる請求と関連請求の関係にある請求に係る訴訟とが各別の裁判所に係属する場合における移送に、第十六条から第十九条までの規定は、これらの訴えの併合について準用する。

(2) The provisions of Article 13 apply mutatis mutandis to the transfer of an action in cases where a public law-related action and an action pertaining to a claim related to the claim that is subject matter of the public law-related action are pending before different courts, and the provisions of Article 16 through Article 19 apply mutatis mutandis to the joinder of these actions.

第四章 民衆訴訟及び機関訴訟

Chapter IV Citizen Actions and Interagency Actions

(訴えの提起)

(Filing of Action)

第四十二条 民衆訴訟及び機関訴訟は、法律に定める場合において、法律に定める者に限り、提起することができる。

Article 42 Citizen actions and interagency actions may be filed only by persons specified by Acts in cases provided for in Acts.

(抗告訴訟又は当事者訴訟に関する規定の準用)

(Application, Mutatis Mutandis, of Provisions on Actions for the Judicial Review of Administrative Dispositions or Public Law-Related Actions)

第四十三条 民衆訴訟又は機関訴訟で、処分又は裁決の取消しを求めるものについては、第九条及び第十条第一項の規定を除き、取消訴訟に関する規定を準用する。

Article 43 (1) The provisions on actions for the revocation of administrative dispositions, except for the provisions of Article 9 and Article 10, paragraph (1),

apply mutatis mutandis to citizen actions or interagency actions seeking the revocation of an original administrative disposition or administrative determination.

2 民衆訴訟又は機関訴訟で、処分又は裁決の無効の確認を求めるものについては、第三十六条の規定を除き、無効等確認の訴えに関する規定を準用する。

(2) The provisions on an action for the declaration of nullity, etc., except for the provisions of Article 36, apply mutatis mutandis to citizen actions or interagency actions seeking the declaration of nullity of an original administrative disposition or administrative determination.

3 民衆訴訟又は機関訴訟で、前二項に規定する訴訟以外のものについては、第三十九条及び第四十条第一項の規定を除き、当事者訴訟に関する規定を準用する。

(3) The provisions on public law-related actions, except for the provisions of Article 39 and Article 40, paragraph (1), apply mutatis mutandis to citizen actions or interagency actions other than those prescribed in the preceding two paragraphs.

第五章 補則

Chapter V Auxiliary Provisions

(仮処分の排除)

(Exclusion of Provisional Disposition)

第四十四条 行政庁の処分その他公権力の行使に当たる行為については、民事保全法（平成元年法律第九十一号）に規定する仮処分をすることができない。

Article 44 No provisional disposition prescribed in the Civil Provisional Remedies Act (Act No. 91 of 1989) may be made with regard to an original administrative disposition or any other act constituting the exercise of public authority by an administrative authority.

(処分の効力等を争点とする訴訟)

(Action over the Effect of Disposition)

第四十五条 私法上の法律関係に関する訴訟において、処分若しくは裁決の存否又はその効力の有無が争われている場合には、第二十三条第一項及び第二項並びに第三十九条の規定を準用する。

Article 45 (1) Where the point at issue in an action concerning a legal relationship under private law is the existence or non-existence of or validity or invalidity of an original administrative disposition or administrative determination, the provisions of Article 23, paragraph (1) and paragraph (2), and Article 39 apply mutatis mutandis.

2 前項の規定により行政庁が訴訟に参加した場合には、民事訴訟法第四十五条第一項及び第二項の規定を準用する。ただし、攻撃又は防御の方法は、当該処分若しくは裁決の存否又はその効力の有無に関するものに限り、提出することができる。

(2) Where an administrative authority has intervened in an action pursuant to the provisions of the preceding paragraph, the provisions of Article 45, paragraph (1) and paragraph (2) of the Code of Civil Procedure apply mutatis mutandis; provided, however, that allegations and evidence that may be advanced are limited to those concerning the existence or non-existence of or validity or invalidity of the original administrative disposition or administrative determination.

3 第一項の規定により行政庁が訴訟に参加した後において、処分若しくは裁決の存否又はその効力の有無に関する争いがなくなったときは、裁判所は、参加の決定を取り消すことができる。

(3) When, after an administrative authority has intervened in an action pursuant to the provisions of paragraph (1), there is no longer a dispute over the existence or non-existence of or validity or invalidity of the original administrative disposition or administrative determination, the court may revoke the order of intervention.

4 第一項の場合には、当該争点について第二十三条の二及び第二十四条の規定を、訴訟費用の裁判について第三十五条の規定を準用する。

(4) In the case referred to in paragraph (1), the provisions of Article 23-2 and Article 24 apply mutatis mutandis to the point at issue, and the provisions of Article 35 apply to a judicial decision on the burden of court costs.

(取消訴訟等の提起に関する事項の教示)

(Informing of Matters Concerning Filing of Actions for the Revocation of Administrative Dispositions)

第四十六条 行政庁は、取消訴訟を提起することができる処分又は裁決をする場合には、当該処分又は裁決の相手方に対し、次に掲げる事項を書面で教示しなければならない。ただし、当該処分を口頭とする場合は、この限りでない。

Article 46 (1) When an administrative authority makes an original administrative disposition or administrative determination against which an action for the revocation of an administrative disposition may be filed, it must inform the person to whom the original administrative disposition or administrative determination is addressed, in writing, of the following matters; provided, however, that this does not apply where the administrative authority makes that original administrative disposition orally:

一 当該処分又は裁決に係る取消訴訟の被告とすべき者

(i) the person who is to stand as a defendant in any action for the revocation of the administrative disposition against the original administrative disposition or administrative determination;

二 当該処分又は裁決に係る取消訴訟の出訴期間

(ii) the statute of limitations for filing an action for the revocation of an administrative disposition on the original administrative disposition or

administrative determination; and

三 法律に当該処分についての審査請求に対する裁決を経た後でなければ処分の取消しの訴えを提起することができない旨の定めがあるときは、その旨

(iii) if there are provisions in any law that no action for the revocation of the original administrative disposition may be filed until an administrative determination is made in response to a request for an administrative review of the original administrative disposition, those provisions.

2 行政庁は、法律に処分についての審査請求に対する裁決に対してのみ取消訴訟を提起することができる旨の定めがある場合において、当該処分をするときは、当該処分の相手方に対し、法律にその定めがある旨を書面で教示しなければならない。ただし、当該処分を口頭でする場合は、この限りでない。

(2) Where an administrative authority makes an original administrative disposition which is subject to provisions in any law that an action for the revocation of an administrative disposition may be filed only against an administrative determination made in response to a request for an administrative review of that original administrative disposition, the administrative authority must inform the person to whom the original administrative disposition is addressed, in writing, of those provisions in the Act; provided, however, that this does not apply where the administrative authority makes the original administrative disposition orally.

3 行政庁は、当事者間の法律関係を確認し又は形成する処分又は裁決に関する訴訟で法令の規定によりその法律関係の当事者の一方を被告とするものを提起することができる処分又は裁決をする場合には、当該処分又は裁決の相手方に対し、次に掲げる事項を書面で教示しなければならない。ただし、当該処分を口頭でする場合は、この限りでない。

(3) Where an administrative authority makes an original administrative disposition or administrative determination against which an action relating to an original administrative disposition or administrative determination that confirms or creates a legal relationship between parties, wherein either party to the legal relationships stands as a defendant pursuant to the provisions of laws and regulations, may be filed, the administrative authority must inform the person to whom the original administrative disposition or administrative determination is addressed, in writing, of the following matters; provided, however, that this does not apply where the administrative authority makes the original administrative disposition orally:

一 当該訴訟の被告とすべき者

(i) the person who is to stand as a defendant in the action; and

二 当該訴訟の出訴期間

(ii) the statute of limitations for filing the action.

附 則

Supplementary Provisions

(施行期日)

(Effective Date)

第一条 この法律は、昭和三十七年十月一日から施行する。

Article 1 This Act comes into effect as of October 1, 1962.

(行政事件訴訟特例法の廃止)

(Repeal of the Act on Special Measures for Administrative Case Litigation)

第二条 行政事件訴訟特例法（昭和二十三年法律第八十一号。以下「旧法」という。）は、廃止する。

Article 2 The Act on Special Measures for Administrative Case Litigation (Act No. 81 of 1948; hereinafter referred to as the "Former Act") is repealed.

(経過措置に関する原則)

(Principle for Transitional Measures)

第三条 この法律は、この附則に特別の定めがある場合を除き、この法律の施行前に生じた事項にも適用する。ただし、旧法によつて生じた効力を妨げない。

Article 3 Unless otherwise provided for in the Supplementary Provisions, this Act also applies to any matters that have arisen prior to the enforcement of this Act; provided, however, that this does not preclude the effect that has arisen under the provisions of the Former Act.

(訴願前置に関する経過措置)

(Transitional Measures Concerning Petition Prior to Action)

第四条 法令の規定により訴願をすることができる処分又は裁決であつて、訴願を提起しないでこの法律の施行前にこれを提起すべき期間を経過したものの取消訴訟の提起については、この法律の施行後も、なお旧法第二条の例による。

Article 4 With regard to the filing of an action for the revocation of an administrative disposition in regard to an original administrative disposition or administrative determination against which a petition may be filed under the provisions of laws and regulations, where the period for filing a petition has expired prior to the enforcement of this Act with no petition being filed within that period, the provisions of Article 2 of the Former Act remain applicable even after the enforcement of this Act.

(取消しの理由の制限に関する経過措置)

(Transitional Measures Concerning Restriction on Grounds for Revocation)

第五条 この法律の施行の際現に係属している裁決の取消しの訴えについては、第十条第二項の規定を適用しない。

Article 5 The provisions of Article 10, paragraph (2) does not apply to an action

for the revocation of an administrative determination which is pending at the time of the enforcement of this Act.

(被告適格に関する経過措置)

(Transitional Measures Concerning Standing to Be Sued)

第六条 この法律の施行の際現に係属している取消訴訟の被告適格については、なお従前の例による。

Article 6 With regard to the standing to be sued in an action for the revocation of an administrative disposition which is pending at the time of the enforcement of this Act, the provisions then in force remain applicable.

(出訴期間に関する経過措置)

(Transitional Measures Concerning Statute of Limitations for Filing an Action)

第七条 この法律の施行の際現に旧法第五条第一項の期間が進行している処分又は裁決の取消しの訴えの出訴期間で、処分又は裁決があつたことを知つた日を基準とするものについては、なお従前の例による。ただし、その期間は、この法律の施行の日から起算して三箇月をこえることができない。

Article 7 (1) With regard to the statute of limitations for filing an action for the revocation of an original administrative disposition or of an administrative determination for which the statute of limitations under Article 5, paragraph (1) of the Former Act is running at the time of the enforcement of this Act and which commences from the day on which the person who seeks the revocation became aware of the fact that the original administrative disposition or administrative determination was made, the provisions then in force remain applicable; provided, however, that the statute of limitations does not exceed three months from the date on which this Act comes into effect.

2 この法律の施行の際現に旧法第五条第三項の期間が進行している処分又は裁決の取消しの訴えの出訴期間で、処分又は裁決があつた日を基準とするものについては、なお従前の例による。

(2) With regard to the statute of limitations for filing an action for the revocation of an original administrative disposition or of an administrative determination for which the statute of limitations under Article 5, paragraph (3) of the Former Act is running at the time of the enforcement of this Act and which commences from the day on which the person who seeks the revocation became aware of the fact that the original administrative disposition or administrative determination was made, the provisions then in force remain applicable.

3 前二項の規定は、この法律の施行後に審査請求がされた場合における第十四条第四項の規定の適用を妨げない。

(3) The provisions of the preceding two paragraphs do not preclude the application of the provisions of Article 14, paragraph (4) in cases where a

request for administrative review is made after the enforcement of this Act.

(取消訴訟以外の抗告訴訟に関する経過措置)

(Transitional Measures Concerning Actions for the Judicial Review of Administrative Dispositions Which Are Other Than Actions for the Revocation of Administrative Dispositions)

第八条 取消訴訟以外の抗告訴訟で、この法律の施行の際現に係属しているものの原告適格及び被告適格については、なお従前の例による。

Article 8 (1) With regard to the standing to sue and to be sued in an action for the judicial review of an administrative disposition which is other than an action for the revocation of an administrative disposition and which is pending at the time of the enforcement of this Act, the provisions then in force remain applicable.

2 附則第五条の規定は、処分の無効等確認の訴えとその処分についての審査請求を棄却した裁決に係る抗告訴訟とを提起することができる場合に準用する。

(2) The provisions of Article 5 of the Supplementary Provisions apply mutatis mutandis where both an action for the declaration of nullity, etc. of an original administrative disposition and an action for the judicial review of an administrative disposition against an administrative determination that has dismissed a request for an administrative review of that original administrative disposition may be filed.

(当事者訴訟に関する経過措置)

(Transitional Measures Concerning Public Law-Related Actions)

第九条 第三十九条の規定は、この法律の施行後に提起される当事者訴訟についてのみ、適用する。

Article 9 The provisions of Article 39 apply only to public law-related actions to be filed after the enforcement of this Act.

(民衆訴訟及び機関訴訟に関する経過措置)

(Transitional Measures Concerning Citizen Actions and Interagency Actions)

第十条 民衆訴訟及び機関訴訟のうち、処分又は裁決の取消しを求めるものについては、取消訴訟に関する経過措置に関する規定を、処分又は裁決の無効の確認を求めるものについては、無効等確認の訴えに関する経過措置に関する規定を準用する。

Article 10 The provisions on the transitional measures concerning actions for the revocation of administrative dispositions apply mutatis mutandis to citizen actions and interagency actions seeking the revocation of an original administrative disposition or administrative determination, and the provisions on the transitional measures concerning actions for the declaration of nullity, etc. apply mutatis mutandis to citizen actions and interagency actions seeking the declaration of nullity, etc. of an original administrative disposition or

administrative determination.

(処分の効力等を争点とする訴訟に関する経過措置)

(Transitional Measures Concerning Action over the Effect of Disposition)

第十一条 第三十九条の規定は、この法律の施行の際現に係属している私法上の法律関係に関する訴訟については、この法律の施行後に新たに処分若しくは裁決の存否又はその効力の有無が争われるに至つた場合にのみ、準用する。

Article 11 The provisions of Article 39 apply mutatis mutandis to an action concerning a legal relationship under private law which is pending at the time of the enforcement of this Act, only where the existence or non-existence of or validity or invalidity of an original administrative disposition or administrative determination has become a new point at issue in the action after the enforcement of this Act.