

**Press release from the Administrative Enforcement Agency
(AEA), Ministry of Justice**



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Draft amendments to the “Administrative Execution Act” had been passed at the Executive Yuan meeting to protect the rights of the public and enhance the effectiveness of the administrative procedures.

Today, (29) the Executive Yuan meeting reviewed and passed the amendments of “Administrative Execution Act” drafted by the Ministry of Justice. This amendment is a complete amendment of total 92 articles. Executive Yuan will notify the Legislative Yuan to review.

Administrative Execution Act (the Act) was amended on November 11, 1998 and effective from January 1, 2001. There have been 6 amendments to the Act to date. The “Monetary obligation pursuant under public laws” part in this Act is the core business of AEA and its branches. It is important and related to the public interest of the country and the maintenance of social order. Therefore, relevant laws and regulations shall change and amend in accordance with the trend of the social development. There are 65 articles in the draft amendments relates to the business of AEA and the branches (i.e. Chapter 1 General Principles and Chapter 2. The Monetary obligation pursuant under public laws). The key points of the amendments are as follows:

- (1) Establish basic principles: to establish the nature of the Act as a common law (Article 1 of the Amendments); to rectify the name of the monetary obligations under administrative laws (Article 2 and 4 of the Amendments).
- (2) Implement the principle of proportionality: to enact the provisions that clarify

the meaning of the principle of proportionality and other specific regulations (Articles 3 and 7 of the Amendments).

- (3) Ensure the due process of enforcement: to conduct rigorous enforcement process (Articles 5 and 6 of the Amendments); to adjust of regulations related to enforcement period, and specify the reasons for the suspension of the enforcement period (Article 9 of the Amendments).
- (4) Protecting the rights and interests of the obligor: to adjust the regulations related to the application for termination of enforcement, and specify the application for all or part of the termination, etc. (Article 10 of the Amendments); to adjust the regulation related to objection procedure, and specify that the obligor who is enforced may raise objections, etc. (Article 11 of the Amendments); the public may initiate an administrative litigation lawsuits against the enforcement measures which seriously effect their rights and interests (Article 12 of the Amendments) , and add the obligor objections litigation (Article 13 of the Amendments).
- (5) To preserve the monetary obligation under the public law: the preservation measures on the monetary obligation under the administrative law implemented by the original disciplinary agency. (Article 15 of the Amendments)
- (6) Improve enforcement process: to enact specific regulations on jurisdiction and processes under urgent circumstances (Article 16 of the Amendments); to enact regulations related to the issuance of enforcement certifications and continuance of enforcement in accordance with the authority (Article 17 of the Amendments).
- (7) Strengthen enforcement measures: add the regulations related to the investigative power of the enforcement agency and penalties for improper conduct of the obligor who is under investigation (Article 23 of the Amendments); add "Truthful Guarantee" system with reference of the German's oath of aggressiveness regulations (Articles 25 to 26 of the Amendments); add the disclosure of the obligor information system with reference to the German

"Debtor List" system (Articles 27 and 28 of the Amendments) ; to specify the regulations related to the rewarding and reporting announcements system (Article 29 of the Amendments).

- (8) Implementing process protection: to add third-party objection litigation (Article 32 of the Amendments). Specifying the circumstances of removing the restrictions on residence (Article 33 of the Amendments); with reference to the relevant provisions of the Code of Criminal Procedure, to make rigorous amendments on the procedures, such as arresting, inquiring, and taking into custody (Articles 34 to 60 of the Amendments).

Among the Amendments, the provisions related to the arrest and taking into custody shall draw more attentions. In 2005, this Act had been amended in accordance with the Judicial Yuan Interpretation No. 588 to amend the regulations related to arrest and taking into custody. This Amendment also refers to the "Oath of Aggressiveness" of psychological coercion system adopted by German indicated in the opinion in the said Interpretation to add relevant regulations to complete the present legal system, and hope to protect the human rights and maintain public interests concurrently (Articles 25 to 28 of the Amendments). In addition, this draft of amendments added relevant provisions that allow the administrative agencies to ensure the enforcement of the monetary obligations under the administrative laws, and make the provisions related to creditor's rights in the Civil Act and Trust Law may be applied *mutatis mutandis* before referring to enforcement or on the enforcement. Regarding the malicious concealment of property and evasion of monetary obligations under the administrative laws (such as taxes, fines, etc.), administrative agencies may revoke the acts which harm creditor's rights in accordance with the law (such as concealing property through insurance and trust contracts) to maintain fairness and justice of the society, and protect the rights and interests of the honest taxpayers.