

Taiwan, China

Enforcement Rules of the Act on Property-Declaration by Public Servants (last amendment March 20, 2002)

Article 1

The Enforcement Rules is prescribed pursuant to Article 16 of the Act on Property-Declaration by Public Servants (herein after referred to as “the Act”).

Article 2

The term “political administrator(s)” referred to in the Act means the following salary-paid persons appointed by government organs:

1. Persons to be appointed by the President pursuant to the Constitution.
2. Persons to be appointed by the Legislation Yuan upon nomination by the President pursuant to the Constitution.
3. Persons to be appointed by the President upon nomination by Premier of the Executive Yuan pursuant to the Constitution.
4. Persons specially appointed or designated.
5. Other persons in reference to not less than the 12th rank in central and local government pursuant to other acts.

Article 3

The term “gainful-positions” referred to in Subparagraph 4 of Paragraph 1 of Article 2 of the Act means salaries are paid for taking the post in reference to salary scales of the political administrators or generals in military units.

Article 4

The term “equivalent rank” referred to in Subparagraph 5 of Paragraph 1 of Article 2 of the Act means equivalent to 10th rank while “state-run enterprises” referred to therein means various enterprises specified in Article 2 of the Act for the Transformation of State-run Enterprises to Private Ownership. “First-level directors” referred therein means directors that take positions in state-run enterprises the ranks of which are equivalent to not less than 10th ranks.

The ranks or equivalent ranks of the chiefs and first-level directors referred to in Subparagraph 5 of Paragraph 1 of Article 2 of the Act shall be decided according to their qualifications or as approved by the competent authority organs.

Article 5

The term “masters of public schools at various level” referred to in Subparagraph 6 of Paragraph 1 of Article 2 of the Act means full-time or part-time masters of public primary schools, junior high schools, senior high schools, professional schools, technical schools, independent colleges, universities and other public schools and colleges established pursuant to the Act on Cultivation of Teachers, Education of Redemption and Further Study Act, Special Education Act and other acts.

Article 6

The term “Chiefs not less than the rank of major general in military units” referred to in Subparagraph 7 of Paragraph 1 of Article 2 of the Act means chiefs of military organs, military schools and military forces the ranks of whom are not less than major general.

Article 7

The term “judges” referred to in Subparagraph 10 of Paragraph 1 of Article 2 of the Act means the following persons:

2. Judges and the judges who concurrently takes the post of chief judge at the Supreme Court.
3. Judges and the judges who concurrently takes the post of chief judge at the Administrative Court.
4. Members of the Committee on the Discipline of Public Functionaries.
5. Judges and the judges who concurrently take the post of chief judge at High Courts (branch courts) and courts of lower levels.

The term “procurators” referred to in Subparagraph 10 of Paragraph 1 of Article 2 of the Act means the following persons:

1. Head Procurator and procurators at Supreme Prosecutors Office.
2. Head Procurator and procurators at High Prosecutors Office and prosecutors office of lower levels.

Judges and procurators referred to in the above two Paragraphs shall include alternate judges, alternate procurators but excluding those who suspend cases authorized by acts.

Article 8

The term “persons in charge of police, taxation, customs, land administration, urban planning, securities administration” referred to in Subparagraph 11 of Paragraph 1 of Article 2 of the Act means those persons conducting respective businesses in police, taxes administration, customs duty, land administration, urban planning or securities administration organs or units other than those persons handling budget accounting, personnel, documentation or general affairs.

The term “persons in charge of judicial investigation” referred to in Subparagraph 11 of Paragraph 1 of Article 2 of the Act means those people conducting investigation of criminal affairs in the Investigation Bureau of the Ministry of Justice and in its subordinate units.

The term “persons in charge of construction” referred to in Subparagraph 11 of Paragraph 1 of Article 2 of the Act means those persons handling administration of construction business in construction or engineering departments or units.

The term “persons in charge of budget accounting and purchase” referred to in Subparagraph 11 of Paragraph 1 of Article 2 of the Act means those persons handling the business of accounting or purchasing.

The term “directors ” referred to in Subparagraph 11 of Paragraph 1 of Article of the Act means those persons the position of whom are established by the organizational acts or regulations and to whom special allowance are paid as directors.

Article 9

The “other officials approved to make declarations on account of the special nature of their positions ” referred to in latter part of Subparagraph 11 of Paragraph 1 of Article 2

of the Act shall be decided by the competent authority Yuan with which the officials belong to jointly with the Examination Yuan from time to time according to facts.

Article 10

The public servant shall fill in the Form of Property-Declaration by Public Servant as in the form of Schedule One and submit it to the respective handling organ/unit.

Where the public servant assumes position after Sept. 1, 1993, he shall make the declaration within three months after assuming the position. Where he assumed position before Aug. 31, 1993, he shall make declarations before Oct. 31 of the same year.

Where the handling organ/unit is changed due to transfer of position on the part of the public servant, he shall still make declarations pursuant to the above Paragraph.

The public servants that are approved to make property-declarations pursuant to latter part of Subparagraph 11 of Paragraph 1 of Article 2 of the Act shall make declarations within three months after the date of the approval.

The period for “making declarations periodically once in a year” referred to in Article 3 of the Act means the period from Nov. 1 to Dec. 31 of each year. However, if declarations have been made pursuant to the above three Paragraphs, the period shall mean from Nov. 1 to Dec. 31 of each year following the year in which the declaration was made.

Properties declared shall be the properties owned by the public servant himself, his spouse and infant children on the date of making the declaration specified in each Subparagraph of Paragraph 1 of Article 5 of the Act.

(Editors note: Please refer to page 12863~12869 of Collection of Current Acts and Regulations of the Republic of China published in May of 1994 (Volume 19) for Schedule One).

Article 11

The term “Public candidates above county (city) level” referred to in Paragraph 2 of Article 2 of the Act means those who registered as candidates for the President and the Vice President pursuant to the Election and Removal of the President and the Vice President Act and those who register as candidates for representatives of the National Assembly, legislators, provincial (municipal) councilors, councilors at counties (cities), governors of municipal, governors of counties (cities) pursuant to the Election and Removal of Public Servants Act, the term “apply mutatis mutandis to the Act” means provisions of Article 5, Article 10, Paragraph 1, 3 and 4 of Article 11 and Article 13 of the Act shall be applied mutatis mutandis.

When making registrations, the above public candidates shall fill in the Form of Property-Declaration by Public Candidates as in the form of Schedule Two and submit it to the respective election committee handling the registration.

Properties declared shall be the properties owned by the public candidate himself, his spouse and infant children on the date of making the declaration pursuant to each Subparagraph in Paragraph 1 of Article 5 of the Act.

Article 12

Where the public servant holds concurrently two or more statuses of those specified in each Subparagraph of Paragraph 1 of Article 2 of the Act, he shall make declarations

respectively to handling organs/units provided that he may make declarations in one form where the handling organ/unit is the same one.

Where the husband and wife concurrently hold positions as public servants specified in each Subparagraph of Paragraph 1 of Article 2 of the Act, they shall make declarations respectively to the handling organs/units.

Where the public servant that has made declaration pursuant to the Act registers as public candidate above county (city) level, he shall still make declaration at the time of registration pursuant to the Paragraph 2 of Article 2 of the Act.

Article 13

Where organs/units to which the persons specified in Subparagraph 11 of Paragraph 1 of Article 2 of the Act belong do not establish the Government Employee Ethics Units and they have not got superior organs/units, the handling organs/units shall be the personnel units of the organs to which the persons making the declarations belong.

Article 14

Properties subject to declaration specified in each Subparagraph of Paragraph 1 of Article 5 of the Act shall include all properties whether within or outside the territory of the Republic of China.

Article 15

The term “immovable property” referred to in Subparagraph 1 of Paragraph 1 of Article 5 and Paragraph 1 of Article 7 of the Act means land and building.

Article 16

The term “vessel” referred to in Subparagraph 1 of Paragraph 1 of Article 5 of the Act means mechanically propelled vessels and non-mechanically propelled vessels. The term “car” means mechanically propelled cars driving on the road excluding motorcycles. The term “aircraft” means all kinds of airplanes, aeroboats and aerodones.

Article 17

The term “deposit” referred to in Subparagraph 2 of Paragraph 1 of Article 5 of the Act means check deposit, current deposit, fixed deposit, savings deposit banks, postal offices, cooperative banks, credit department under farmer’s association or fisher’s association etc. and trust fund the usage of which are designated by the company including New Taiwan Dollar, foreign currency (exchange) and deposits in other currencies. “Foreign currency” referred to means cash in foreign currency and foreign traveler’s check. “Securities” referred to means stocks, share warrants, corporate bonds, government bonds, short-term notes, negotiable notes, bill of lading and beneficial interests certificate etc. “Other valuable property” means rights or properties such as mining rights, fishing rights, patent, exclusive right to use trade mark, copyright, gold bars, jewelry, artworks and antiques etc.

Article 18

The term “obligatory right” referred to in Subparagraph 3 of Paragraph 1 of Article 5 of the Act means the right to demand monetary payment. “Debt” referred to means the

obligation to pay money to others. “Investment in various enterprises” means investment to enterprises such as various companies that do not issue shares or other securities, partnerships or proprietary firms etc.

Article 19

The term “certain amount” referred to in Subparagraph 2 and 3 of Paragraph 1 of Article 5 of the Act is hereby fixed as follows:

1. For deposits, securities, obligatory right, debt and investment in various enterprises, when the total amount under each category reaches NTD 1 million or the total amount of listed stocks reaches NTD 500,000.
2. For foreign currencies, when the total amount of that reaches 200,000 when converted to NTD.
3. For other valuable properties, when the amount of each piece (article) reaches NTD 200,000.

For properties of spouse and infant children of the public servant that should be declared together pursuant to Paragraph 2 of Article 5 of the Act, the “certain amount” shall be calculated separately in accordance with the above paragraph.

In converting foreign currencies (exchanges) into NTD, the closing exchange rate of the preceding business day of making the declaration shall be adopted. The price of securities shall be its face value. The total amount of the other valuable properties shall be the listed market price of the preceding business day of making the declaration and if there is no market price, it shall be the past known transaction price of the property.

Article 20

Materials declared by the public servants pursuant to in Paragraph 2 of Article 6 of the Act shall be submitted to the gazette of the organ for publication within one month after examination by the handling organ.

Article 21

The public servant specified in Article 7 of the Act shall make declarations pursuant to the Paragraph 1 of the same Article before enforcement of the Trust Act and the Trust Companies Act. And after enforcement of the Trust Act and the Trust Companies Act, when the value of immovable properties or listed stocks (stocks over the counter trading places) belong to the public servant himself, his spouse or infant children reach certain amount, he may choose to entrust the properties to trustees pursuant to the Paragraph 3 of the same Article.

The choice referred to above shall be made to the handling organ/unit in writing within one month after the enforcement of the Trust Act and the Trust Companies Act. Where the public servant assumes position after enforcement of the Trust Act and the Trust Companies Act, he shall make the choice within one month after assuming the position. Other public servants approved by the competent authority Yuan referred to in Paragraph 2 and 3 of Article 7 of the Act shall make the choice within one month after the approval. Those who choose to entrust to trustees pursuant to Paragraph 3 of Article 7 of the Act shall be exempted to make declarations pursuant to Paragraph 1 of the same Article. After making the choice pursuant to Paragraph 2, if the public servant wishes to change the choice, the change shall be made in writing to the handling organ/unit within the

period of declaration for each year.

Article 21-1

Declaration of immovable property specified in Subparagraph 1 of Paragraph 1 of Article 7 of the Act shall be made within one month after registration for transaction of sales, exchange or granting/granted of the immovable property.

Article 21-2

The term “certain time period” referred to in Paragraph 1 of Article 7 of the Act means the period from January to February, March to April, May to June, July to August, September to October and November to December in each year. Provided that if the commencing date for making declarations pursuant to Paragraph 1 of Article 7 of the Act is not the first date of the above periods, the “certain time period” shall be the remaining period.

The term “engage in transaction of listed stocks (stocks over the counter trading places) to certain accumulated amount” referred to in Paragraph 1 of Article 7 of the Act means in purchasing and selling listed stocks (stocks over the counter trading places) by the public servant himself, his spouse or infant children, the amount of transaction reaches not less than NTD 1 million.

Article 21-3

In making property-declarations pursuant to Paragraph 1 of Article 7 of the Act, the Form of Fluctuant Property-Declaration by Public Servant shall be filled in as in the form of Schedule Three.

(Editors note: Please refer to page 12878-1 ~ 12878-7 of Collection of Current Acts and Regulations of the Republic of China published in May of 1994 (Volume 19) for Schedule Three).

Article 21-4

The term “public servants possess interests to specific property due to his official duties” referred to first part of Paragraph 2 and latter part of Paragraph 3 of Article 7 of the Act means the public servants, due to the affairs he is in charge of or under his supervision, has substantial influence on market order or price changes of immovable property or stock transactions.

Article 21-5

The term “apply mutatis mutandis the Article 6 of the Act” referred to latter part of Paragraph 2 of Article 7 of the Act means to apply mutatis mutandis Paragraph 1 and 2 of Article 6 of the Act and other relevant provisions.

Article 21-6

Regarding the public servants prescribed in Paragraph 3 of Article 7 of the Act, in case the total amount of the immovable properties and listed stocks (stocks over the counter trading places) owned by themselves or their spouses or infant children the value of which reach certain amount, they shall, within two months of making the choice to entrust, entrust the immovable property and the stocks that reach certain amount to trust

companies recognized by the government with the property owner as trustor. Thereafter, the same provision shall apply if certain amount is reached due to increase of immovable property or increase of listed stocks (stocks over the counter trading places).

Where the trust property is immovable property, the trustee shall make trust registration with land administration organs at the time of acceptance of the transfer or disposal of the property. Where the trust property is listed stocks (stocks over the counter trading places), the trustee shall make statements on the stocks to the effect that they are placed in trust pursuant to relevant regulations and directions and inform the issuing company of the fact.

Within one month after conclusion of the trust referred to in the Paragraph 1 and in case of any subsequent change of trustees or other amendments to terms of the trust contract, the public servant shall provide the following documents to the handling organ/unit:

1. A copy of the trust contract and its appendixes.
2. Where the trust property is immovable property, a copy of the register tenor conclusion of registration of the trust referred in the above paragraph.
3. Where the trust property are listed stocks (stocks over the counter trading places), a certificate issued by the issuing company or its transfer agent to the effect the above statement of trust has been made thereon referred in the above paragraph.

Where the trust relationship is extinguished, the public servant shall inform the handling organ/unit in writing within ten days of extinguishment, and make declarations pursuant to Paragraph 1 of Article 7 of the Act from the date of extinguishment involved.

Article 21-7

The term “immovable properties and listed stocks (stocks over the counter trading places) the value of which reach certain amount ” referred to in Paragraph 3 of Article 7 of the Act bears the following meaning:

1. In case of immovable properties, it means that after deducting at his own option one house (including base area) for self-use from the lands and houses owned by the public servant, his spouse and infant children, the remaining whole immovable properties with total value not less than NTD 6 million.
2. In case of listed stocks (stocks over the counter trading places), it means the total value of listed stocks (stocks over the counter trading places) owned by the public servant, his spouse and infant children reaches over NTD 4 million.

As to the value of the above immovable property, it shall be the announced value in the year of choosing to entrust the property for lands and taxable value in the same year for houses. The price of listed stocks shall be the closing price of the preceding business day to the date of choosing to entrust and the price of stocks over the counter trading places shall be the latest closing price before making the choice to entrust.

Regarding the increased immovable property and listed stocks (stocks over the counter trading places), the value of land shall be the declared value in the year of increase while the value of houses shall be taxable value in the same year. The price of listed stocks shall be the closing price at the date of increase while the price of stocks over the counter trading places shall be the closing price at latest business day to the increase.

Article 21-8

According to Paragraph 4 of Article 7 of the Act, trustees shall make declarations on

behalf of the public servant. It means the trustees shall make declarations pursuant to the Article 3 of the Act and that the declaration shall be limited to the property in trust only, as the public servant shall make declarations by himself on other properties.

In making property-declarations on behalf of the public servant, the trustee shall fill in the Form of Trusted-Property-Declaration by Public Servants as in the form of Schedule Four and submit it to the respective handling organ/unit.

(Editors note: Please refer to page 12878-9~12878-17 of Collection of Current Acts and Regulations of the Republic of China published in May of 1995 (Volume 19) for Schedule Four).

Article 22

Representatives of the National Assembly, legislators and councilors at municipal level shall make announcement as to details of the source of expense paid for their assistants, offices and transportation cars and submit the same to the Control Yuan for publishing at gazette.

In the above circumstance, the place for announcement shall be decided by the National Assembly, the Legislation Yuan and the municipal councils respectively.

Article 23

The term “public servant” referred to in Article 9 of the Act means the persons specified in Article 24 of the Public Servants Service Act. The term “family members” thereof means spouses and relatives of the public servant by the third degree of kinship.

Where the public servant shall reuse pursuant to the Article 9 of the Act, he shall make a written report to his superior director and keep the report on the record.

Article 24

The term “designated unit” referred to in Subparagraph 2 of Article 12 of the Act includes personnel unit specified in the Article 13 hereof.

Article 25

Penalties imposed under this Act shall be made in the form of Penalty Decision, which shall specify the followings:

1. Name, gender, date of birth of the person against whom penalties are imposed, his ID number or passport number and his domicile. Where he is a public servant, the organ with which he serves and his position and address of the organ. Where he is a public candidate, the year and the type of the election, address of his domicile or his message address.
2. Theme, facts, reasons and its legal grounds.
3. Time period for payment of penalties.
4. The organ making the Penalty Decision.
5. Date of making the Penalty Decision.
6. Remedies, time period and the handling organ for refusing to accept the penalty decision.

The time period for payment of penalties under Subparagraph 3 of the above Paragraph shall be ten days after the Penalty Decision is served to the person against whom penalties are imposed.

Names shall be announced pursuant to the Paragraph 2 of Article 11 of the Act by the organ making the Penalty Decision after the decision being definitive.

Article 26

Personnel unit of the organ with which the public servant serves shall inform the handling organ/unit the reasons and time of assuming or leaving the position when the public servant assumes or leaves the position.

Article 27

The handling organ/unit, after the expiration of one year from the date on which the person who made the declarations lost his status as a public servant due to reasons other than his death, shall hand over his Form of Declaration to the original organ/unit with which he served which shall return the same to him unless otherwise provided by acts. In case of death of the person who made the declarations, the Form shall be returned to his spouse or the closest relative by the original organ with which he served.

The original organ with which the person who made declarations served shall serve a notice on the person to whom the return is to be made, specifying name of the Form of Declaration to be returned, time period and place to collect the Form.

The term “where return is impossible” referred to latter part of the Article 14 of the Act means circumstances where the person to whom the return is to be made is unidentifiable or that such person failed to collect the Form within prescribed time. Where return is impossible, the original organs with which the persons who made declarations served shall destroy the Forms of Declarations periodically.

Article 28

Where handling organ/unit is changed due to change of position on the part of the public servant, the original handling organ/unit shall hand over the original declaration materials to the new handling organ/unit.

Article 29

Service of notices and Penalty Decisions made pursuant to the Act and this Enforcement Rules may be carried out by the organs giving the notice or making the Penalty Decision themselves or by organs with which the public servants serve under their authorizations. Relevant civil procedural provisions on service of process shall be applied mutatis mutandis in this circumstance.

Article 30

The Article 27 hereof shall be applied mutatis mutandis to the return or destroy of materials declared by public candidates specified in the Paragraph 2 of Article 2 of the Act. However, in case any public candidate is declared to be unqualified by respective election committee after examination, his materials declared shall be returned within one month of announcement of the Candidates Name List or announcement of voidance of the same.

Article 31

The Enforcement Rules shall be in force from the date of the enforcement of the Act.

The Articles amended (added) of the Enforcement Rules shall be in force from date of its promulgation