

Content

Title :	Operational Directions for Examination of Documents in Administrative Appeal Cases of the Ministry of Economic Affairs <b>Ch</b>
Date :	2024.02.23
Legislative :	1.Enacted and promulgated by No.089195688 on July 4, 2000. 2.Point 6 amended by No.10004700800 on May 17, 2011. 3.Point 11 amended by No.11310400390 on February 23, 2024.
Content :	<p>1. These Operational Directions are formulated by this Ministry for handling the application for examination of documents set forth in Articles 49 through 51 and Article 75 of the Administrative Appeal Act (hereinafter referred to as the “Act”).</p> <p>2.Based upon the principle of information transparency, and for the purposes of accommodating the applicant to make application for examination of documents, protecting the safety of case files, and maintaining the necessary confidentiality, the application for examination of documents with this Ministry shall, unless otherwise provided for in other laws or regulations, be handled pursuant to these Operational Directions.</p> <p>3.Any administrative appellant, intervenor, or their representative(s) for administrative appeal may file an application with this Ministry pursuant to Article 49 of the Act for viewing, transcribing, copying or photographing the documents contained in the administrative appeal files. Any administrative appellant, intervenor, or their representative(s) for administrative appeal, may also file an application with this Ministry pursuant to Article 75 of the Act for viewing, transcribing, or copying the evidential materials upon which the agency making the administrative action based its administrative action. The interested third party may file an application with this Ministry pursuant to Article 50 of the Act for viewing, transcribing, copying or photographing the documents contained in the administrative appeal files. The applicants referred to in the preceding three paragraphs shall pay the fees in accordance with the Standards of Administrative Appeal Data Collection Fee Applied by Executive Yuan and Individual Administrative Agency.</p> <p>4.An application for examination of documents shall be filed with an application form on case by case basis to this Ministry. The application form shall set forth the items applied for, the applicant’s name, address and phone number, the relationship with the case, the administrative appellant’s name, the subject matter of the administrative appeal case and the case number thereof, etc. In the event that a representative is appointed by the applicant to examine documents, the power of attorney shall be submitted. In the event that the application is filed by a third party, the document regarding the consent of the administrative appellant or the prima facie evidence of the interest at stake shall be submitted pursuant to Article 50 of the Act.</p> <p>5.This Ministry shall notify the applicant of the assigned date, time and place for the examination of documents within ten days from the date of receipt of the application, with a copy to the handling personnel; provided, however, if the complete files and evidential materials have not arrived or if there exists any other rightful reason, this Ministry may notify the applicant of such circumstance and make the designation until the relevant files and evidential materials have arrived.</p> <p>6.The applicant shall arrive at the assigned place at the assigned time, sign or seal the record sheet for examination of documents, and obtain the documents and evidential materials for examination after the applicant’s personal identification is verified by the document examination manager. Upon completion of the examination, the applicant shall return the complete documents and evidential materials to the document examination manager, and shall depart the place of examination only after the manager has inspected and acknowledged receipt of the documents and evidential materials.</p>

The applicant shall notify this Ministry no later than one day prior to the assigned time for the examination if the applicant withdraws the application for examination of documents or is unable to attend the assigned place at the assigned time to conduct the examination.

In the event that the applicant does not arrive at the assigned place on time to examine the documents, this Ministry may assign a different time or place for the applicant to examine documents for maintaining the order of document examination.

The time for each examination of documents by an applicant shall be two hours in principle. An extension of the aforementioned time may be granted if a reasonable ground is presented.

The applicant may bring one person to assist in examination of documents. The assisting person shall submit personal identification document for inspection. Such assisting person may not conduct the document examination by himself/herself.

Without a reasonable ground, the applicant shall not make duplicate applications.

7. The examination of documents shall be conducted at the assigned place and following items shall be noted:

(1) The documents and evidential materials may not be taken out of the place of examination.

(2) No remarks may be added on any document or evidential material, nor may it be altered, replaced, removed, highlighted, damaged, or otherwise marked.

(3) The bound documents inside the files may not be taken apart, nor may any evidence or sample be disassembled.

(4) No other conducts of damaging the documents or evidential materials is allowed.

(5) The materials, evidence or samples shall be kept in the original state after the examination.

The rules established at the place of examination and the instruction by the document examination manager shall be abided by when examining documents. Rowdy or other behavior of obstructing order shall not be allowed.

The document examination manager may suspend the examination of documents and take any necessary measure in the event the applicant violates the provisions of the preceding two paragraphs.

8. When an application for examination of documents is filed in accordance with Articles 49 and 50 of the Act, this Ministry shall deny the applicant of access of the following documents contained in the administrative appeal files pursuant to Article 51 of the Act:

(1) The proposed draft of the decision of the administrative appeal.

(2) The documents concerning the preparation or deliberation of the decision of the administrative appeal.

(3) Those shall be kept confidential for the rightful interest of a third party.

(4) Any other documents that shall be kept confidential based upon any law or public interest.

9. When an application is filed in accordance with Article 75 of the Act for examination of the evidential materials upon which the agency making the administrative action based its administrative action, this Ministry shall not release for examination those materials that were marked by the agency making the administrative action as confidential and not to be examined pursuant to applicable laws and regulations and were already bound into files.

10. The information obtained pursuant to these Operational Directions shall be for reference only and shall not be used for any other purpose.

11. The affairs set forth in these Operational Directions shall be controlled and managed by Department of Economic Legal Affairs of this Ministry pursuant to this Ministry's functional division of responsibilities.