主 管 機 關 ：法務部

發布(修正)日期：2002.03.20.

法規中文名稱：公職人員利益衝突迴避法施行細則

法規英譯名稱：Enforcement Rules of the Act on Recusal of Public Servants Due to Conflicts of Interest

中 文 法 規 ：

第一條　本細則依公職人員利益衝突迴避法 (以下簡稱本法) 第二十三條規定訂定之。

第二條　本法第三條第一款所稱共同生活之家屬，指民法第一千一百二十三條規定之家長或家屬。

本法第三條第四款所稱營利事業，指所得稅法第十一條第二項規定之營利事業。

第三條　本法第四條第二項第三款所稱其他財產上權利，如礦業權、漁業權、專利權、商標專用權或著作權等權利。

本法第四條第二項第四款所稱其他具有經濟價值或得以金錢交易取得之利益，如貴賓卡、會員證、球員證、招待券或優待券等利益。

第四條　本法第八條所稱關說、請託，指其內容涉及機關業務具體事項之決定或執行，且因該事項之決定或執行致有不當影響特定權利義務之虞者。

第五條　本法第十一條第一項第二款及第十一條所稱職務代理人，指各項機關依憲法或法令排定代理其職務之人；所定由職務代理人執行或重新為之者，以該執行職務之行為依法令規定及其職務性質得代理者為限。

第六條　本法第十條第二項之書面，應記載下列事項，並副知服務機關：

一、應迴避公職人員之姓名、出生年月日、服務機關及職稱。

二、應迴避之事項及理由。

三、受理報備之機關。

四、報備日期。

已依本法第十條第一項規定迴避之公職人員，未依同條第二項規定報備者，其服務機關或上級機關應命其補正。

第七條　利害關係人依本法第十二條規定申請公職人員迴避，得提出申請書，並記載下列事項：

一、 申請人之姓名、性別、出生年月日、國民身分證統一編號或護照號碼、住居

所；其為法人或其他設有代表人、管理人之團體者，其名稱、事務所或營業所及管理人或代理人之姓名、性別、出生年月日、國民身分證統一編號或護照號碼、住居所。

二、 被申請迴避公職人員之姓名及其服務機關。

三、 應迴避公職人員之姓名及其服務機關。

四、 受理申請之機關。

五、 申請日期。

前項申請以言詞為之者，受理之機關應作成紀錄，經向申請人朗讀或使閱覽，確認其內容無誤後，由其簽名或蓋章。

申請人依前二項規定提出申請時，應釋明其利害關係之所在。

第八條　前條之申請，受理機關經調查後應作成決定書，並通知申請人及被申請迴避之公職人員。

第九條　依本法所處之罰鍰，應以處分書為之。

受處分人所得財產上利益應予追繳者，處分書中應併予記載追繳財產上利益之意旨、應受追繳之標的物及數額等事項。

第十條　處分機關依本法第二十二條規定所為之公開或刊登，應記載下列事項：

一、 受處分之姓名、性別、出生年月日、國民身分證統一編號或護照號碼；受處分人為公職人員者，並應記載其服務機關、職稱。

二、 處分書之主旨及事實。

三、 處分機關。

四、 處分日期。

五、 其他必要事項。

第十一條　本細則自發布日施行。

英 文 法 規 ：

Article 1

This Enforcement Rules is prescribed in accordance with Article 23 of the Act on Recusal of Public Servants Due to Conflicts of Interest (hereinafter referred to as the “Act”).

Article 2

“Family members living together” referred to in Subparagraph 1 of Article 3 of the Act means parents or family members prescribed in Article 1123 of the Civil Code.

“For-profit enterprise” referred to in Subparagraph 4 of Article 3 of the Act means for-profit enterprises prescribed in the Paragraph 2 of Article 11 of the Income Tax Act .

Article 3

"Other property right" referred to in Subparagraph 3 of Paragraph 2 of Article 4 of the Act means rights such as right of mining, fishing, patent, exclusive right to use trademark or copyright etc.

"Other interests with economic value or that can be acquired through money exchange" referred to in Subparagraph 4 of Paragraph 2 of Article 4 of the Act means interests such as VIP guest card, membership card, player's card, coupon, and sale coupons etc.

Article 4

"Requesting or speaking " referred to in Article 8 of the Act denotes those the contents of which involve decision-making or implementation of concrete business of the organ, and where there are possibilities of adversely affecting specific rights and obligations by such decision or implementation of business.

Article 5

"Duty agent" referred to in Subparagraph 2 of Paragraph 1 of Article 10 and Article 11 of the Act means the agent designated by various organs to perform official duties pursuant to the Constitution, acts and regulations. The duty allowed by the Duty agent to perform or renew shall be limited to the extent that the duty permitted under acts and regulations or by the nature of the duty, the involved action are allowed to be taken by the agent.

Article 6

In the "notify in writing" referred to in Paragraph 2 of Article 10 of the Act, the following matters shall be specified and a copy of the same shall be sent to the organ with which the servant serves:

1. Name, date of birth of the public servant that should recuse, the organ with which he serves and his position therein.
2. The matters and reasons necessitating recusal.
3. The organ handling the notification.
4. Date of filling.

Where a public servant who has recused pursuant to the provisions of Paragraph 1 of Article 10 of the Act fails to make a notification pursuant to the provisions of Paragraph 2 of Article 10, the organ with which he serves or the superior organ shall order him to make corrections.

Article 7

Where an interested person applies for recusal of a specific public servant pursuant to the Article 12 of the Act, he shall submit a written application specifying the following

matters:

1. Name, gender, date of birth, ID number or passport number of the applicant and his domicile. Where the applicant is a legal person or other groups with a representative or a manager, the name and business office of the legal person or other groups, and the name, gender, date of birth, ID number or passport number and domicile of its manager or agent.
2. Name of the public servant against whom the application for recusal is made and the organ with which he serves.
3. Name of the public servant that should recuse and the organ with which he serves.
4. The organ handling the application.
5. Date of application.

In case the above application is made orally, the handling Organ shall make it into records; in the meantime, the record shall be signed or sealed by the applicant upon confirming correctness of the record after being read to or viewed by him.

When the applicant makes the application pursuant to the above two paragraphs, he shall clarify where his interest is.

Article 8

After conducting investigations to the preceding application, the handling organ shall work out a written decision and inform the applicant and the public servant against whom the application for recusal is made.

Article 9

Penalties imposed under this Act shall be made in the form of Penalty Decision.

Where the property interests gained by the person against whom penalties are imposed shall be pursued and confiscated, the Penalty Decision shall specify the theme of pursuing and confiscating the property interests, the object pursued and confiscated, and the amount involved.

Article 10

The announcement or publication made by the organ making the penalties pursuant to the Article 22 of the Act shall include the following matters:

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.
2. Theme and facts of the Penalty Decision.
3. The organ making the Penalty Decision.
4. Date of making the Penalty Decision.
5. Other necessary issues.

Article 11

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