主 管 機 關 ：法務部

發布(修正)日期：2000.07.12.

法規中文名稱：公職人員利益衝突迴避法

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

中 文 法 規 ：

第一條　為促進廉能政治、端正政治風氣，建立公職人員利益衝突迴避之規範，有效遏阻貪污腐化暨不當利益輸送，特制定本法。
公職人員利益衝突之迴避，除其他法律另有嚴格規定者外，適用本法之規定。

第二條　本法所稱公職人員，指公職人員財產申報法第二條第一項所定之人員。

第三條　本法所定公職人員之關係人，其範圍如下：
一、公職人員之配偶或共同生活之家屬。
二、公職人員之二親等以內親屬。
三、公職人員或其配偶信託財產之受託人。
四、公職人員、第一款及第二款所列人員擔任負責人、董事、監察人或經理人之營利事業。

第四條　本法所稱利益，包括財產上利益及非財產上利益。
財產上利益如下：
一、 動產、不動產。
二、 現金、存款、外幣、有價證券。
三、 債權或其他財產上權利。
四、 其他具有經濟價值或得以金錢交易取得之利益。
非財產上利益，指有利公職人員或其關係人於政府機關、公立學校、公營事業機構（以下簡稱機關）之任用、陞遷、調動及其他人事措施。

第五條　本法所稱利益衝突，指公職人員執行職務時，得因其作為或不作為，直接或間接使本人或其關係人獲取利益者。

第六條　公職人員知有利益衝突者，應即自行迴避。

第七條　公職人員不得假借職務上之權力、機會或方法，圖其本人或關係人之利益。

第八條　公職人員之關係人不得向機關有關人員關說、請託或以其他不當方法，圖其本人或

公職人員之利益。

第九條　公職人員或其關係人，不得與公職人員服務之機關或受其監督之機關為買賣、租賃、承攬等交易行為。

第十條　公職人員知有迴避義務者，應依下列規定辦理：

一、民意代表，不得參與個人利益相關議案之審議及表決。

二、其他公職人員應停止執行該項職務，並由職務代理人執行之。

前項情形，公職人員應以書面分別向公職人員財產申報法第四條所定機關報備。

第一項之情形，公職人員之服務機關或上級機關如認該公職人員無須迴避者，得命其繼續執行職務。

服務機關或上級機關知有應自行迴避而未迴避情事者，應命該公職人員迴避。

第十一條　民意代表以外之公職人員於自行迴避前，對該項事務所為之同意、否決、決定、建議、提案、調查等行為均屬無效，應由其職務代理人重新為之。

第十二條　公職人員有應自行迴避之情事而不迴避者，利害關係人得向下列機關申請其迴避：

一、應迴避者為民意代表時，向各該民意機關為之。

二、應迴避者為其他公職人員時，向該公職人員服務機關為之；如為機關首長時，向上級機關為之；無上級機關者，向監察院為之。

第十三條　前條之申請，經調查屬實後，應命被申請迴避之公職人員迴避，該公職人員不得拒絕。

第十四條　違反第七條或第八條規定者，處新臺幣一百萬元以上五百萬元以下罰鍰；所得財產上利益，應予追繳。

第十五條　違反第九條規定者，處該交易行為金額一倍至三倍之罰鍰。

第十六條　違反第十條第一項規定者，處新臺幣一百萬元以上五百萬元以下罰鍰。

第十七條　公職人員違反第十條第四項或第十三條規定拒絕迴避者，處新臺幣一百五十萬元以上七百五十萬元以下罰鍰。

第十八條　依前二條處罰後再違反者，連續處罰之。

第十九條　本法所定之罰鍰，由下列機關為之：

一、依公職人員財產申報法第二條第一項規定應向監察院申報財產之人員，由監察院為之。

二、公職人員之關係人及前款以外之公職人員，由法務部為之。

第二十條　依本法所處之罰鍰，經限期繳納而屆期不繳納者，移送法院強制執行。

第二十一條　違反本法規定而涉及其他法律責任者，依有關法律處理之。

第二十二條　依本法罰鍰確定者，由處分機關公開於資訊網路或刊登政府公報或新聞紙。

第二十三條　本法施行細則由行政院會同考試院、監察院定之。

第二十四條　本法自公布日施行。

英 文 法 規 ：

Article 1

The Act is enacted to promote uncorrupted and efficient politics and to well form politics ethics by establishing norms to be followed by public servants for recusing due to conflicts of interest, so that corruption and conveyance of unjust interests can be efficiently eliminated.

Unless otherwise provided more strictly by other acts, this act shall apply to recusal of public servants due to conflicts of interest.

Article 2

The term “Public Servant” referred to in this Act means the persons specified in Paragraph 1 of Article 2 of the Act on Property-Declaration by Public Servants.

Article 3

The term “related persons of a public servant” referred to in the Act is hereby defined as follows:

1. The spouse of a public servant or the family members living together with the public servant.
2. Relatives of the public servant by the second degree of kinship.
3. Trustees of the trust property consigned by the public servant or his spouse.
4. Any for-profit enterprise in which the public servant and the persons specified in above subparagraph 1 and 2 hold posts of as follows: C.E.O., director, supervisor or manager.

Article 4

The term “interests” referred to in this Act includes property interests and non-property interests.

Property interests include:

1. Movable property and immovable property.

2. Cash, deposits, foreign currencies, and securities.
3. Obligatory right or other property right.
4. Other interests with economic value or that can be acquired through money exchange.

Non-property interests means the appointment, promotion, transfer and other personnel measures in favor of a public servant or his related persons in the government organs, public schools or national enterprises (hereinafter referred to as the “organ”).

Article 5

The term “conflicts of interest” referred to in this Act means the public servant obtains interests by himself or his related persons either directly or indirectly through any act or omission in the course of performing his official duties.

Article 6

A public servant shall recuse himself as soon as he is aware of the conflicts of interest.

Article 7

A public servant shall not seek interests for himself or for his related persons by manipulating his official power, opportunities or any method under his official duty.

Article 8

Related persons of a public servant shall not seek interests for himself or for the aforementioned public servant by requesting relevant persons in the organ, speaking for the same, or by other improper means.

Article 9

A public servant and his related persons shall not conduct transactions such as sales, lease and contracting etc. with the organ with which the public servant serves or the organs under his supervision.

Article 10

Where a public servant is aware of the obligation of recusal, he is obligated to act in accordance with following provisions:

1. In case as a legislator/councilor, the public servant is prohibited to participate in the deliberation and voting on the proposal involving his personal interests.
2. In case other than the preceding subparagraph, the public servant shall cease to perform his official duty, and that duty shall be exercised by the duty agent.

Under the circumstance stated in the above paragraph, the public servant shall notify in writing to the organs prescribed by Article 4 of the Act on Property-Declaration by Public Servants for record.

Under the circumstance stated in the first paragraph, if the organ with which the public servant serves or the superior organ deems it not requisite for the public servant to recuse, it may instruct the public servant to keep on performing his official duties.
Where the organ with which the public servant serves or the superior organ is aware that the public servant obliged to recuse fails to recuse, it shall order him to recuse.

Article 11

Actions such as consent, denial, decision, and suggestion, proposal or investigation made by a public servant other than legislator/councilor in respect of the issue involved before recusal shall be null and void and all the preceding actions shall be renewed by his duty agent.

Article 12

Where a public servant fails to recuse notwithstanding the fact that he is obligated to recuse, any interested person may apply to the following organs for his recusal:

1. Where the public servant is a legislator/councilor, to the Legislative Yuan/council.
2. Where the public servant is a public servant other than legislator/councilor, to the organ with which he serves. Provided that the public servant is a chief of an organ, to the superior organ; and where if there is no superior organ, to the Control Yuan.

Article 13

Upon confirmation through investigation that the above application to be in consistent with facts, the public servant subject to the application shall be ordered to recuse and that order shall not be refused by the public servant.

Article 14

To those in violation of the provisions of Article 7 or Article 8, a penalty of between NTD 1 million to 5 million shall be imposed while any property interests gained therefrom shall be pursued and confiscated.

Article 15

To those in violation of the provisions of Article 9, a penalty of 1 to 3 times of the amount of the transaction involved shall be imposed.

Article 16

To those in violation of the provision of Paragraph 1 of Article 10, a penalty of between NTD 1 million to 5 million shall be imposed.

Article 17

To any public servant who violates of the provisions of Paragraph 4 of Article 10 or

Article 13 for refusing to recuse, a penalty of NTD 1.5 million to 7.5 million shall be imposed.

Article 18

To the violators act in violation again after penalty has been imposed pursuant to the above two articles, consecutive penalties shall be imposed

Article 19

Penalties prescribed by this Act shall be made by the following organs:

1. To those who should make property declarations to the Control Yuan pursuant to Paragraph 1 of Article 2 of the Act on Property-Declaration by Public Servants, by Control Yuan.
2. To related persons of a public servant and public servants other than those specified in the above subparagraph, by the Ministry of Justice.

Article 20

Where penalties imposed pursuant to this Act are not paid within prescribed time period, the case shall be evoked to the court for compulsory enforcement.

Article 21

Where liabilities under other acts are simultaneously involved as a result of violation this Act, the case shall also be dealt with under the application of relevant acts.

Article 22

Where penalties imposed pursuant to this Act are confirmed, the organ making the penalties shall announce such sanction in public at web sites or publish the same at government gazette or newspapers.

Article 23

The enforcement rules of this Act shall be enacted by the Executive Yuan jointly with the Control Yuan and Examination Yuan.

Article 24

The Act shall be in force from the date of promulgation.