

Title	State Compensation Law
Announced Date	1980.07.02
Category	Ministry of Justice (法務部)

Article 1 This Law is enacted in accordance with Article 24 of the Constitution of the Republic of China.

Article 2 For the purposes of this law, "employee of the Government" means any officer or employee acting in performance of his or her public duties under the law. The State shall be liable for any damage arising from the intent or negligent act of any employee of the Government acting within the scope of his or her

office or employment which
infringes upon the freedom
or right of any person.

The same shall be applied
when the damage results
from the omission of any
employee of the
Government.

Should the damage
referred to in the preceding
paragraph result from an
act committed with intent or
gross negligence on the
part of the employee of the
Government, the
compensating authority
shall have the right to
reimbursement from the
said employee of the

Government.

Article 3 The State shall be liable for
damage to any person's
life, body, or property
resulting from a defect in
the installation or
management of any
government-owned public
facility.

The compensating
authority shall have the
right to reimbursement
from the said third person
who is liable for the
damage referred to in the
preceding paragraph.

Article 4 An executor from an
organization mandated

with the function of public
office, when exercising the
public power, shall be
deemed to be an employee
of the mandating
organization. The same
shall be applied when an
individual is mandated to
exercise the public power.

The compensating
authority shall have the
right to reimbursement
from the mandated
organization or individual in
cases where the executor
referred to in the preceding
paragraph has acted with
intent or gross negligence.

Article 5 In addition to this Law, the provisions of the Civil Code also apply to the liability of the state.

Article 6 When other laws have special provisions on the liability of the state, the State Compensation law and the Civil Code are inapplicable.

Article 7 The State shall pay in money when legally bound to make compensation for damage; however, restoration of the prior condition may be the alternative remedy in cases where it is more suitable

and such an application is
received from the claimant.

The expenditure for the
above-mentioned
compensation shall be paid
for the specially-provided
item of the budget of the
central or local
government.

Article 8 A right of claim for
compensation is
extinguished by
prescription if not exercised
within two years from the
discovery of the fact by
claimant, or not exercised
within five years from the
date when the damage was

inflicted.

The right to reimbursement for compensation referred to in paragraph 3 of Article 2, paragraph 2 of Article 3, and paragraph 2 of Article 4 is extinguished by prescription if not exercised within two years from the date when payment of compensation is made or the date when restoration of prior condition is completed.

Article 9

In cases referred to in paragraph 2 of Article 2, the compensating authority shall be the one that

employs the employee of
Government.

In cases where the claim is
of the type referred to in
paragraph 1 of Article 3,
the compensating authority
shall be the one that
installs or manages the
public facility.

If the above-mentioned
compensating authorities
have been removed or
reorganized, the
compensating authority
shall be the one that
succeeds the former's
business. In case of no
successor, the superior
authority shall be the

authority liable for

compensation.

If the liable authority cannot

be decided by the

above-mentioned methods,

or there is a dispute

regarding the liable

authority, the superior

authority can make a

decision after receiving the

application. In case the

decision cannot be made

within twenty days from the

date of the receipt of the

application, the superior

authority may be regarded

as the authority liable for

compensation.

Article 10

In order to claim compensation under this Law, a written application shall be made to the relevant compensating authority.

The compensating authority shall negotiate with the claimant on the abovementioned application. Concluded negotiations shall be documented in written form. Such document shall be regarded as the document for execution.

Article 11

Where the compensating authority refuses to pay

compensation, or to negotiate within thirty days from the date of the receipt of the application, or if negotiations cannot be concluded within sixty days, the claimant may bring a suit for compensation. However, if the claimant previously has sought compensation, pursuant to the provisions of the Law of Administrative Proceedings, the claimant may not commence a fresh action on the basis of the same legal relation.

On the application of the

claimant, the court,
pending the final decision,
may issue an interim order
to the liable party to pay
medical or funeral
expenses.

Article 12 The provisions of the Code
of Civil Procedure, as well
as the provisions of the
State Compensation law,
are to be applied in claims
for compensation.

Article 13 If an employee of the
Government having the
duty of a trial judge or a
prosecutor infringes upon
the freedoms or rights of
persons while acting within

the scope of his or her
office or employment, and
is adjudicated to have
committed a crime when he
or she performed the duty
of trial or prosecution, the
provisions of this law shall
apply.

Article 14 The provisions of this law
shall apply mutatis
mutandis to the public
juristic person.

Article 15 The provisions of this Law
shall be applicable to a
foreign claimant only to the
extent that the people of
the Republic of China,
according to a treaty, law,

or custom of that

foreigner's country, enjoy

the same rights in that

country.

Article 16 The enforcement rules of

this Law shall be

prescribed by the

Executive Yuan.

Article 17 This Law shall become

effective from July 1, 1981.
