

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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CHALLENGES IN THE CONTROL OF ADMINISTRATIVE NORMATIVE ACTS IN MONGOLIA

AUTHORED BY - BATNASAN GANBAT¹

Keywords: Administrative normative acts, control, unified state registry, rule of law, administrative court

Introduction

Fundamental social relations should be regulated by the Constitution and other laws. However, due to the dynamic nature of social development and the relatively lengthy legislative process required for drafting, discussing, and adopting laws, the legislature has, in certain cases, delegated the authority to adopt administrative normative acts to executive bodies through statutory provisions.

According to Article 65.1 of the Law on General Administrative Procedure of Mongolia, “the state central administrative body in charge of legal affairs shall verify whether administrative normative acts meet the requirements set forth in Articles 60, 61, and 62 of this Law and register them in the unified state registry.” This provision establishes a formal mechanism of legality control through registration.

In practice, however, several issues have emerged. Administrative bodies may adopt normative acts within their statutory competence, yet such acts are sometimes not registered due to failure to meet legal requirements. Conversely, there are instances where administrative bodies lacking legal authority adopt normative acts, and despite this, such acts are implemented in practice. As a result, administrative normative acts that do not meet legal standards continue to be applied, thereby infringing upon the rights and legitimate interests of individuals and legal entities.

The adoption of the Law on General Administrative Procedure in 2015 marked a significant milestone in Mongolia’s administrative law system. For the first time, it provided a

¹ Lecturer, Department of Public Law, Shihihutug University, Mongolia, Ph.D. Candidate in Law, Email: Batnasan@shihihutug.edu.mn

comprehensive legal framework defining the scope, requirements, drafting procedures, review mechanisms, and conditions for the entry into force of administrative normative acts. Nevertheless, despite this legislative advancement, practical challenges in ensuring effective control over such acts persist.²

A total of 437 laws are currently in force in Mongolia. Of these, the State Great Khural (Parliament) has delegated its authority to adopt administrative normative acts to relevant bodies through 2,493 provisions contained in 318 laws. According to the unified state registry of administrative normative acts, 2,357 decisions issued by 111 institutions have been registered. However, the implementation of approximately 850 statutory provisions under which specific authorization has been granted by law remains unclear, particularly with regard to whether the corresponding administrative normative acts have been formally adopted. This indicates a significant gap in implementation. Such inconsistencies undermine the fundamental principles of state activity, namely the rule of law and equality before the law, by hindering the uniform application of legislation. In terms of delegated authority, 642 provisions grant regulatory powers to the Government, 919 provisions to central administrative bodies, and 258 provisions to other administrative agencies.³ Furthermore, there is an increasing practical need to review and systematize administrative normative acts that have become obsolete, are no longer applied, have exceeded their period of legal validity, or overlap with or contradict existing legislation.

1. On Administrative Normative Acts

According to the theory of separation of powers, the authority to adopt laws namely legal norms belongs exclusively to the legislature. Article 20 of the Constitution of Mongolia provides that “the State Great Khural shall be the highest organ of state power and shall exercise the legislative power exclusively.” This constitutional provision indicates that administrative bodies, which are primarily responsible for exercising executive power, are not originally vested with the authority to enact legal norms.

However, in practice, certain objective factors such as the time-consuming nature of

² Ts. Tsogt, “Administrative Normative Acts,” academic article (Ulaanbaatar, 2016), <https://legaldata.mn/b/127> (accessed March 20, 2026).

³ Government of Mongolia, “The Prime Minister Instructs to Reduce the Number of Statutory Provisions Granting Special Authorization and Administrative Normative Acts,” news report, November 29, 2023, <https://mongolia.gov.mn/news/view/26864> (accessed March 20, 2026).

the legislative process, the need to address issues promptly, and technical or specialized regulatory requirements necessitate a partial delegation of legislative authority. In such cases, the legislature transfers limited norm-making powers to executive bodies in order to reduce its workload and ensure efficient governance. On this basis, administrative bodies are authorized to adopt normative acts that function as subordinate legal instruments.

An administrative normative act may be defined as a decision issued by an administrative body that has been expressly authorized by law, which is intended to be generally binding, externally applicable, and repeatedly enforceable. As a form of administrative activity, administrative normative acts are characterized by their hierarchical position within the legal system and their direct role in implementing administrative functions. In this respect, they differ from other sources of law, particularly in terms of their regulatory scope and functional orientation toward the execution of public administration.⁴

First, the understanding of legal relations that cannot be regulated by normative acts is generally derived from the constitutional and statutory provisions that require regulation “exclusively by law.” Such provisions delineate matters that fall strictly within the legislative domain and cannot be delegated to administrative normative acts. For example, Article 5.3 of the Constitution of Mongolia provides that “the rights of an owner may be restricted only on grounds prescribed by law.” Article 15.1 stipulates that “the grounds and procedures for acquiring and losing citizenship of Mongolia shall be determined exclusively by law.” Furthermore, Article 19.2 (2) states that “in the event of a state of emergency or war, human rights and freedoms prescribed by the Constitution and other laws may be restricted only by law.” In addition, Article 47.1 provides that “a judge shall be independent and subject only to the law.” These provisions clearly identify categories of legal relations that must be regulated solely by legislation, thereby excluding the possibility of regulation through administrative normative acts.

Second, with regard to the scope of regulation of administrative normative acts namely, the limits and boundaries established by the enabling legislation the Law on General Administrative Procedure of Mongolia requires that administrative bodies may adopt normative acts only when they have been expressly authorized by law. Moreover, such acts

⁴ P. Odgerel, *General Part of Administrative Law* (Ulaanbaatar, n.d.), 287.

must conform to the content, purpose, and scope of the law granting such authorization. This represents a progressive regulatory approach. However, the legal framework governing the delegation of authority does not explicitly require that the enabling provisions define key elements such as the scope of application, temporal limits, and specific objectives of the normative acts. The absence of such requirements creates ambiguity in the exercise of delegated powers and may lead to inconsistencies in the formulation and implementation of administrative normative acts.⁵ As noted by D. Battulga in his article, “The Scope, Limits, and Certain Issues of Control of Relations Regulated by Normative Acts,” this gap in regulation may lead to ambiguity in the exercise of delegated powers and weaken effective control mechanisms.

2. Unlawful Administrative Normative Acts, Their Legal Consequences, and Judicial Review by Administrative Courts

The legal consequences of unlawful administrative normative acts should be examined in a structured manner. In this regard, several typical situations may be identified:

1. Failure to adopt a normative act despite statutory authorization:

An administrative body that has been expressly authorized by law fails to adopt the required administrative normative act.

2. Failure to register a duly adopted normative act:

An administrative body adopts an administrative normative act within its legal authority but fails to register it with the competent authority as required by law.

3. Adoption of a normative act without legal authorization:

An administrative body that has not been expressly authorized by law adopts and implements an administrative normative act.

These situations give rise to significant legal consequences, particularly in terms of the validity, enforceability, and legality of administrative normative acts. Moreover, they directly affect the protection of the rights and legitimate interests of individuals and legal entities. In this context, judicial review by administrative courts plays a crucial role in ensuring legality and safeguarding the rule of law. However, challenges remain in clearly determining the legal status of such acts and in establishing consistent judicial practices regarding their review.

⁵ D. Battulga, “The Scope, Limits, and Certain Issues of Control of Relations Regulated by Normative Acts,” academic article (Ulaanbaatar, 2016), <https://legaldata.mn/buteel/pdf?id=338> (accessed March 20, 2026).

- **Failure of an Authorized Administrative Body to Adopt a Normative Act**

There are numerous laws in which the State Great Khural, when adopting legislation, delegates to the executive branch (the Government) the authority to adopt and implement administrative normative acts in order to regulate specific detailed relations. One such example is the Law on Supporting the Oil Refinery (adopted in 2021). Article 3.3 of this Law provides that “the Government shall approve the regulation on state support to the oil refinery in order to specify the relations governed by this Law.” Furthermore, Article 4.1 stipulates that “the design of the oil refinery, crude oil pipeline, and their main technological as well as auxiliary facilities may be developed in the language of the contract, and the relations concerning expert assessment, construction works, stage supervision, quality and safety testing, commissioning, and certification shall be regulated by the procedure specified in Article 3.3 of this Law.” In other words, upon adoption of the regulation on state support to the oil refinery by the Government, it is intended that the relevant legal relations including design, construction, supervision, quality and safety assessment, commissioning, and certification would be governed accordingly. However, based on a review of the compilation of administrative normative acts, it appears that, as of now, the regulation on state support to the oil refinery has not yet been adopted.⁶

The legal consequence of this situation is that the process of constructing the oil refinery itself may not be carried out in accordance with a duly established regulatory procedure, thereby creating legal and operational risks. This indicates that there is a need to improve the measures to be taken in cases where an administrative body, despite being expressly authorized by law, fails to adopt the required administrative normative act within the scope of its authority.

- **Failure to Register a Duly Adopted Administrative Normative Act**

In Mongolia’s current sector-specific legislation, administrative bodies are widely granted statutory authority to adopt administrative normative acts. However, there are numerous cases in which such acts, although duly adopted by authorized administrative bodies, have not been registered with the competent authority as required by law, yet are still implemented in practice.

⁶ It was not found in the compilation of administrative normative acts nor in electronic sources.

For example, pursuant to Article 69.2⁷ of the Law on State and Local Property and Resolution⁸ No. 148 of April 23, 2008 of the Government of Mongolia, the State Property Policy and Regulation Agency adopted Resolution No. 271 on June 18, 2019, approving the “Regulation on Acquisition, Registration, Disposal, and Transfer of State and Local Property.”⁹ However, upon review of the official compilation of administrative normative acts, this regulation has not been registered.

Although a state administrative body that has been expressly authorized by law may adopt administrative normative acts to regulate detailed sector-specific relations on a continuous basis, it is legally required to register such acts with the state central administrative body in charge of legal affairs. Failure to do so is prohibited by law.

The aforementioned regulation governs matters involving substantial financial resources, including the acquisition, registration, disposal, and transfer of state and local property. Furthermore, Article 3 of the resolution approving the regulation instructs the heads of state-owned legal entities to comply with and implement it. As a result, all state-owned legal entities are effectively applying an administrative normative act that lacks legal validity due to its failure to be properly registered. This situation highlights the need to strengthen oversight and control mechanisms.

- Adoption and Implementation of Administrative Normative Acts by Unauthorized Bodies

Despite the absence of legal authorization, the adoption and enforcement of normative acts, the failure to register such acts in the unified state registry, and the issuance and implementation of rules and regulations by entities without the legal authority to adopt normative acts continue to occur repeatedly. There is therefore an urgent need to prevent such violations, to carry out monitoring and evaluation of administrative normative acts, and to take measures to eliminate identified deficiencies.

⁷ In addition to the generally required accounting forms, the state administrative body responsible for state property policy and regulation may approve and enforce the forms and methodologies of reports and information to be maintained by state-owned legal entities.

⁸ Government of Mongolia, “On Measures to Be Taken Regarding State and Local Property,” Resolution No. 148 (Ulaanbaatar, April 23, 2008), <https://legalinfo.mn/mn/detail?lawId=4212> (accessed March 20, 2026).

⁹ State Property Policy and Regulation Agency of Mongolia, “Regulation on Acquisition, Registration, Disposal, and Transfer of State and Local Property,” approved by Resolution No. 271 (Ulaanbaatar, June 18, 2019), <http://www.spa.gov.mn/file/3857> (accessed March 20, 2026).

As noted above, there are numerous instances of unlawful administrative normative acts. For example:

- In the health sector: Article 24.3 of the Law on Health provides that “the procedures and list of paid services provided by state-owned health institutions shall be approved by the member of the Government in charge of health, and the standard fees shall be jointly approved by the members of the Government in charge of finance and health.” In violation of this provision, an entity that does not have the legal authority to adopt administrative normative acts has issued and implemented the following administrative normative acts.

Table 1¹⁰

№	Name of the organization	Regulation on Paid Services	Date and number
1	Amgalan Maternity Hospital and Clinic	Regulation on the Collection and Centralization of Fees for Paid Services	Annex No. 2 to Order A/21 dated May 2, 2022
2	National Center for Traumatology and Orthopedics	Regulation on Paid Healthcare Services and Additional Services	Annex No. 1 to Order A/163 dated November 29, 2022
3	National Gerontology Center	Regulation on the Provision of Paid Services	Annex No. 1 to Order A/35 dated June 2, 2022
4	National Center for Mental Health	Regulation on Paid Healthcare Services Provided by the National Center for Mental Health	Annex No. 2 to Order A/14 dated January 20, 2023
5	First Central State Hospital	Regulation on the Financing of Healthcare Services	Annex to Order A/170 dated May 27, 2022
6	Third State Central Hospital	Regulation on Paid Hospital Services and Additional Services	Annex No. 3 to Order A/141 dated May 18, 2022
7	National Center for Communicable Diseases	Regulation on Paid Healthcare Services of the National Center for Communicable Diseases	Annex No. 1 to Order A/184 dated August 9, 2022

¹⁰ Annex to Official Letter No. 02/18217 of the Independent Authority Against Corruption dated November 27, 2023

8	Children's Central Sanatorium	Regulation on Paid Healthcare Services and Additional Services Provided by the Central Children's Rehabilitation Center	Annex No. 1 to Order A/56 dated September 2, 2022
9	National Center for Pathology	Regulation on the Provision of Paid Pathology Services	Annex No. 2 to Order A/12 dated January 31, 2023

The Anti-Corruption Agency has identified violations in the above-mentioned administrative normative acts and has taken measures to have them invalidated.¹¹

- **Within the framework of local self-governing bodies:** Normative acts are being adopted and enforced without legal authorization, failing to register such acts in the State Unified Register of normative acts, and entities not legally empowered to issue normative acts continue to approve and implement rules and procedures. It is necessary to stop and prevent the recurrence of these violations, and to organize, at the national level, measures to conduct monitoring and evaluation of administrative normative acts and to eliminate violations and deficiencies.

The issues stated in the recommendations submitted by the Independent Authority Against Corruption to the Government of Mongolia, members of the Government, sectoral ministers, chairpersons of Citizens' Representative Khurals of aimags, and Governors during 2017-2019 have not been fully resolved, and violations and deficiencies continue to recur. These include:

1. Although Article 18.1.2¹² of the Law on Administrative and Territorial Units and Their Governance provides that the authority to "determine the rates of certain local taxes, fees, and charges within the limits and requirements prescribed by law" is granted exclusively to the Citizens' Representative Khural, in violation of this provision, the Presidium of the Citizens' Representative Khural exercised powers not granted to it and adopted decisions;

¹¹ L. Narantuya: The Unlawful Increase of Hospital Service Fees by MNT 10,000-25,000 Has Been Invalidated." <https://iaac.mn/post/153002> (accessed March 20, 2026)

¹² Within the framework of the Law of Mongolia on Administrative and Territorial Units and Their Governance, adopted on December 15, 2006, and repealed on December 24, 2020.

2. The provision of Article 64.1 of the General Administrative Law, which states that “administrative normative acts shall be approved by an administrative body specifically authorized by law,” is not complied with; furthermore, the requirement under Article 65.1 of the same law to register such acts with the central state administrative body in charge of legal affairs and to include them in the State Unified Register is not implemented;
3. Article 6.2 of the Law on State Stamp Duties provides that “the Government shall determine the amount of stamp duties specified in Articles 27.1.1, 27.1.4–27.1.6, and paragraphs 27.2–27.4 of this law within the limits prescribed herein.” However, instead of the Government, the Minister of Health approved such amounts (under the “Benchmark for Stamp Duty Fees and Costs”). Although the IAAC submitted recommendations to the Government and the Minister of Health to review and bring this into compliance with the law, no relevant measures have been taken and it continues to be enforced at the local level;
4. Article 69.1 of the General Administrative Law provides that “an administrative body specifically authorized by law shall annually conduct monitoring and evaluation of the administrative normative acts in force within its jurisdiction and submit reports on implementation progress and outcomes, along with proposals for further measures, to the central state administrative body in charge of legal affairs.” However, this requirement is not effectively implemented;¹³
5. Pursuant to Article 13.1.2 of the Law on the National Human Rights Commission of Mongolia, the Commission, within its полномочия to make recommendations and proposals regarding whether legislation and administrative decisions comply with fundamental human rights principles, conducted a study and analysis in 2018 of 86 administrative normative acts adopted for general compliance by resolutions of the Citizens’ Representative Khural of the capital city and its Presidium.¹⁴ The Capital City Citizens’ Representative Khural has adopted more than 100 administrative normative acts since 1993;¹⁵ however, prior to the entry into force of the General Administrative Law, these acts were not submitted to, reviewed by, or registered with the central state administrative body in charge of legal affairs. As of today, although 86 administrative

¹³ Annex to Official Letter No. 01/1003 of the Independent Authority Against Corruption dated January 24, 2020

¹⁴ Cited from: Analysis conducted by the National Human Rights Commission of Mongolia on administrative normative acts approved by resolutions of the Citizens’ Representative Khural of the Capital City and its Presidium, Ulaanbaatar, 2018.

¹⁵ As at 2018

normative acts (20 adopted by the Capital City Citizens' Representative Khural and 66 by its Presidium) have been approved for general compliance, only one such act namely, the regulation on outdoor advertising within the capital city, approved by Resolution No. 9/10 of April 27, 2017 was registered in the State Unified Register by the Ministry of Justice and Internal Affairs on June 6, 2017, and assigned registration number 3739. This indicates that the implementation of the General Administrative Law is not being adequately ensured.¹⁶

Article 59.1 of the General Administrative Law provides that: *“An administrative normative act shall mean a decision issued by an administrative body specifically authorized by law, which is externally directed, generally binding, and has a repetitive effect.”*

However, in the above-mentioned nine healthcare-related cases, the administrative normative acts were issued by entities that were not specifically authorized by law. These acts concern the provision of paid services by healthcare institutions to citizens and the collection of the corresponding fees.

From this, it can be concluded that such regulations on the collection of fees from citizens constitute administrative normative acts issued by bodies without legal authorization, thereby forming grounds for the violation of citizens' rights and legitimate interests. It is therefore necessary to improve legal mechanisms to ensure that administrative bodies not specifically authorized by law do not adopt administrative normative acts and that effective oversight is exercised over such acts.

Article 65.1 of the General Administrative Law states that: *“The central state administrative body in charge of legal affairs shall, when registering an administrative normative act, verify whether it meets the requirements set out in Articles 60, 61, and 62 of this law and shall register it in the State Unified Register.”* Furthermore, Article 65.2 provides that: *“Administrative normative acts that do not meet the requirements set out in Articles 60, 61, and 62 of this law shall not be registered in the State Unified Register.”*

Although these provisions are intended to ensure the registration and oversight of

¹⁶ Z. Önörjargal, “Some Issues Related to the Regulation of Administrative Normative Acts Adopted by Resolutions of the Capital City Citizens' Representative Khural and its Presidium,” *Human Rights: Theory and Methodology Journal*, No. 02, Ulaanbaatar, 2018.

administrative normative acts, in practice, administrative bodies lacking specific legal authorization continue to adopt and implement such acts, thereby seriously infringing upon the rights and lawful interests of citizens.

Researcher B. Ariunzaya, in her article titled *“Issues in Monitoring and Registering Administrative Normative Acts Independently Adopted by Local Self-Governing Bodies,”* concludes as follows: there is a need for specific regulation governing the registration and oversight of administrative normative acts adopted independently by local self-governing bodies. However, the question arises as to what form such regulation should take.

According to Article 67.2 of the General Administrative Law, administrative normative acts become effective only after being registered in the State Unified Register and published in the *“Compilation of Administrative Normative Acts,”* which constitutes a form of ex ante control. However, subjecting independently adopted normative acts of local self-governing bodies to prior review and approval by the central government may be considered as restricting local self-governance.

Central and higher-level authorities must not negate or limit local self-governance. Article 25.4 of the Law on Administrative and Territorial Units and Their Governance provides that: *“If a resolution or other decision adopted by the Khural does not conform to laws, or to decisions of the Government or higher-level competent authorities, the Khural itself shall amend or invalidate it.”* This indicates that no body other than the Khural itself or a court has the authority to invalidate such decisions. Therefore, a conflict arises between the Law on Administrative and Territorial Units and Their Governance and the General Administrative Law.

Furthermore, the Capital City Citizens’ Representative Khural, both prior to the adoption of the General Administrative Law (before 2015) and after the enactment of the revised Law on Administrative and Territorial Units and Their Governance (since 2020), has adopted administrative normative acts without registering them with the central state administrative body in charge of legal affairs and has implemented them. In other words, social relations have been regulated through unlawful administrative normative acts.

Conclusion

As of today, a total of 437 laws are in force in Mongolia, of which the State Great Khural has delegated its authority to adopt administrative normative acts to relevant bodies through 2,493 provisions in 318 laws, while 2,357 decisions issued by 111 entities have been registered in the State Unified Register of administrative normative acts; however, the implementation of 850 legal provisions that grant specific authorization but for which it remains unclear whether corresponding acts have been adopted is insufficient, indicating that the fundamental principles of state activity, namely the rule of law and equality before the law, are not being adequately ensured, given that 642 provisions grant authority to the Government, 919 to central state administrative bodies, and 258 to other administrative bodies, and from the perspective of the rule of law, the existence of a large number of unregistered administrative normative acts suggests the emergence of an unchecked and increasingly powerful state, as the adoption of normative acts beyond legal limits without proper oversight constitutes arbitrary governance, thereby creating a practical need to streamline administrative normative acts that have lost their relevance, are no longer enforced, have expired in terms of legal effect, or overlap with or contradict existing legislation, and accordingly, it is necessary to improve the mechanisms of oversight over such acts, including both supervisory control by higher administrative authorities and judicial review.

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