

# The Board of Audit Act

(Act No. 73 of April 19, 1947)

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## **Chapter I ORGANIZATION**

### **Section 1 General Provisions**

Article 1 The Board of Audit has a status independent from the Cabinet.

Article 2 The Board of Audit is organized with an Audit Commission consisting of three Commissioners, and a General Executive Bureau.

Article 3 The person elected by the Commissioners from among themselves is appointed President of the Board of Audit by the Cabinet.

### **Section 2 Commissioners**

Article 4 (1) Commissioners are appointed by the Cabinet, with the consent of both Houses of the Diet.

(2) Notwithstanding the provisions of the preceding paragraph, if the term of office of a Commissioner expires or a vacancy occurs among the Commissioners, and the consent of both Houses of the Diet cannot be obtained because the Diet is not in session or due to the dissolution of the House of Representatives, the

Cabinet may appoint a Commissioner without obtaining the consent of both Houses of the Diet.

- (3) In the case referred to in the preceding paragraph, approval must be sought from both Houses of the Diet at the first session of the Diet convened after the appointment. If approval is not obtained from both Houses of the Diet, the relevant Commissioner will automatically retire from office.
- (4) The Emperor attests the appointment and dismissal of Commissioners.
- (5) The remuneration for Commissioners is provided for separately in another Act.

Article 5 (1) A Commissioner's term of office shall be seven years, and a Commissioner may be reappointed for one additional term only.

- (2) If a vacancy arises in the office of Commissioner during the term of office, the succeeding Commissioner will hold office for the remaining term of the predecessor.
- (3) Commissioners retire from office upon reaching the age of 65.

Article 6 A Commissioner retires from office upon a resolution by both Houses of the Diet, if, by the consensus of the other Commissioners, the Commissioner is found to be unable to perform his/her duties due to a mental or physical disorder or a fact is found that constitutes a breach of obligation in the course of duty.

Article 7 A Commissioner forfeits his/her office if he/she is sentenced to a punishment of imprisonment without work or greater by a criminal court.

Article 8 Except in cases referred to in the latter part of Article 4 paragraph (3) and the preceding two Articles, a Commissioner does not forfeit his/her office against his/her will.

Article 9 A Commissioner may not concurrently hold office on any other, nor may a Commissioner become a member of the Diet, the employee of a local public entity, or the member of a local assembly.

### **Section 3 Audit Commission**

Article 10 The Chair of the Audit Commission is assumed by the President of the Board of Audit.

Article 11 The following matters are decided by the Audit Commission:

- (i) enactment, amendment, or repeal of Board of Audit Regulations under the

- provisions of Article 38;
- (ii) the statement of audit under the provisions of Article 29;
- (ii)-2 a report under the provisions of Article 30-2;
- (iii) determination of the audit subject under the provisions of Article 23;
- (iv) matters relating to the Submission of Accounts under the provisions of Article 24;
- (v) matters relating to a demand for disciplinary action under the provisions of Article 31 of this Act; Article 13, paragraph (2) of the Act on Prevention of Delays in Payment under Government Contracts (Act No.256 of 1949); or Article 6, paragraphs (1) and (4) of the Act on the Responsibility of Government Employees Who Execute the Budget (Act No.172 of 1950) (including as applied mutatis mutandis under the provisions of Article 9, paragraph (2) of said Act);
- (vi) adjudication and re-adjudication under the provisions of Article 32 of this Act (including as applied mutatis mutandis under the provisions of Article 10, paragraph (3) or Article 11, paragraph (2) of the Act on the Responsibility of Government Employees Who Execute the Budget); or Article 4, paragraph (1) or Article 5 of the Act on the Responsibility of Government Employees Who Execute the Budget (including as applied mutatis mutandis under the provisions of Article 8, paragraph (3) or Article 9, paragraph (2) of said Act);
- (vii) decision for examination under the provisions of Article 35;
- (viii) presentation of opinions, and demand for measures under the provisions of Article 36;
- (ix) presentation of opinions under the provisions of Article 37 of this Act and Article 9, paragraph (5) of the Act on the Responsibility of Government Employees Who Execute the Budget.

#### **Section 4 General Executive Bureau**

- Article 12 (1) The General Executive Bureau undertakes affairs of administration, audit, and examination under the direction and supervision of the Audit Commission.
- (2) A Secretariat and the following five bureaus are established in the General Executive Bureau:
- 1st Bureau
  - 2nd Bureau
  - 3rd Bureau
  - 4th Bureau
  - 5th Bureau
- (3) Assignment of tasks to the Secretariat and the Bureaus, and the organizational subdivisions thereof, are as provided for by Board of Audit

Regulations.

Article 13 One Secretary General, one Deputy Secretary General, Personal Secretaries, Administrative Officials, Technical Officials, and such other employees as are required are positioned in the General Executive Bureau.

Article 14 (1) Employees referred to in the preceding Article are appointed, dismissed, promoted, and demoted by the President of the Board of Audit pursuant to a consensus decision by the Commissioners.

(2) The President of the Board of Audit may delegate the authority referred to in the preceding paragraph to the Secretary General pursuant to a consensus decision by the Commissioners.

Article 15 (1) The Secretary General presides over the tasks of the General Executive Bureau, and signs its official documents.

(2) The Deputy Secretary General assists the Secretary General and, if the office of Secretary General becomes vacant or the Secretary General is incapacitated, the Deputy Secretary General carries out the duties of that office.

Article 16 (1) A Director General is positioned in each Bureau.

(2) The Director General administers the tasks of the Bureau, under the orders of the Secretary General.

Article 17 (1) A Personal Secretary engages in administrative work involving confidential matters, under the orders of the Commissioner.

(2) Administrative Officials engage in affairs of administration, audit, and examination under the direction of their superiors.

Article 18 Technical Officials engage in technical work, under the direction of their superiors.

Article 19 The Board of Audit may have branch offices as provided for by Board of Audit Regulations.

#### **Section 5 The Information Disclosure and Personal Information Protection Review Board of the Board of Audit**

Article 19-2 (1) The Information Disclosure and Personal Information Protection Review Board of the Board of Audit is established in the Board of Audit, in order to study and deliberate on appeals in response to consultations by the President of the Board of Audit under the provisions of Article 18 of the Act on

Access to Information Held by Administrative Organs (Act No.42 of 1999) and Article 42 of the Act on the Protection of Personal Information Held by Administrative Organs (Act No.58 of 2003).

- (2) The Information Disclosure and Personal Information Protection Review Board of the Board of Audit is composed of three Members.
- (3) Members serve on a part-time basis.

Article 19-3 (1) Members are appointed by the President of the Board of Audit with the consent of both Houses of the Diet, from among persons who possess a wide range of knowledge and sound judgment.

- (2) Notwithstanding the provisions of the preceding paragraph, the President of the Board of Audit may appoint a Member from among persons qualified under the preceding paragraph, if the term of office of a Member expires or a vacancy occurs among the Members and the consent of both Houses of the Diet cannot be obtained because the Diet is not in session or due to the dissolution of the House of Representatives.
- (3) In the case referred to in the preceding paragraph, ex post facto approval must be obtained from both Houses of the Diet at the first session of the Diet after the appointment. In such a case, if ex post facto approval is not obtained from both Houses of the Diet, the President of the Board of Audit must immediately dismiss the relevant Member.
- (4) A Member's term of office shall be three years; provided, however, that the term of office of a Member filling a vacancy shall be the remaining term of the predecessor.
- (5) Members may be reappointed.
- (6) When a Member's term of office expires, such Member shall continue to carry out his/her duties until a successor is appointed.
- (7) If the President of the Board of Audit finds that a Member is unable to perform his/her duties due to a mental or physical disorder, or finds that there has been a breach of obligation in the course of duty or other conduct unbecoming a Member, the President of the Board of Audit may dismiss the Member, after having obtained the consent of both Houses of the Diet.
- (8) A Member must not divulge any confidential information learned in the course of duty. The same applies after a Member has left office.
- (9) While in office, a Member may not become the officer of a political party or other political organization, nor may a Member actively take part in political activities.
- (10) The remuneration for Members is provided for separately in another Act.

Article 19-4 The provisions of Chapter III of the Act for Establishment of the Information Disclosure and Personal Information Protection Board (Act No.60

of 2003) apply mutatis mutandis to the Information Disclosure and Personal Information Protection Review Board of the Board of Audit's procedures for study and deliberation. In this case, the phrase "Review Board" in that Chapter is deemed to be replaced with "Information Disclosure and Personal Information Protection Review Board of the Board of Audit."

Article 19-5 A person who has divulged any confidential information, in violation of the provisions of Article 19-3 paragraph (8), is subject to imprisonment with work for up to one year or to a fine of up to 300,000 yen.

Article 19-6 Beyond what is provided for in Articles 19-2 to 19-5, necessary particulars in relation to the Information Disclosure and Personal Information Protection Review Board of the Board of Audit are prescribed by Board of Audit Regulations.

## **Chapter II MANDATE**

### **Section 1 General Provisions**

Article 20 (1) The Board of Audit audits the final accounts of the expenditures and revenues of the State, pursuant to the provisions of Article 90 of the Constitution of Japan, and also audits such accounts as are provided for by law.  
(2) The Board of Audit continuously conducts its audit, supervises financial management, ensures its adequacy, and rectifies any defects.  
(3) The Board of Audit shall conduct its audit with the objective of accuracy, regularity, economy, efficiency, effectiveness, or other objectives necessary for auditing.

Article 21 The Board of Audit verifies the final accounts of the expenditures and revenues of the State through the results of its audit.

### **Section 2 Scope of Audit**

Article 22 The following items require audits by the Board of Audit:

- (i) monthly expenditures and revenues of the State;
- (ii) receipt and payment of cash or receipt and issue of goods owned by the State as well as national property;
- (iii) acquisition and loss of claims held by the State and increases and decreases of national government bonds and other obligations;
- (iv) receipt and payment of cash or receipt and issue of precious metals and securities by the Bank of Japan on behalf of the State;
- (v) accounts of juridical persons to which the State has contributed half or

- more of the stated capital;
- (vi) accounts specified by law as being subject to audit by the Board of Audit.

Article 23 (1) The Board of Audit may audit financial management in terms of the following, if it considers this to be necessary, or at the request of the Cabinet:

- (i) securities owned or retained by the State, and cash and goods retained by the State;
  - (ii) receipt and payment of cash or receipt and issue of goods and securities by entities other than the State, on behalf of the State;
  - (iii) accounts of an entity that the State has directly or indirectly granted a subsidy, incentive, or aid, or extended other financial assistance such as a loan or an indemnity;
  - (iv) accounts of an entity a part of whose stated capital is contributed by the State
  - (v) accounts of an entity that has further been contributed to by an entity to whose stated capital the State has contributed;
  - (vi) accounts of an entity for whose borrowings the State guarantees payment of the principal or interest;
  - (vii) accounts of a contractor for construction or other services, or a person entrusted with administrative work or services, rendered to the State or to a juridical person provided for in item (v) of the preceding Article (hereafter referred to in this item as "the State, etc. "), or accounts of a supplier of goods to the State, etc., which relate to the contract with the State, etc.
- (2) When the Board of Audit conducts an audit pursuant to the provisions of the preceding paragraph, it shall notify the parties concerned of this.

### **Section 3 Auditing Methods**

- Article 24 (1) An entity subject to audit by the Board of Audit must, pursuant to the regulations on the Submission of Accounts set forth by the Board of Audit, regularly submit statements of accounts (including electromagnetic records (meaning records made in an electronic form, a magnetic form, or any other form not recognizable through human perception, and which are set forth by Board of Audit Regulations as those for use in computer data-processing; the same applies in the following paragraph) on which the matters that are to be stated in the relevant statement of accounts have been recorded; the same applies hereafter) and documentary evidence (including electromagnetic records on which the matters that are to be stated in the relevant documentary evidence have been recorded; the same applies hereafter) to the Board of Audit.
- (2) Other documents specified by the Board of Audit (including electromagnetic

records on which the matters that are to be stated in the relevant documents have been recorded) may be submitted to the Board of Audit regarding the receipt and payment of cash or receipt and issue of goods and securities owned or retained by the State, in place of the statements of accounts and documentary evidence set forth in the preceding paragraph.

Article 25 The Board of Audit may dispatch its staff to conduct field audits on a regular or temporary basis. In such cases, the entity subject to the field audits must accept such audits.

Article 26 The Board of Audit may, if necessary for an audit, request the entity subject to the audit to submit its books, documents, other materials, or reports, and may question any relevant party or request such party to appear. In such a case, the entity that has been requested to submit its books, documents, other materials, or reports, or the party questioned or requested to appear must respond accordingly.

Article 27 If one of the following facts occurs with regard to financial management subject to audit by the Board of Audit, the head of the relevant department, the supervising authority, or other person similarly responsible must report this immediately to the Board of Audit:

- (i) discovery of a crime in connection with an accounting;
- (ii) discovery of loss of cash, securities, or other property.

Article 28 The Board of Audit may, if necessary for an audit, ask government agencies, public entities, and any other party to submit materials, give expert opinions, etc.

#### **Section 4 Statement of Audit**

Article 29 The following matters must be set down in the statement of audit to be prepared pursuant to Article 90 of the Constitution of Japan:

- (i) verification of the final accounts of the expenditures and revenues of the State;
- (ii) whether the amounts in the final accounts of the expenditures and revenues of the State correspond to the amounts in the statements of accounts submitted by the Bank of Japan;
- (iii) whether the audit resulted in an item being found in violation of the law, Cabinet Order, or the approved budget, or being found improper;
- (iv) whether there was any disbursement from the reserve fund that did not pass through the procedures for obtaining the Diet's approval;

- (v) matters regarding which the Board of Audit has demanded disciplinary action pursuant to the provisions of Article 31 of this Act, Article 13, paragraph (2) of the Act on Prevention of Delay in Payment under Government Contracts, or Article 6, paragraph (1) of the Act on the Responsibility of Government Employees Who Execute the Budget (including as applied mutatis mutandis pursuant to the provisions of Article 9, paragraph (2) of the same Act), and the results thereof;
- (vi) adjudication and re-adjudication under the provisions of Article 32 of this Act (including as applied mutatis mutandis pursuant to the provisions of Article 10, paragraph (3) or Article 11, paragraph (2) of the Act on the Responsibility of Government Employees Who Execute the Budget), or Article 4, paragraph (1) or Article 5 of the Act on the Responsibility of Government Employees Who Execute the Budget (including as applied mutatis mutandis pursuant to the provisions of Article 8, paragraph (3) or Article 9, paragraph (2) of the same Act);
- (vii) matters regarding which the Board of Audit has presented its opinions or demanded measures pursuant to the provisions of Article 34, and the results thereof;
- (viii) matters regarding which the Board of Audit has presented its opinions or demanded measures pursuant to the provisions of Article 36, and the results thereof.

Article 30 If the Board of Audit finds that it is necessary to appear before the Diet to explain the statement of audit set forth in the preceding Article, it may have a Commissioner explain this in an appearance before the Diet or in writing.

Article 30-2 The Board of Audit may, at any time, report to the Diet and the Cabinet on matters regarding which the Board of Audit has presented its opinions or demanded measures pursuant to the provisions of Article 34 or 36, or regarding other matters that the Board of Audit finds it particularly necessary to report.

Article 30-3 If the Board of Audit receives a request from either House, any of the Committees of either House, or any of the Research Committees of the House of Councillors under the provisions of Article 105 of the Diet Law (Act No.79 of 1947) (including as applied mutatis mutandis pursuant to the provisions of Article 54-4 paragraph (1) of the same Act), it may conduct an audit of the specific matters requested and report the results.

## **Section 5 Liability of Accounting Officials**

Article 31 (1) If the Board of Audit has concluded, as a result of its audit, that an official who handles accounting for the State has caused substantial damage to the State through intent or gross negligence, the Board of Audit may demand the head of the relevant department or other person responsible for supervision to take disciplinary action.

(2) The provisions of the preceding paragraph apply if an official who handles accounting for the State does not observe the regulations on the Submission of Accounts, for instance by neglecting to submit statements of accounts and documentary evidence, or does not comply with a demand made upon him/her pursuant to the provisions of Article 26.

Article 32 (1) If an official responsible for cash handling has lost cash, the Board of Audit shall inquire into whether he/she has in fact caused damage to the State through his/her failure to exercise the due care of a prudent manager, and adjudicate whether he/she is liable to indemnify.

(2) If an official responsible for handling goods has lost or damaged goods or otherwise caused damage to the State by handling goods in violation of the provisions of the State-Owned Goods Management Act (Act No.113 of 1956) or by not handling goods in compliance with the provisions of the same Act, the Board of Audit shall inquire into whether he/she has in fact caused damage to the State by intent or gross negligence, and adjudicate whether he/she is liable to indemnify.

(3) If the Board of Audit adjudicates that an official responsible for cash handling or an official responsible for handling goods is liable to indemnify, the head of his/her department or any other person responsible for supervision must order the official to pay the indemnity in accordance with the adjudication set forth in the preceding two paragraphs.

(4) The liability to indemnify provided for in paragraph (1) or (2) is not remitted or reduced unless decided by the Diet.

(5) Even if the Board of Audit has adjudicated that an official responsible for cash handling or an official responsible for handling goods is not liable to indemnify pursuant to the provisions of paragraph (1) or (2), the Board of Audit may re-adjudicate within five years if it discovers that such adjudication was improper, for instance due to an error or omission, etc., in the statement of accounts or documentary evidence. The provisions of the preceding two paragraphs apply *mutatis mutandis* in such a case.

Article 33 If the Board of Audit concludes, as a result of its audit, that an official who handles accounting for the State has committed a crime in the course of duty, it must notify the Public Prosecutors Office of the case.

## **Section 6 Miscellaneous Provisions**

Article 34 If there are items that the Board of Audit finds, in the course of its audit, to violate laws and regulations on financial management or to be improper, it may immediately present its opinions on the financial management to, or demand appropriate measures with regard to the financial management from, the head of the relevant department or from the relevant parties, and may have them take measures to rectify and improve subsequent management.

Article 35 (1) If the Board of Audit has been requested by an interested party to examine the conduct of an official who handles accounting for the State with regard to the handling of financial management, the Board of Audit must examine that official's conduct and, if the Board of Audit considers it necessary for such conduct to be corrected in consequence, it must notify the competent authorities or other responsible parties of this judgment.

(2) If the competent authorities or responsible parties have been notified as referred to in the preceding paragraph, they must take appropriate measures pursuant to the judgment of which they have been notified.

Article 36 If, as a result of its audit, the Board of Audit finds there to be matters necessitating improvement with regard to laws and regulations, systems, or administration, it may present its opinions to, or demand measures for improvement from, the competent authorities or other responsible parties.

Article 37 (1) The Board of Audit shall be notified of the following cases in advance and may present its opinions thereon:

- (i) enactment, amendment, or repeal of laws and regulations concerning State financial management;
- (ii) enactment, amendment, or repeal of rules and regulations concerning State handling and accounting of cash, goods, and securities, or bookkeeping.

(2) If an official who handles accounting for the State requests an opinion from the Board of Audit with regard to a matter he/she is unsure of in connection with the performance of his/her official duties, the Board of Audit must present its opinion about this.

## **Chapter III BOARD OF AUDIT REGULATIONS**

Article 38 The Board of Audit shall set forth such regulations as are necessary with regard to its audit, beyond those set forth in this Act.