

The Board of Audit Act (Tentative translation)

(Act No. 73 of April 19, 1947)

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Chapter I Organization

Section 1 General Provisions

Article 1 The Board of Audit is independent from the Cabinet.

Article 2 The Board of Audit is composed of the Audit Commission consisting of three Commissioners, and the 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 retire from office by operation of law.
- (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 is five years, and a Commissioner may be reappointed for only another term.

- (2) If a vacancy arises in the office of Commissioner during their 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 70.

Article 6 A Commissioner retires from office if a resolution is adopted by both Houses of the Diet following a decision by mutual consent of the other Commissioners that the Commissioner is unable to perform their duties due to a mental or physical disorder or that the other Commissioners made a decision by mutual consent that the Commissioner has in fact breached their obligation in the course of duty.

Article 7 A Commissioner forfeits their office if the Commissioner is sentenced to a punishment of imprisonment 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 their office against their own will.

Article 9 A Commissioner may neither concurrently hold any other office, nor become a member of the Diet, an employee of a local government, or a member of a local assembly.

Section 3 Audit Commission

Article 10 The President of the Board of Audit assumes the role of the Chair of the Audit Commission.

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

- (i) enactment, amendment, or repeal of the Regulations of the Board of Audit 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 entities subject to audit 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); and Article 6, paragraphs (1) and (4) of the Act on the Responsibilities of Government Employees Who Execute the Budget (Act No.172 of 1950) (including as applied mutatis mutandis pursuant to the provisions of Article 9, paragraph (2) of that Act);
- (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) and Article 11, paragraph (2) of the Act on the Responsibilities of Government Employees Who Execute the Budget); and Article 4, paragraph (1) and Article 5 of the Act on the Responsibilities of Government Employees Who Execute the Budget (including as applied mutatis mutandis pursuant to the provisions of Article 8, paragraph (3) and Article 9, paragraph (2) of that Act);
- (vii) decision for examination under the provisions of Article 35;
- (viii) presentation of opinions or 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 Responsibilities of Government Employees Who Execute the Budget.

Section 4 General Executive Bureau

Article 12 (1) The General Executive Bureau undertakes general affairs and functions of audit and examination under the direction and supervision of the Audit Commission.

(2) The General Executive Bureau has a Secretariat and the following five Bureaus:

- 1st Bureau
- 2nd Bureau
- 3rd Bureau
- 4th Bureau

5th Bureau

- (3) Assignment of functions to the Secretariat and the Bureaus, and the organizational subdivisions thereof, are as provided for by the Regulations of the Board of Audit.

Article 13 The General Executive Bureau has one Secretary General, one Deputy Secretary General, personal secretaries, administrative officials, technical officials, and other necessary employees.

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 general agreement reached by mutual consent of 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 made by the Commissioners.

Article 15 (1) The Secretary General presides over the functions 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) Each Bureau has a Director General.

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

Article 17 (1) Personal secretaries engage in functions involving confidential matters, under the orders of the Commissioner.

- (2) Administrative officials engage in general affairs, functions of audit, or 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 the Regulations of the Board of Audit.

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

Article 19-2 (1) The Board of Audit has the Review Board of the Board of Audit for the Information Disclosure and Personal Information Protection, in order to respond to inquiries from the President of the Board of Audit and to review and deliberate the request for administrative review under the provisions of Article 19, paragraph (1) of the Act on Access to Information Held by Administrative Organs (Act No.42 of 1999) and Article 105, paragraph (1) of the Act on the Protection of Personal Information (Act No.57 of 2003).

(2) The Review Board of the Board of Audit for the Information Disclosure and Personal Information Protection 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 having broad knowledge and strong acumen.

(2) Notwithstanding the provisions of the preceding paragraph, the President of the Board of Audit may appoint a Member from among persons who have the qualifications under the preceding paragraph, if the term of office of a Member expires or a vacancy occurs in 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 this 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 is three years; provided, however, that the term of office of a Member filling the vacancy is the remaining term of the predecessor.

(5) Members may be reappointed.

(6) When a Member's term of office expires, the relevant Member is to continuously carry out their duties until a successor is appointed.

(7) If the President of the Board of Audit finds that a Member is unable to perform their duties due to a mental or physical disorder, or finds that a Member is in breach of obligation in the course of duty or has engaged in 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 neither become the officer of a political party or other political organization, nor 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 procedures for review and deliberation implemented by the Review Board of the Board of Audit for the Information Disclosure and Personal Information Protection. In this case, the phrase the "Review Board" in that chapter is deemed to be replaced with the "Review Board of the Board of Audit for the Information Disclosure and Personal Information Protection."

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 for not more than one year or to a fine not exceeding 500,000 yen.

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

Chapter II Mandate

Section 1 General Provisions

Article 20 (1) The Board of Audit audits the final accounts of the revenues and expenditures of the State, pursuant to the provisions of Article 90 of the Constitution of Japan, and also audits the accounts provided for by law.

(2) The Board of Audit continuously conducts audit, supervises financial management, ensures its adequacy, and rectifies any defects.

(3) The Board of Audit is to conduct audits in terms of accuracy, regularity, economy, efficiency, effectiveness, and from other perspectives necessary for auditing.

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

Section 2 Scope of Audit

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

- (i) monthly revenues and expenditures of the State;
- (ii) receipts and payments of cash, and receipts and transfers of goods owned by the State as well as those of national properties;
- (iii) acquisition or loss of claims held by the State, or an increase or decrease in

- government bonds and other obligations;
- (iv) receipts and payments of cash, and receipts and transfers of precious metals and securities handled by the Bank of Japan on behalf of the State;
- (v) accounts of juridical persons to which the State has contributed 50 percent or more of their 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 set forth below, if it finds it necessary to do so, or at the request of the Cabinet:

- (i) securities owned or retained by the State, or cash and goods retained by the State;
 - (ii) receipts and payments of cash or receipts and transfers of goods and securities handled by entities other than the State, on behalf of the State;
 - (iii) accounts of an entity for which 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 whose stated capital has been contributed in part by the State;
 - (v) accounts of an entity whose stated capital has been contributed by an entity whose stated capital has been contributed by the State;
 - (vi) accounts of an entity for whose borrowings the State guarantees the payment of the principal or interest;
 - (vii) accounts of a contractor for construction work implemented or other services provided by the State or a juridical person provided for in item (v) of the preceding Article (hereafter referred to as the "State, etc. " in this item), or an entrustee to whom administrative work or services are entrusted by the State, etc. or 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, they are to 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 established by the Board of Audit, regularly submit statements of accounts (including electromagnetic records (meaning a record used in computerized information processing which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses, and which are established by the Regulations of the Board of Audit as those for use in computer data-processing; the same applies in the following paragraph) on which the matters that must 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 must 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 must be stated in the relevant documents have been recorded) may be submitted to the Board of Audit regarding the receipts and payments of cash, and receipts and transfers 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 employees to conduct a field audit on a regular or temporary basis. In this case, the entity subject to the field audit must accept it.

Article 26 When the Board of Audit finds it necessary for them to conduct an audit, the Board may request the entity subject to the audit to submit its books, documents, other materials, or reports, or may question any relevant entity or request the relevant entity to appear. In this case, the entity that has been requested to submit its books, documents, other materials, or reports, or the relevant entity 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 ministry or agency or the supervisory government agency, or other responsible person equivalent thereto must report this immediately to the Board of Audit:

- (i) revelation of a crime in relation to the accounting;
- (ii) discovery of loss of cash, securities, or other properties.

Article 28 The Board of Audit, if it is necessary for an audit, may request 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 forth 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 revenues and expenditures of the State;
- (ii) whether the amounts in the final accounts of the revenues and expenditures of the State are equal to the amounts in the statements of

- accounts submitted by the Bank of Japan;
- (iii) whether any item is found to be in violation of the law, Cabinet Order, or the approved budget, or to be improprieties, based on audit findings;
 - (iv) whether there are any payments from the reserve fund that have not gone through the procedures for obtaining the Diet's approval;
 - (v) matters for 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, and Article 6, paragraph (1) of the Act on the Responsibilities of Government Employees Who Execute the Budget (including as applied *mutatis mutandis* pursuant to the provisions of Article 9, paragraph (2) of that 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) and Article 11, paragraph (2) of the Act on the Responsibilities of Government Employees Who Execute the Budget), and Article 4, paragraph (1) and Article 5 of the Act on the Responsibilities of Government Employees Who Execute the Budget (including as applied *mutatis mutandis* pursuant to the provisions of Article 8, paragraph (3) and Article 9, paragraph (2) of that Act);
 - (vii) matters on which the Board of Audit has presented its opinions or for which measures are demanded pursuant to the provisions of Article 34, and the results thereof;
 - (viii) matters on which the Board of Audit has presented its opinions or for which measures are demanded pursuant to the provisions of Article 36, and the results thereof.

Article 30 If the Board of Audit finds it necessary to appear before the Diet to explain the statement of audit referred to in the preceding Article, it may explain the statement by having a Commissioner appear 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 on which the Board of Audit has presented its opinions or for which measures are demanded pursuant to the provisions of Article 34 or 36, or on 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 one of the Houses, the Committees thereof, 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 that Act), it may conduct an audit of the specific matters requested and report the results.

Section 5 Liabilities of Accounting Officials

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

(2) The provisions of the preceding paragraph apply mutatis mutandis if an official who handles the accounting for the State does not observe the regulations on the submission of accounts, for instance, a failure to submit statements of accounts and documentary evidence due to negligence, or if an official who has received a demand under the provisions of Article 26 fail to comply with the demand.

Article 32 (1) If an official responsible for cash handling has lost cash, the Board of Audit examines whether they have in fact caused damage to the State through their failure to exercise the due care of a prudent manager, and adjudicates whether they are liable to indemnify.

(2) If an official responsible for handling goods has lost or damaged the 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 the goods in compliance with the provisions of that Act, the Board of Audit examines whether they have in fact caused damage to the State intentionally or by gross negligence, and adjudicates whether they are liable to indemnify.

(3) If the Board of Audit has adjudicated that an official responsible for cash handling or an official responsible for handling goods is liable to indemnify, the head of the relevant ministry or agency to which the official belongs or any other person responsible for supervision must order the official to pay the indemnity in accordance with the adjudication referred to in the preceding two paragraphs.

(4) The liabilities to indemnify provided for in paragraph (1) or (2) is not reduced or exempted unless otherwise based on the resolution adopted 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 the liabilities for only another five years if it finds

that the adjudication was improper, 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 this case.

Article 33 If the Board of Audit concludes, as a result of its audit, that an official who handles the 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 the Board of Audit finds that, in the course of its audit, there are items that violate laws and regulations on financial management or that are improper, it may immediately present its opinions on the financial management to the head of the relevant ministry or agency or a relevant person, or demand them to take appropriate measures for the financial management, 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 handling of financial management conducted by an official who handles the accounting for the State, the Board of Audit must examine that official's handling and as a result of that, if the Board of Audit concludes that the handling needs to be corrected, it must notify its judgement to the competent authorities or other responsible parties.

(2) Upon receipt of a notification referred to in the preceding paragraph, the competent authorities or responsible parties must take appropriate measures pursuant to the notification of the judgement.

Article 36 If, as a result of its audit, the Board of Audit finds that there are any matters concerning laws and regulations, systems or administration that need to be improved, it may present its opinions to the competent authorities or other responsible parties, or demand them to take measures for the improvement.

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 receipts and payments of cash, receipts and transfers of goods and securities, and bookkeeping of the State.

- (2) If an official who handles the accounting for the State seeks the opinion of the Board of Audit regarding the matters on which the official has questions in performing their official duties, the Board of Audit must give its feedback on these matters.

Chapter III Regulations of the Board of Audit

Article 38 Beyond what is provided for in this Act, the Board of Audit sets regulations necessary for the audits.