

# Local Autonomy Law

## Chapter IX Finance

### Section I. Fiscal Year and Division of Accounts

#### (Fiscal Year)

Article 208. The fiscal year of the ordinary local public body shall begin on the first day of April every year and end on the thirty-first day of March in the following year.

2. The expenses in each fiscal year shall be financed with the revenues of the current fiscal year.

#### (Accounts)

Article 209. The ordinary local public body shall have general and special accounts.

2. A special account may be established by bylaw in order to meet the need of accounting for specific revenues and expenditures aside from the general revenues and expenditures for the purpose of carrying on specific activities of the ordinary local public body or otherwise financing specific expenses with specific revenues.

### Section II. Budget

#### (Integration into Budget)

Article 210 All estimated revenues and expenditures within each fiscal year shall be integrated into the budget of revenues and expenditures.

#### (Budgeting)

Article 211. The chief executive shall prepare a budget and secure the approval of the assembly prior to the beginning of each fiscal year. The chief executive shall make best efforts to submit the budget to the assembly at least thirty days (in case of To, Do, Fu or Ken or specified cities as referred to in paragraph 1 of Article 252-19) or twenty days (in case of other cities or towns or villages) prior to the beginning of each fiscal year.

2. The chief executive shall attach budgetary explanations as provided in cabinet order, to the budget.

#### (Continuing Appropriation)

Article 212. If necessary for the purpose of financing such projects of the ordinary local public body as may take two or more fiscal years to complete, appropriation covering two or more fiscal years may be made in the budget, which shall stipulate the annual payment schedule as well as the total sum of such expenditure.

2. Such appropriation covering two or more fiscal years shall be referred to as continuing appropriation.

#### (Biennial Appropriation)

Article 213. If any appropriation in the budget of annual expenditures, either by its nature or for such causes as may arise after the coming into force of the budget, be anticipated not to be used up within the fiscal year, authorization may be made in the budget for any unexpended balance of such appropriation to be carried over to the following fiscal year.

2. Such appropriation shall be referred to as biennial appropriation.

#### (Authorized Obligation)

Article 214. An obligation-incurring authority shall be conferred by the budget upon the ordinary local public body to enable it to obligate itself, except where it does so within the limits of the budget of annual expenditures, the total sum of continuing appropriation or the sum of biennial appropriation.

#### (Contents of the Budget)

Article 215. The budget shall be divided into the following sections:

1. The budget of annual revenues and expenditures;
2. Continuing appropriations;
3. Biennial appropriations;
4. Authorized obligations;
5. Local public bonds;
6. Floating debt;
7. Transfers of money between sections in the budget of annual expenditures.

(Division of the Budget)

Article 216. The budget of annual revenues shall be divided according to the nature of revenue into sections, which in turn shall be divided into subsections; the budget of annual expenditures shall be divided according to the purpose of expenditure into sections and subsections.

(Reserve Fund)

Article 217. A reserve fund shall be established in the budget of annual revenues and expenditures, to provide for any unforeseen needs outside of, or beyond the limits of, the budget. However, such reserve fund may be dispensed with in special accounts.

2. No money of the reserve fund shall be expended for any purpose expressly voted down by the assembly.

(Supplementary Budget)

Article 218. The chief executive may prepare a supplementary budget to submit to the assembly, if any need of supplementing or otherwise amending the existing budget arise from the circumstances subsequent to the preparation thereof.

2. The chief executive may, as occasion demands, prepare a temporary budget covering a specific period of a fiscal year to submit to the assembly.
3. Such temporary budget shall lose its force when the regular budget for the fiscal year comes into force. Any disbursement or obligation made or incurred under such temporary budget shall be considered as having been made or incurred under the regular budget of the fiscal year.
4. If, in a special account for a public enterprise designated by bylaw which finances its operational expenses chiefly with the revenue accruing from its own business activities, deficiencies arise in such operational expenses due to the expanded business of such enterprise, the chief executive may appropriate the concomitant increment of revenue realized from the expanded business to such increased need of expenses (except those specified in cabinet order). He/She shall report on such appropriation to the assembly at the next meeting.

(Transmittal of the Budget)

Article 219. The president of the assembly shall transmit the budget to the chief executive within three days from the resolution thereon.

2. The governor of To, Do, Fu or Ken or the mayor of cities, towns or villages shall, immediately upon receipt of the budget so transmitted, report it to the Minister of Home Affairs or the Governor of To, Do, Fu or Ken respectively, and publish its outline to the inhabitants, unless he/she find it necessary to be returned for reconsideration or to go through other procedures.

(Execution)

Article 220. The chief executive shall prescribe procedures for execution of budget in accordance with the standards established by cabinet order, and shall execute the budget pursuant thereto.

2. The money appropriated in the budget of annual expenditures may not be transferred between sections or between subsections. However if authorized in the budget, such money may be transferred between subsections, insofar as necessary for the execution of budget.

3. Except for the money appropriated in the biennial appropriation, no part of money appropriated in the budget of expenditures for a fiscal year may be expended in the succeeding fiscal year. However, such portion of the money obligated within the fiscal year, but for any inevitable cause left unexpended at the end of the fiscal year (including the money for expenses incidental to public works or other projects for which such obligation has been made), may be carried over into the succeeding fiscal year.

(Investigation)

Article 221. The chief executive may demand reports on the actual or estimated state of revenues and expenditures from commissions or commissioners or any competent organ thereunder, make field investigations on their execution of budget, or request them to take necessary measures in conformity with the results of such investigations, in order to assure proper execution of budget.

2. The chief executive may make investigations on, or demand reports from, contractors of public works, suppliers of goods, recipients (direct or indirect) of subsidies, grants-in-aid, loans, etc. or those commissioned to make investigations, examinations researches, etc.
3. The provisions of the preceding two paragraphs shall apply mutatis mutandis to any corporation specified in a cabinet order in which the ordinary local public body has made an investment, to any corporation specified in a cabinet order for which the ordinary local public body obligates itself by guaranteeing the repayment of the principal of a loan or its interest, or shoulders its liabilities by compensating for its losses or in any other manner, or to any fiduciary of a trust specified in a cabinet order in which the ordinary local public body has the right to receive benefits.

(Limitation on Bylaws)

Article 222. The chief executive shall not submit to the assembly any bylaw or other bills which involve a financial charge, unless and until necessary budgetary measures therefor are anticipated to be secured.

2. The chief executive, commissions or commissioners or organs thereunder shall not issue or amend regulations or other stipulations which involve a financial charge unless and until necessary budgetary measures therefor have been secured.

Section III. Revenue

(Local Tax)

Article 223. Each ordinary local public body shall have the right to levy and collect local taxes, as determined by law.

(Assessments)

Article 224. Each ordinary local public body may, except as provided in cabinet order, collect assessments from the beneficiaries of its project, to the amount proportionate to the benefit they receive, to appropriate to necessary expenses related thereto, if the benefit of such project is limited to a particular part of its inhabitants or of its area.

(Charge)

Article 225. Each ordinary local public body may collect charges for the use of administrative property permitted under paragraph 4 of Article 238-4 or the utilization of public facilities.

(Charge and Initial Charge)

Article 226. Where any public property of a city, town or village is being used under Article 238-6, such city, town or village may levy a charge for such use. If any one should be newly admitted to such use under paragraph 2 of the same article, an initial charge may be levied upon him/her.

(Fee)

Article 227. Each ordinary local public body may collect fees for its services rendered in the interest of particular persons.

(Regulations and Penalties regarding Assessments, etc.)

- Article 228. Matters related to assessments, charges, initial charges and fees shall be fixed by bylaw. In the event that fees are to be collected in relation to affairs for which it is stipulated by cabinet order that there is a need for a uniform fee nationwide (hereinafter referred to in this paragraph as "standard affairs"), such bylaws shall determine the standard amount to be collected as being the amount specified in the cabinet order.
2. Such bylaw may include provisions to impose an administrative fine not to exceed 50,000 yen, on any default in assessments, charges, initial charges or fees, with the exception of those matters provided for in the following paragraph.
  3. Such bylaw may include provisions to impose upon any person who has by deception or other unjust means evaded his/her assessments, charges, initial charges or fees, an administrative fine not to exceed five times the amount evaded or 50,000 yen if the said five times the amount does not exceed 50,000 yen.

(Appeal for Review)

- Article 229. Any person dissatisfied with an action taken in connection with collection of charges or fees by an organ referred to in paragraph 1 of Article 138-4 may appeal for review to the chief executive of the ordinary local public body.
2. Appeal for review from an action of organs other than those referred to in the preceding paragraph on collection of assessments, charges, initial charges or fees shall be made to the chief executive, even if he/she is not the administrative agency of the next higher instance to such organs.
  3. Appeal for review or exception against an action on collection of assessments, charges, initial charges or fees shall be made within thirty days from the day following such action, notwithstanding the provisions of the first sentence of paragraph 1 of Article 14 or Article 45 of the Administrative Complaint Review Law.
  4. The chief executive shall consult the assembly to decide upon appeal for review or exception against an action mentioned in the preceding paragraph.
  5. The assembly shall form its opinion within twenty days from the day of such consultation.
  6. No suit may be filed with the court against an action mentioned in paragraph 3, until adjudication or decision is given on appeal for review or exception as referred to in paragraph 4.

(Local Public Bonds)

- Article 230. Each ordinary local public body may issue local public bonds, as provided in its budget, in cases prescribed by law.
2. The purpose of issuance, the maximum amount, the method of issuance, interest rate and the method of liquidation of such public bonds shall be fixed in the budget.

(Revenue Collections)

- Article 231. Revenues shall be collected by fixing the amount claimable and notifying the obligor of such claim, as provided by cabinet order.

(Stamps, etc.)

- Article 231-2. The ordinary local public body may issue stamps for collection of charges and fees, as provided by bylaw.
2. When revenues are collected by means of stamps, sales of stamps shall be credited to the revenues.
  3. Revenues of the ordinary local public body where a banking institution is designated in accordance with Article 235 may, as provided by cabinet order, be paid in by means of transfer account or in securities, except those revenues to be paid in stamps.
  4. If securities paid in accordance with the preceding paragraph be repudiated, such revenue shall be considered as having been on-existent from the beginning. Necessary matters concerning the disposition of such repudiated securities shall be fixed by cabinet order.
  5. Except in cases revenues are to be paid in stamps, cities, towns or villages where no banking institution

is designated in accordance with Article 235 may, as provided by cabinet order, accept the commission from their obligor of collecting money on securities presented by him/her and of making payment with the money so collected.

(Default)

- Article 231-3. If any one shall default any assessment, charge, initial charge, fee or fine or whatever else he/she is to pay to the ordinary local public body, the chief executive thereof shall fix a time limit and so notice him/her.
2. Upon such defaulter may be charged a fee as well as overdue interest, as provided by bylaw.
  3. If any one shall default any assessment, charge, initial charge, fine or such fee or other payment as may be specified by law, and if the time limit fixed under paragraph 1 shall have expired, the chief executive may institute execution proceedings against him/her in the same manner as against any delinquent of local taxes. In the right of priority, such claim shall precede all the other claims but national and local taxes.
  4. If any such payment as is referred to in paragraph 1, including a fee and overdue interest charged under paragraph 2 is to be refunded, or if any notice is to be served, whether in a regular manner or by advertisement, with respect to collection or refundment of such sums, the procedures applicable to local taxes shall govern.
  5. Appeal for review from an action of organs other than the chief executive under the preceding four paragraphs shall be made to the chief executive, even if he/she is not the administrative agency of the next higher instance to such organs.
  6. Appeal for review or exception against an action under paragraphs 1 to 4 shall be made within thirty days from the day following such action, notwithstanding the provisions of the first sentence of paragraph 1 of Article 14 or Article 45 of the Administrative Complaint Review Law.
  7. The chief executive shall consult the assembly to decide upon appeal for review or exception against an action mentioned in the preceding paragraph.
  8. The assembly shall form its opinion within twenty days from the day of such consultation.
  9. No suit may be filed with the court against an action under paragraphs 1 to 4, until adjudication or decision is given on appeal for review or exception as referred to in paragraph 7.
  10. No public action shall be conducted upon attached properties pending the proceeding under paragraph 3.
  11. The processing under paragraph 3 may be instituted outside of the area of the ordinary local public body.

#### Section IV Expenditure

(Scope of Expenditures)

- Article 232. Each ordinary local public body shall bear the expenses necessarily incurred in the performance of its own affairs and other expenses falling to the ordinary local public body in accordance with laws or cabinet orders founded in law.
2. When the State, by laws or cabinet orders founded in law, obliges any ordinary local public body to perform functions, the State shall take the necessary measures for financing of the expenses thereby made necessary.

(Contribution or Subsidy)

- Article 232-2. The ordinary local public body may give contributions or subsidies insofar as is necessary for the public interest.

(Obligation)

- Article 232-3. Any contract or other action which would put the ordinary local public body under a promise of expenditure (referred to as obligation) shall be made in accordance with law or budget.

(Disbursement)

- Article 232-4. The chief accountant or treasurer may disburse no public money of the ordinary local public body, unless so ordered by the chief executive.
2. The chief accountant or treasurer may, even if ordered under the preceding paragraph, disburse no money until he/she has confirmed that such obligation is not against law or budget and that the amount of money so obligated is duly fixed.

(Disbursement)

- Article 232-5. No disbursement may be made but for its creditors.
2. Disbursement of the ordinary local public body may, according to cabinet order, be made by means of advanced funds, payment on account, advance payment, payment from the revenue, remittance or transfer account.

(Clerk)

- Article 232-6. Disbursement of the ordinary local public body where a banking institution is designated under Article 235 shall, according to cabinet order, be made by drawing a check upon the banking institution in lieu of paying in cash or by transmitting a transfer slip thereto. However, the chief accountant or treasurer may upon request of a creditor pay a small amount in cash or cause the banking institution to pay in cash, in lieu of drawing a check.
2. Such banking institution shall make payment upon presentation of the check drawn by the chief accountant or treasurer, even if it was drawn more than ten days before, insofar as it is presented within one year.

## Section V. Final Accounts

(Statement of Accounts)

- Article 233. The chief accountant or treasurer shall in accordance with cabinet order prepare a statement of accounts for each fiscal year to submit, together with deeds and other documents prescribed by cabinet order, to the chief executive within three months after the closing of accounts.
2. Such statement of accounts and other documents shall be referred to the audit commissioners.
  3. The chief executive shall submit to the assembly for certification the statement of accounts so audited and the comments of the audit commissioners, prior to the meeting for deliberation of the next regular budget.
  4. The comments mentioned in the preceding paragraph shall be determined by the mutual agreement of the audit commissioners.
  5. In submitting the statement of accounts to the assembly for its approval according to paragraph 3, the chief executive shall accompany such statement of accounts with documents describing the results of important policies pursued during the fiscal year accounted for and other documents prescribed by cabinet order.
  6. The chief executive shall submit the statement of accounts, the resolution of the assembly approving it and the comments of audit commissioners mentioned in paragraph 3 to the Minister of Home Affairs (in case of To, Do, Fu or Ken) or to the governor of To, Do, Fu, or Ken (in case of cities, towns or villages), and make public the outline thereof.

(Disposition of a Surplus)

- Article 233-2. Such surplus as may have accrued in the accounts at the end of a fiscal year shall be transferred to the revenue account of the next fiscal year. However, the whole or part of such surplus may by bylaw or by

resolution of the assembly be paid into a fund instead.

## Section VI. Contracts

### (Contracts)

- Article 234. Sale, lease, contract for construction and other contracts shall be entered into through open bidding, restricted bidding, negotiation or public auction.
2. Restricted bidding, negotiation or auction may not be resorted to, except in cases provided by cabinet order.
  3. In case of open or restricted bidding (hereinafter referred to as bidding throughout this Article), the ordinary local public body shall, as provided by cabinet order, shall enter into a contract with the highest or lowest bidder above or below the predetermined floor or ceiling price, as the case may be. However, as for such contracts as may put the ordinary local public body under a promise of expenditure, award may be given as provided by cabinet order to other than the lowest bidder.
  4. If the successful bidder fail to enter into the contract where bidders are required to furnish a bond, his/her bond (or security furnished in lieu thereof under cabinet order) shall fall to the ordinary local public body.
  5. When the ordinary local public body is to make out a written contract, such contract will not be consummated until both the chief executive or his/her assignee and the contractor affix their names and seals thereon.
  6. The qualifications for bidders, the method of advertisement of bidding or designation of qualified bidders, the procedures of contract by negotiation and public auction and other necessary matters related to conclusion of contracts shall be fixed by cabinet order.

### (Inspection)

- Article 234-2. When the ordinary local public body has entered into a contract for construction or manufacture, etc. or a contract for purchase, etc., necessary surveillance or inspection shall be made as provided by cabinet order to secure the proper fulfilment of such contract or to acknowledge the complete fulfilment thereof (or partial fulfilment of construction or manufacture or of transfer of goods, if partial payment is necessary before complete fulfilment).
2. If the contractor who has furnished a bond, fail to fulfil his/her contractual obligations, his/her bond (or security furnished in lieu thereof under cabinet order) shall fall to the ordinary local public body, unless indemnity or penalty is agreed upon in the contract, in which case such special provisions shall prevail.

### (Long-term Contract)

- Article 234-3. For the procurement of power, gas, or water supply, or telecommunication service, or for the lease of real property, an ordinary local public body may, notwithstanding the provisions of Article 214, enter into a contract extending into subsequent fiscal years. However, such procurement shall not exceed the limit of expenditures set forth in the budget for each fiscal year.

## Section VII. Cash and Securities

### (Banking Institution)

- Article 235. To, Do, Fu or Ken shall as provided by cabinet order designate a banking institution as a depository of its public money.
2. Cities, towns or villages may as provided by cabinet order designate a banking institution as a depository of its public money.

(Inspection)

Article 235-2. Receipts and payments of cash of the ordinary local public body shall be examined by audit commissioners on a fixed date of the month.

2. Audit commissioners may, if found necessary or if requested by the chief executive, audit the business of the banking institution under the preceding paragraph.
3. Audit commissioners shall submit the reports on the results of examination under paragraph 1 and of audits under the preceding paragraph to the assembly and the chief executive of the ordinary local public body.

(Floating Debt)

Article 235-3. The chief executive may contract a floating debt to make payment within the budget of expenditures.

2. The maximum amount of floating debt shall be fixed in the budget.
3. Such floating debt shall be redeemed with the revenues of the current fiscal year.

(Custody)

Article 235-4. All the cash that belongs to the treasury of the ordinary local public body shall be placed in custody in the most secure and profitable manner, as provided by cabinet order.

2. The ordinary local public body shall not hold in its custody any cash or securities which do not belong to its treasury, except as warranty for its claims, unless authorized by laws or cabinet orders.
3. Such cash as is placed in the custody of the ordinary local public body under the preceding paragraph (hereinafter referred to as "non-treasury cash") shall not bear interest, unless otherwise provided by law or contract.

(Closing of Accounts)

Article 235-5. The annual accounts of the ordinary local public body shall be closed on the thirty-first day of May each year.

## Section VIII. Prescription

(Extinctive Prescription)

Article 236. Pecuniary claims of, or to, the ordinary local public body shall be extinguished by prescription, unless enforced within five years, except otherwise provided by other laws.

2. Extinctive prescription for pecuniary claims of, or to, the ordinary local public body shall operate without being invoked, and the right to invoke it may not be waived, unless otherwise provided by law.
3. The Civil Code (Law No. 89 of 1896) shall apply mutatis mutandis where there is no applicable provision in other laws, with respect to interruption, suspension or other matters (except those prescribed in the preceding paragraph) of extinctive prescription for pecuniary claims of, or to, the ordinary local public body.
4. A notice or reminder of payment issued by the ordinary local public body in accordance with law shall have the force of interrupting prescription, notwithstanding the provisions of Article 153 of the Civil Code. This shall also apply, where the Civil Code applies on the strength of the preceding paragraph.

## Section IX. Property

(property)

Article 237. The term "property" in this law shall include public property, movables and claims and funds.

2. Except where paragraph 1 of Article 238-4 is applicable, property of the ordinary local public body may not



- be exchanged, invested or offered as a means of payment or transferred or leased without consideration, unless authorized by bylaw or resolution of the assembly.
3. No property of the ordinary local public body may be left in trust unless the provisions of paragraph 2 of Article 238-5 apply to any such property and the assembly shall, by resolution, have approved the leaving of the same in trust.

#### Subsection I. Public Property

##### (Public Property)

Article 238. The term "public property" in this Law shall comprise the following properties owned by an ordinary local public body, unless they belong to anyone of the funds:

- (1) Real Properties;
  - (2) Vessels, buoys, floating piers and floating docks and aircraft;
  - (3) Accessories to the real and personal properties referred to above;
  - (4) Superficies, easements, mining-rights and other similar rights;
  - (5) Patent rights, copyrights, trade-mark rights, utility model rights and other similar rights;
  - (6) Stocks, debentures (including those issued by a corporation established by a special law) and local public bonds (including those registered under the Law for the Registration of Debentures, etc. (Law No. 11 of 1942) and national public bonds (including those registered under the Law for National Bonds (Law No. 34 of 1906) and other similar securities;
  - (7) Investing rights; and
  - (8) Rights to receive benefits from real properties in trust.
2. Public property shall be classified into administrative and ordinary properties.
  3. Administrative property shall include all such properties as may be currently in the governmental or public use or determined to be put to such use; and ordinary property shall include all the rest of public properties.

##### (Overall Coordination)

Article 238-2. The chief executive may demand reports, make field investigations or demand necessary measures on the basis of such results, upon procurement or administration of public property of any commission or commissioner or any competent organ thereunder.

2. Any commission or commissioner or any competent organ thereunder shall consult with the chief executive in advance, if it intends to acquire any public property, or divert any administrative property now in use to some other purpose or lease any land being administrative property or create superficies upon such land under paragraph 2 of Article 238-4, or issue permits for the use of any administrative property under paragraph 4 of the same article within the categories specified by such chief executive.
3. Any commission or commissioner or any competent organ thereunder shall immediately transfer to the chief executive such administrative property under its administration as may have been disused.

##### (Prohibition)

Article 238-3. No person whose duties are related to public property may accept such public property in his/her charge in exchange for his/her own property or in any other manner whatsoever.

2. Any act in contravention of the preceding paragraph shall be null and void.

##### (Administrative Property)

Article 238-4. No administrative property may be leased, exchanged, sold, granted, invested or left in trust, or encumbered with private rights, except as specified in the following paragraph.

2. Land which is an administrative property may be leased, or encumbered with superficies to the extent not in conflict with its proper use or purpose, in accordance with a cabinet order, for the various uses specified by cabinet order by the State, other local public bodies or other persons specified by cabinet order. In this

case, the provisions of paragraphs 3 and 4 of the following article shall apply mutatis mutandis thereto.

3. Any act effected in contravention of paragraph 1 shall be null and void.
4. Permissions may be issued for the use of administrative property, to the extent not in conflict with its proper use or purpose.
5. Such permitted use of administrative property shall not be subject to the Land Lease and Rented House Law (Law No. 90 of 1991).
6. The chief executives or commissions may revoke the permission for the use of administrative property issued under paragraph 4, if any need arise of using the same for governmental or public purposes, or if any act be found in conflict with the conditions attached to such permission.

#### (Ordinary Property)

Article 238-5. Ordinary property may be leased, exchanged, sold, granted or invested, or encumbered with private rights.

2. Land (including any fixture) belonging to ordinary property may be left in trust specified in a cabinet order in which the ordinary local public body shall be a fiduciary.
3. If there arises any need for using the ordinary property currently leased to a private person for governmental or public purposes of the State, local public bodies or other public organizations before the expiration of the term of lease, the chief executive may terminate such lease contract.
4. If a lease contract is terminated under the preceding paragraph, the lessee may claim indemnity for any loss incurred therefrom.
5. In cases where the chief executive has leased ordinary property by prescribing the purpose of its use as well as the date and duration of such use, he/she may terminate such lease contract if the lessee fails to put it to such use before the prescribed date or disuses it before the end of the prescribed duration even if he/she puts it to such use once.
6. The provisions of paragraphs 3 and 4 shall apply mutatis mutandis where the use of ordinary property is permitted in any manner other than a lease; the provisions of the preceding paragraph shall apply mutatis mutandis where ordinary property is sold or granted.
7. The provisions of paragraphs 3 through 5 shall apply mutatis mutandis to any land (including any fixture) belonging to ordinary property which has been left in trust.
8. Except as prescribed in paragraph 6, necessary matters related to the sale or exchange of ordinary property shall be specified in a cabinet order.

#### (Customary Use)

Article 238-6. Customary rights of any particular inhabitant or inhabitants to the use of public property of cities, towns or villages shall be regulated in accordance with such custom. Such custom will not be tampered with except upon resolution of the assembly of cities, towns or villages.

2. If a person wishes to join in the use of such public property, the mayor of the city, town or village may authorize it upon resolution of the assembly.

#### (Complaint)

Article 238-7. Any person dissatisfied with an action of the chief executive upon the right to use administrative property under Article 238-4 may appeal to the Minister of Home Affairs (if the action is of the governor of To, Do, Fu or Ken) or to the governor of To, Do, Fu or Ken (if the action is of the mayor of cities, towns or villages). He/She may also take exception to such action.

2. Any person dissatisfied with an action of a commission upon the right to use administrative property under Article 238-4 may appeal to the chief executive.
3. Appeal from an action of organs other than chief executive and commissions shall be made to the chief executive, even if he/she is not the administrative agency of the next higher instance to such organs.
4. The chief executive shall consult the assembly to decide upon exception or appeal (except such as provided in paragraph 1) against an action upon the right to use administrative property.

5. The assembly shall form its opinion within twenty days from the day of such consultation.
6. A second appeal may be made from the adjudication given on appeal (except such as provided in paragraph 1), against an action upon the right to use administrative property to the minister of Home Affairs (if the adjudication is of the governor of To, Do, Fu or Ken) or to the governor of To, Do, Fu or Ken (if the adjudication is of the mayor of cities, towns or villages.)

#### Subsection II. Movables

(Goods)

Article 239. The term "movables" in this Law shall comprise all the personal properties owned by the ordinary local public body except the following and such other personal properties as may be in custody thereof for its own use (except those prescribed by cabinet order):

1. ash (including securities delivered in lieu of cash);
  2. Such personal properties as are included in public property; and
  3. Such personal properties as may belong to any one of the funds.
2. No person whose duties are related to movables may accept movables (except those prescribed by cabinet order) in his/her charge from the ordinary local public body.
  3. Any act in contravention with the preceding paragraph shall be null and void.
  4. Except as provided in the preceding two paragraphs, necessary matters related to the custody and disposal of movables shall be fixed by cabinet order.
  5. Necessary matters related to the custody of such personal properties entrusted to the ordinary local public body as may come under the categories prescribed by cabinet order (hereinafter referred to as "properties in trust") shall be fixed by cabinet order.

#### Subsection III. Claims

(Claims)

Article 240. The term "claim" in this chapter shall mean any right of the ordinary local public body to demand payment of money.

2. The chief executive shall serve a reminder, institute execution proceedings or otherwise take necessary measures for security and enforcement of claims, as provided by cabinet order.
3. The chief executive may suspend collection, postpone the term of payment or remit obligations with respect to claims, as provided by cabinet order.
4. The provisions of the preceding two paragraphs shall not apply to the following claims:
  1. Claims arising out of any imposition under the Local Tax Law (Law No.226 of 1950);
  2. Claims arising out of administrative fine;
  3. Claims incorporated in securities (including those registered under the Law for the Registration of Debentures, etc. or the Law for National Bonds);
  4. Claims arising out of bank deposits;
  5. Claims to demand payment of money which is to become non-treasury cash;
  6. Claims arising out of contributions; and
  7. Claims belonging to funds.

#### Subsection IV. Funds

(Funds)

- Article 241. Any ordinary local public body may by bylaw establish a fund in order to maintain property, reserve money or operate a fixed amount of money for a specific purpose.
2. Each fund shall be operated in accordance with such purpose as may be defined by bylaw under the preceding paragraph and in a manner both secure and effective.
  3. Any fund established under paragraph 1 in order to procure property or reserve money for a specific purpose shall not be disposed of for any other purposes.
  4. Profits accruing from the operation of a fund and expenses necessary for the custody of a fund shall be incorporated in the budget of revenues and expenditures for each fiscal year.
  5. As for a fund established under paragraph 1 in order to operate a fixed amount of money for a specific purpose, the chief executive shall, in each fiscal year, prepare a document stating the status of its operation, submit it to audit commissioners for audit and present it with their comments to the assembly together with the documents referred to in paragraph 5 of Article 233.
  6. The comments mentioned in the preceding paragraph shall be determined by the mutual agreement of the audit commissioners.
  7. Each fund shall, according to the nature of property belonging thereto, be administered in accordance with the ordinary procedures for the collection of revenues or disbursement, the receipt, expenditure or custody of treasury cash, the custody or disposal of public property or movables, or the administration of claims.
  8. Except as specified in paragraphs 2 through the preceding paragraph, necessary matters related to the administration and disposal of a fund shall be prescribed by bylaw.

Section X. Demand for Audit and Suit by Inhabitants

(Demand for Audit)

- Article 242. If any inhabitant of an ordinary local public body find that the chief executive or any commission or commissioner or any person in the service of the ordinary local public body has illegally or improperly disbursed public money, procured, administered or disposed of public property, concluded or performed contracts or incurred obligations or burdens or is anticipated with a high certainty to do so, or if he/she find that there is any illegal omission in levy or collection of public money or administration of public property, he/she may make petition to the audit commissioner(s) with corroborating documents for audit thereon to prevent or correct such act or omission, or to take necessary measures for indemnification of the losses incurred by the ordinary local public body on account of such act or omission.
2. Such petition may not be made after one year has passed from the day of the act or of the completion of the act, except where there is any proper reason.
  3. When a demand has been made in accordance with the stipulations of paragraph 1, the audit commissioner(s) shall carry out an audit thereon, and, if the demand be found unwarranted, inform the petitioner according to the stipulations of the same paragraph (hereafter referred to as "the petitioner") to that effect in writing, giving a statement of reasons and shall at the same time make a public announcement of the same. If the demand be found warranted the audit commissioner(s) shall make recommendation to the assembly, the chief executive or other executive organs or officers of the said ordinary local public body for necessary measures to be taken within the period specified, and shall also inform the petitioner of the contents of the said recommendation and make a public announcement of the same.
  4. The audit commissioners shall carry out the audit and make recommendation in accordance with the preceding paragraph within sixty days from the day of the petition made under paragraph 1.
  5. In carrying out the audit according to the stipulations of paragraph 3, the audit commissioner(s) shall afford to the petitioner the opportunity to present evidence and set forth his/her views.
  6. Decisions on audit and recommendation under paragraph 3 shall be determined by the mutual agreement of

the audit commissioners.

7. The assembly, the chief executive or other executive organs or officers, who received recommendation from the audit commissioner(s) under paragraph 3, shall take necessary measures within the period specified therein and notify the audit commissioner(s) to that effect, who in turn shall inform the petitioner thereof and make it public.

(Taxpayer's Suit)

Article 242-2. Any inhabitant of an ordinary local public body who has made petition under paragraph 1 of the preceding article may resort to one of the following judicial remedies for such illegal act or omission, if dissatisfied with the results of the audit or the recommendation of the results of audit or the recommendation of the audit commissioner(s), or with the measures taken by the assembly, the chief executive or other executive organs or officers under paragraph 7 of the same article, or if the audit commissioner(s) fail to audit or make recommendation under paragraph 3 of the same article within the period specified in paragraph 4 of the same article, or the assembly, the chief executive or other executive organs or officers fail to take measures under paragraph 7 of the same article. However, a suit envisaged in item 1 below may not be filed but in cases where such act will in all probability bring about irrecoverable damages to the ordinary local public body; and a suit for restitution of unjustified gains from an officer included in item 4 below shall be allowed only to the extent such gains are still retained in his/her hand:

1. He/She may sue for an injunction upon the whole or part of the act against such executive organs or officers;
2. He/She may sue for the quashing of the act or for the declaration of nullity of the act, if it is an administrative act;
3. He/She may sue for the declaration of illegality of the omission against such executive organs or officers; or
4. He/She may sue in subrogating himself/herself for the ordinary local public body for the damages or for the restitution of unjustified gains against such officers, or for the declaration of non-existence of legal rights, for the damages, for the restitution of unjustified gains, for the restoration of status quo ante or for an injunction of nuisance against persons responsible for the act or omission.
2. A suit under the preceding paragraph shall be filed within the following periods:
  1. When there is dissatisfaction with the results of the audit or the recommendation of the audit commissioner(s) - Within thirty days from the day of notification of the results of the said audit or the contents of the said recommendation;
  2. When dissatisfied with the measures taken by the assembly, the chief executive or other executive organs or officers upon recommendation of the audit commissioner(s) - Within thirty days from the day of notification from the audit commissioner(s) on such measures;
  3. When the audit commissioner(s) fail(s) to audit or make recommendation within sixty days from the day of petition - Within thirty days from the day when such sixty-day period has expired;
  4. When the assembly, the chief executive or other executive organs or officers fail to take the necessary measures upon recommendation of the audit commissioner(s) - Within thirty days from the day when the period specified in such recommendation has expired.
3. The periods specified in the preceding paragraph shall be peremptory.
4. While a suit under paragraph 1 is pending, no other inhabitants of the ordinary local public body may bring a separate suit to the court upon the same matter.
5. A suit under paragraph 1 shall fall within the exclusive jurisdiction of the District Court exercising the jurisdiction over the seat of office of the ordinary local public body.
6. Except as provided in the preceding four paragraphs, the provisions of Article 43 of the Administrative Litigation Law shall apply to a suit under paragraph 1.
7. Where a suitor who has filed a suit under item 4 of paragraph 1 and won the case wholly or partially is to pay remuneration to his/her lawyer, he/she has the right to request the ordinary local public body to bear an equitable portion of such expenses.
8. Where the said officer of a suit under item 4 of paragraph 1 who has won the case wholly or partially is to

pay remuneration to his/her lawyer, the ordinary local public body has the right through the resolution of the assembly to take upon itself the payment of an equitable portion of such expenses.

## Section XI. Miscellaneous Rules

### (Prohibition of Delegation)

Article 243. Except as otherwise provided by laws or cabinet orders duly authorized by laws, no ordinary local public body shall delegate to a private person the power to collect or receive or disburse public money, or otherwise cause a private person to collect or receive or disburse public money.

### (Liability for Damage)

Article 243-2. The chief accountant or treasurer or officers who assist him/her in his/her duties, officers entrusted with advanced funds, officers in custody of properties in trust or officers using movables shall be liable to indemnify any loss of or damage to cash, securities, movables (including those personal properties which belong to a fund) or properties in trust placed in their custody or movables in use caused intentionally or by gross negligence (as for cash, intentionally or by negligence). The officers empowered to perform the following acts or officers specified by regulation of the ordinary local public body to directly assist them in such acts shall be likewise liable for any damage to the ordinary local public body caused by their act or omission of act, intentional or by gross negligence, in violation of law:

1. Incur obligations;
  2. Order under paragraph 1 of Article 232-4 or confirm under paragraph 2 of the same article;
  3. Disburse or pay public money;
  4. Make surveillance or inspection under paragraph 1 of Article 234-2.
2. Where such damage has been caused by two or more officers, each officer shall be liable therefore according to his/her respective responsibilities and contributions to such damage.
  3. If the chief executive find that any officer referred to in paragraph 1 has caused damage to the ordinary local public body by any one of the acts enumerated therein, he/she shall request the audit commissioner(s) to investigate the fact and to determine his/her liability and, if liable, the amount of indemnity. Upon such determination, he/she shall order indemnification within a specified period, provided that such order shall be barred by the lapse of three years from the day when the fact came to knowledge, in the case referred to in the first sentence of paragraph 1, or from the day when the fact happened, in the case referred to in the second sentence of the same paragraph.
  4. Where the audit commissioner(s) determined that the officer is liable under the preceding paragraph, the chief executive may remit the whole or a part of his/her liability with the consent of the assembly, if he/she find warrantable the evidence presented by him/her that such damage was ascribable to unavoidable accidents or circumstances. Such remission shall be referred to the assembly, together with the opinion of the audit commissioner(s) which he/she shall hear in advance.
  5. A decision in accordance with paragraph 3, or the determination of an opinion under the preceding paragraph, shall be by the mutual agreement of the audit commissioners.
  6. Any person dissatisfied with the order given under paragraph 3 may appeal to the Minister of Home Affairs, if given by the governor of To, Do, Fu or Ken or to the governor of To, Do, Fu or Ken, if given by the mayor of a city, town or village. He/She may also take exception thereto.
  7. The chief executive shall consult with the assembly to give decision upon such exception.
  8. The assembly shall form its opinion within twenty days from the day of such consultation.
  9. Where any one is liable for damage under paragraph 1, the provisions of the Civil Code on liability for damage shall not be applicable to his/her liability.

(Financial Announcement)

Article 243-3. The chief executive shall, as provided by bylaw, announce to the inhabitants on the state of execution of the budget of revenues and expenditures and of properties, local public bonds and floating debt and other financial matters, at least twice every year.

2. The chief executive shall every fiscal year prepare statements on the activities of corporations referred to in paragraph 3 of Article 221, as provided by cabinet order, to submit to the ensuing session of the assembly.
3. With respect to the trust mentioned in paragraph 3 of Article 221, the chief executive shall, for each of the accounting terms prescribed in the deed of trust, prepare a document specified in a cabinet order which states the progress of the management of affairs relating to said trust, and submit it to the ensuing session of the assembly.

(Principles of Finance)

Article 243-4. Except as provided by this Law, fundamental principles on operation of finance of ordinary local public bodies, relationship between the finance of ordinary local public bodies and that of the State, and such other matters shall be separately fixed by law.

(Delegation to Cabinet Order)

Article 243-5. Except as provided by this Law, assignment of revenues and expenditures to an appropriate fiscal year, forms of the budget and the statement of accounts, revenues and expenditures past the fiscal year and advance appropriation from the revenue of the coming fiscal year and other matters related to finance shall be fixed by cabinet order.