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Japan's Constitution of 1889

Historical

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CHAPTER I The Emperor

- Type of government envisioned

Article 1

The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal.

- Head of state selection
- Eligibility for head of state

Art 2

The Imperial throne shall be succeeded to by imperial male descendants, according to the provisions of the Imperial House Law.

- Head of state immunity

Art 3

The Emperor is sacred and inviolable.

- Name/structure of executive(s)

Art 4

The Emperor is the head of the Empire, combining in himself the rights of sovereignty, and exercises them, according to the provisions of the present constitution.

- Head of state decree power

Art 5

The Emperor exercises the legislative power with the consent of the Imperial Diet.

- Approval or veto of general legislation

Art 6

The Emperor gives sanction to laws and orders them to be promulgated and executed.

- Dismissal of the legislature

Art 7

The Emperor convokes the Imperial Diet, opens, closes and prorogues it, and dissolves the House of Representatives.

- Head of state decree power

Art 8

The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, imperial ordinances in place of laws.

- Head of state decree power

Art 9

The Emperor issues, or causes to be issued, the ordinances necessary for the carrying out of the laws, or for the maintenance of the public peace and order, and for the promotion of the welfare of the subjects. But no ordinance shall in any way alter any of the existing laws.

- Selection of active-duty commanders
- Head of state powers

Art 10

The Emperor determines the organization of the different branches of the administration, and the salaries of all civil and military officers, and appoints and dismisses the same. Exceptions especially provided for in the present constitution or in other laws shall be in accordance with the respective provisions (bearing thereon).

- Designation of commander in chief

Art 11

The Emperor has the supreme command of the army and navy.

Art 12

The Emperor determines the organization and peace standing of the army and navy.

- Power to declare/approve war
- International law
- Treaty ratification

Art 13

The Emperor declares war, makes peace and concludes treaties.

- Emergency provisions

Art 14

The Emperor proclaims a state of seige. The conditions and effects of a state of seige shall be determined by law.

- Head of state powers

Art 15

The Emperor confers titles of nobility, rank, orders and other marks of honor.

- Power to pardon

Art 16

The Emperor orders amnesty, pardon, commutation of punishment and rehabilitation.

Art 17

A regency shall be instituted in conformity with the provisions of the Imperial House Law.

The regent shall exercise the powers appertaining to the Emperor in his name.

CHAPTER II. Rights and Duties of Subjects

Art 18

The conditions necessary for being a Japanese subject shall be determined by law.

- Civil service recruitment

Art 19

Japanese subjects may, according to qualifications determined in laws or ordinances, be appointed to civil or military offices equally, and may fill any other public offices.

- Duty to serve in the military

Art 20

Japanese subjects are amenable to service in the army and navy, according to the provisions of law.

- Duty to pay taxes

Art 21

Japanese subjects are amenable to the duty of paying taxes, according to the provisions of law.

- Freedom of movement

Art 22

Japanese subjects shall have the liberty of abode and of changing the same within the limits of law.

- Protection from unjustified restraint
- Principle of no punishment without law

Art 23

No Japanese subject shall be arrested, detained, tried or punished, unless according to law.

Art 24

No Japanese subject shall be deprived of his right of being tried by judges determined by law.

- Right to privacy
- Regulation of evidence collection

Art 25

Except in the cases provided for in the law, the house of no Japanese subject shall be entered or searched without his consent.

- Right to privacy

Art 26

Except in the cases mentioned in the law, the secrecy of the letters of every Japanese subject shall remain inviolable.

- Protection from expropriation
- Right to own property

Art 27

The right of property of every Japanese subject shall remain inviolable.

Measures necessary to be taken for the public benefit shall be provided by law.

- Freedom of religion

Art 28

Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

- Freedom of press
- Freedom of expression
- Freedom of assembly
- Freedom of association

Art 29

Japanese subjects shall within the limits of the law, enjoy the liberty of speech, writing, publication, public meeting and association.

- Right of petition

Art 30

Japanese subjects may present petitions, by observing the proper forms of respect and by complying with the rules specially provided for the same.

Art 31

The provisions in the present chapter shall not affect the exercise of the powers appertaining to the Emperor in times of war or in cases of national emergency.

Art 32

Each and every one of the provisions contained in the preceding articles of the present chapter, that are not in conflict with the laws or the rules and discipline of the army and

navy, shall apply to the officers and men of the army and navy.

CHAPTER III. The Imperial Diet

- Structure of legislative chamber(s)

Art 33

The Imperial Diet shall consist of two houses, a House of Peers, and a House of Representatives.

- Second chamber selection
- Mentions of social class

Art 34

The House of Peers shall, in accordance with the Ordinance concerning the House of Peers, be composed of the members of the imperial family, of the orders of nobility, and of those persons who have been nominated thereto by the Emperor.

- First chamber selection

Art 35

The House of Representatives shall be composed of members elected by the people, according to the provisions of the electoral law.

Art 36

No one shall at one and the same time be a member of both houses.

Art 37

Every law requires the consent of the Imperial Diet.

- Division of labor between chambers
- Initiation of general legislation

Art 38

Both houses shall vote upon projects of law submitted to them by the government, and may respectively initiate projects of law.

Art 39

A bill, which has been rejected by either the one or the other of the two houses, shall not be again brought in during the same session.

Art 40

Both houses may make representations to the government as to laws or upon any other subject. When, however, such representations are not accepted, they can not be made a second time during the same session.

Art 41

The Imperial Diet shall be convoked every year.

- Length of legislative sessions

Art 42

A session of the Imperial Diet shall last during three months. In case of necessity, the duration of a session may be prolonged by imperial order.

- Extraordinary legislative sessions

Art 43

When urgent necessity arises, an extraordinary session may be convoked, in addition to the ordinary one.

The duration of an extraordinary session shall be determined by imperial order.

Art 44

The opening, closing, prolongation of session, or prorogation of the Imperial Diet shall be effected simultaneously for both houses.

Art 45

When the House of Representatives has been ordered to dissolve, members shall be caused by imperial order to be newly elected, and the new house shall be convoked within five months from the day of dissolution.

- Quorum for legislative sessions

Art 46

No debate shall be opened, and no vote shall be taken in either house of the Imperial Diet, unless not less than one third of the whole number of the members thereof is present.

Art 47

Votes shall be taken in both houses by absolute majority. In case of a tie, the president shall have the casting vote.

- Public or private sessions

Art 48

The deliberations of both houses shall be held in public. The deliberations may, however, upon demand of the government or by resolution of the house, be held in secret sitting.

Art 49

Both houses of the Imperial Diet may respectively present addresses to the Emperor.

Art 50

Both houses may receive petitions presented by subjects.

Art 51

Both houses may enact, besides what is provided for in the present Constitution and in the Law of the Houses, rules necessary for the management of their internal affairs.

- Immunity of legislators

Art 52

No member of either house shall be held responsible outside the respective houses, for any opinion uttered or for any vote cast in the house. When, however, a member himself has given publicity to his opinions by public speech, by documents in print or in writing, or by any other means, he shall in the matter, be amenable to the general law.

- Immunity of legislators

Art 53

The members of both houses shall, during the session be free from arrest, unless with the consent of the house, except in cases where taken in flagrante delicto, or of offenses connected with a state of internal commotion or with a foreign trouble.

Art 54

The ministers of state and the delegates of the government may, at any time, take seats and speak in either house.

CHAPTER IV. The Ministers of State and the Privy Council

- Establishment of cabinet/ministers
- Powers of cabinet

Art 55

The respective ministers of State shall give their advice to the Emperor, and be responsible for it.

All laws, imperial ordinances and imperial rescripts, of whatever kind, that relate to the affairs of State, require the countersignature of a minister of State.

- Advisory bodies to the head of state

Art 56

The Privy Council shall, in accordance with the provision for the organization of the Privy Council, deliberate upon important matters of State, when they have been consulted by the Emperor.

CHAPTER V. The Judicial Power

- Structure of the courts

Art 57

The judicial power shall be exercised by the courts of law according to law, in the name of the Emperor.

The organization of the courts of law shall be determined by law.

Art 58

The judges shall be appointed from among those who possess proper qualifications according to law.

No judge shall be deprived of his position, unless by way of criminal sentence, or disciplinary punishment.

Rules for disciplinary punishment shall be determined by law.

- Ordinary court selection
- Administrative court selection
- Eligibility for ordinary court judges
- Eligibility for administrative judges
- Supreme/ordinary court judge removal

- Right to public trial

Art 59

Trials and judgments of a court shall be conducted publicly. When, however, there exists any fear that such publicity may be prejudicial to peace and order, or to the maintenance

of public morality, the public trial may be suspended by provision of law or by the decision of the court.

Art 60

All matters that fall within the competency of special tribunals shall be specially provided for by law.

- Ultra-vires administrative actions
- Establishment of administrative courts

Art 61

No suit which relates to rights alleged to have been infringed by the illegal measures of the executive authorities, and which should come within the competency of the Court of Administrative Litigation, specially established by law, shall be taken cognizance of by a court of law.

CHAPTER VI. Finance

Art 62

The imposition of a new tax or the modification of the rates (of an existing one) shall be determined by law.

However, all such administrative fees or other revenue having the nature of compensation shall not fall within the category of the above clause.

The raising of national loans and the contracting of other liabilities to the charge of the national treasury, except those that are provided in the budget, shall require the consent of the Imperial Diet.

Art 63

The taxes levied at present shall, in so far as they are not remodeled by a new law, be collected according to the old system.

- Budget bills

Art 64

The expenditure and revenue of the State require the consent of the Imperial Diet by means of an annual budget.

Any and all expenditures exceeding the appropriation set forth in the titles and paragraphs of the budget, or that are not provided for in the budget, shall subsequently require the appropriation of the Imperial Diet.

- Budget bills

Art 65

The budget shall first be laid before the House of Representatives.

Art 66

The expenditures of the Imperial House shall be defrayed every year out of the national treasury, according to the fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is necessary.

Art 67

Those expenditures already fixed and based upon the powers belonging to the Emperor by the Constitution, and such expenditures as may have arisen by the effect of law, or that relate to the legal obligations of the government, shall neither be rejected nor reduced by the Imperial Diet, without the concurrence of the government.

Art 68

In order to meet special requirements, the government may ask the consent of the Imperial Diet to a certain amount as a continuing expenditure fund, for a previously fixed number of years.

Art 69

In order to supply deficiencies, which are unavoidable in the budget, and to meet requirements unprovided for in the same, a reserve fund shall be provided in the budget.

- Powers of cabinet

Art 70

When the Imperial Diet can not be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety the government may enact all necessary financial measures, by means of an imperial ordinance.

In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto.

- Budget bills

Art 71

When the Imperial Diet has not voted on the budget or when the budget has not been brought into actual existence the government shall carry out the budget of the preceding year.

Art 72

The final account of the expenditures and revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the government to the Imperial Diet, together with the report of verification of the said board.

The organization and competency of the Board of Audit shall be determined by a special law.

CHAPTER VII. Supplementary Rules

- Constitution amendment procedure

Art 73

When it may become necessary in future to amend the provisions of the present Constitution, a project to that effect shall be submitted to the Imperial Diet by imperial order.

In the above case, neither house shall open the debate, unless not less than two thirds of the whole number of the members are present, and no amendment shall be passed, unless a majority of not less than two thirds of the members present is obtained.

- Constitution amendment procedure

Art 74

No modification of the Imperial House Law shall be required to be submitted to the deliberation of the Imperial Diet.

No provision of the present Constitution can be modified by the Imperial House Law.

- Constitution amendment procedure

Art 75

No modification shall be introduced into the Constitution, or into the Imperial House Law, during the time of a regency.

Art 76

- Transitional provisions

Existing legal enactments, such as laws, regulations, ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present Constitution, continue in force.

All existing contracts or orders, that entail obligations upon the government, and that are connected with expenditure, shall come within the scope of Article 67.

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