

地方自治研修

Local Governance (Policy Making  
and Civil Society)  
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# **Election System in Japan**

選挙制度

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## **CHAPTER I. BASIC PRINCIPLES OF JAPAN'S ELECTION SYSTEM**

The Constitution of Japan adopts representative democracy and guarantees universal suffrage, equality of votes, and secrecy of the ballot as the basic principles of the election system. These principles are provided for in the chapter on Rights and Duties of the People, which are applied to elections for members of the National Diet as well as elections for members of local assemblies and heads of local authorities.

### **1. Universal Suffrage**

Universal suffrage of elections for public office is guaranteed to all Japanese nationals 20 years of age and older (Art. 15 of the Constitution of Japan. cf. Art. 9 of the Public Offices Election Law). Therefore, since 1945 there has been no discrimination on suffrage according to gender, race, social status, property, or the amount of taxes paid ; the requirements as to the amount of taxes paid to the National Treasury, which were legitimated in the former election law under the Meiji Constitution, were completely abolished in 1925, and after the Second World War in 1945, women were finally given the right to vote.

### **2. Equality of Votes**

All Japanese nationals are equal under the law and there shall be no discrimination in political, economic, or social treatment because of race, creed, sex, social status or family origin (Art. 14 of the Constitution of Japan). And, there shall be no discrimination on the qualifications for electors of members of both Houses because of race, creed, sex, social status, family origin, education, property or income (Art.44). From this principle, we can easily deduce that votes of all electors are also equal. According to judicial precedents, the

Constitution guarantees the equality not only of the opportunity to vote but also of the value of each vote.

### **3. Secrecy in Election**

Secret ballot election is also guaranteed. A voter shall bear no responsibility to announce publicly or privately his or her choice in voting (Art. 15).

### **4. Election Based on the Principle of Representative Democracy**

Those persons elected through public elections do not represent one particular part of the populace such as a specific class, a political party or residents of an electoral district, but all nationals as a whole. The Constitution stipulates that the National Diet shall consist of elected members, i.e. representative of all the people (Art. 43).

## **CHAPTER II. THE LAW CONCERNING ELECTIONS FOR PUBLIC OFFICES**

The Public Offices Election Law actualizes the principles contained in the Constitution, in stipulating the fundamental points relating to the elections of national and local public offices. Previously, there was no unified legislation on elections; each election, national or local, was held under the rules of individual acts (the Lower House Election Law, the Upper House Election Law and the provisions concerning the election of local authorities in the Local Autonomy Law). In 1950, all these acts were consolidated into the Public Offices Election Law, which we will examine in the following chapters.

The types and the fixed numbers of the elective offices under the Public Offices Election Law are as follows:

**Types of Elective Offices and their Fixed Numbers  
as of 31, December, 2006**

Type of Elective Office	Fixed Number of Seats (Nationally)
Members of the House of Representatives	480
- those elected under the single-member constituency system	300
- those elected under the proportional representation system	180
Members of the House of Councillors	242
- those elected under the local constituency system	146
- those elected under the proportional representation system	96
Governors of Prefectures	47
Members of Prefectural Assemblies	2,874
Mayors of Cities (including 15 Designated Cities)	779
Members of City Assemblies (including 15 Designated Cities)	24,057
Mayors of Towns and Villages	1,038
Members of Town and Village Assemblies	16,358
Heads of Special Wards (in Tokyo)	23
Members of Special Ward Assemblies (in Tokyo)	927

Notes : The number of members of the assembly of local authorities is provided for by prefectural/municipal by laws within the maximum number of members according to the size of population of each local authority stipulated by Art. 90 (prefecture) and 91 (municipality) of the Local Autonomy Law.

### CHAPTER III. ORGANS FOR ELECTION MANAGEMENT

The types, responsibilities and composition of election management organs are as follows:

Type	Responsibilities	Composition & Tenure of Office	Method of Selection
Central Election Management Council	Responsibilities relative to the election of <ul style="list-style-type: none"> <li>- the members based on proportional representation of the House of Representatives</li> <li>- the members based on proportional representation of the House of Councillors</li> </ul>	5members; 3 years	Appointed by the Prime Minister based on nominations by the Diet
Prefectural Election Management Committees	Responsibilities relative to the election of <ul style="list-style-type: none"> <li>- the members of single-member constituencies of the House of Representatives</li> <li>- the members of constituencies of the House of Councillors</li> <li>- the governors of prefectures</li> <li>- the members of prefectural assemblies</li> </ul>	4members; 4 years	Selected by prefectural assemblies
Municipal (City, Town, & Village) Election Management Committees	Responsibilities relative to the election of <ul style="list-style-type: none"> <li>- the heads of municipalities</li> <li>- the members of municipal assemblies</li> </ul>	4members; 4 years	Selected by municipal assemblies

Note : Besides the above, election management committees are set up in the special wards of the Tokyo Metropolitan Government and administrative wards of the 17 Designated Cities.

In addition to the committees listed above, there are other election management organs such as :

- superintendents of the poll or of ballot counting
- observers of the poll or of ballot counting
- election meeting (charged with the declaration of the winners of elections)
- election sub-meeting (charged with ballot counting within the prefecture in the election of the members of the House of Representatives and the House of Councillors on the proportional representation system)



## **CHAPTER IV. TECHNICAL ADVICE, RECOMMENDATION, ETC. OF ELECTIONS**

Technical advice, recommendation, etc. of elections is provided as follows:

**1. Technical advice, recommendation, etc. by the Central Election Management Council (Art. 5-3~5 of the Election Law)**

The Central Election Management Council provides the prefecture, city, town and village with technical advice, recommendation, etc. as well as directions for legal and appropriate management of the elections of members of the House of Representatives and the House of Councillors based on proportional representation system.

**2. Technical advice, recommendation, etc. by the Minister for Internal Affairs and Communications (Art. 245-4~7 of the Local Autonomy Law)**

The Minister for Internal Affairs and Communications is empowered to provide the prefecture, city, town and village with technical advice, recommendation, etc. as well as directions for legal and appropriate management of the elections of members of the House of Representatives on the singlemember constituency system, the House of Councillors on the local constituency system and local authorities.

**3. Technical advice, recommendation, etc by the Prefectural Election Management Committees (Art. 245-4~7 of the Local Autonomy Law)**

The prefectural election management committees also provide the municipal election management committees with technical advice, recommendation, etc..

## CHAPTER V. SUFFRAGE

### 1. Suffrage in Elections for the Diet (Art. 9, par. 1 of the Election Law)

Every Japanese national who is twenty years old or older is enfranchised in elections for the National Diet.

### 2. Suffrage in Elections in Local Authorities (Art. 9, par. 2)

Every Japanese national who is twenty years old or older, and has legally resided in a certain administrative area for more than three months has suffrage in elections for the governor, mayor, and assembly members of the local authorities in that area.

### 3. Suspension of Suffrage (Art. 11, 252, etc.)

Suffrage of those of full of age under the guardianship in the aid judged to be incompetent, those sentenced to imprisonment and those sentenced to punishments concerning the acceptance of bribes, certain crimes concerning elections or political funds (e.g. vote buying, serious election campaign violations, etc.) may be suspended.

## CHAPTER VI. ELIGIBILITY FOR ELECTION

### 1. Eligibility for Election (Art. 10 of the Election Law)

A Japanese national is eligible to run for election according to the following criteria :

- |   |   |
|---|---|
| (1) Members of the House of Representatives     | those 25 years of age and older   |
| (2) Members of the House of Councillors         | those 30 years of age and older   |
| (3) Members of prefectural/municipal assemblies | those having suffrage in the election of prefectural/municipal assemblies, and being 25 years of age or older |
| (4) Governors of prefectures                    | those 30 years of age and older   |
| (5) Mayors of municipalities                    | those 25 years of age and older   |

### 2. Suspension of the Eligibility for Election (Art. 11, 11-2, 252, etc.)

As in the case of suffrage, suspension of the eligibility for elections may be imposed on those judged incompetent or sentenced to specific punishments. (See Chapter V, above.)

## CHAPTER VII. ELECTORAL DISTRICTS

Electoral districts in Japan are demarcated differently for each election.

### 1. Electoral Districts for the Election of Members of the House of Representatives

The members of the House of Representatives (480 in total) are divided into two groups, which are elected in different, but equivalent constituency systems as follows (Art. 4, par.1 of the Election Law):

#### (1) Single-member Constituency System

Out of the 480 members, 300 are elected on the single-member constituency system, i.e. the whole of Japan is divided into 300 small constituencies, where only one member is elected for each. (Art. 13, par. 1 and the annex list 1 of the Election Law)

The plans of demarcation of the single-member constituencies are made by the Deliberative Council of Demarcation of Constituencies for the House of Representatives and then proposed to the Prime Minister, who reports it to the Houses. Based on the proposal of the plan, the revision of the Election Law is legitimated to amend the boundaries of constituencies.

At the time of planning, the Council must primarily consider that the maximum disparity in the number of people among the constituencies be under two. In addition to this, the council has to take into account the border of administrative areas as well as the geographical and transportation situations (Art. 3 par. 1 of the Law for Establishment of the Deliberative Council of Demarcation of Constituencies).

The number of the constituencies for each prefecture is determined as follows; one district for each of the 47 prefectures, then, the remaining 253 districts are distributed according to their population. (Art. 3, par. 2 of the Law for Establishment of the Deliberative Council of Demarcation of Constituencies)

(2) Proportional Representation System

The remaining 180 members of the 480 are elected on a proportional representation system. The unit of the constituency is region-wide, i.e. the whole area of Japan is divided into 11 constituencies.

The 180 seats are distributed to each constituency according to the population.

(Art. 13, par. 2 and the annex list 2 of the Election Law)

The Constituencies of the Election of The House of Representatives  
(Proportional Representation System)

Name of Constituency	Prefectures Included in the Constituency	Fixed Number of Seats
1) Hokkaido	Hokkaido	8
2) Tohoku	Aomori, Iwate, Miyagi, Akita, Yamagata, Fukushima	14
3) Kanto (North)	Ibaraki, Tochigi, Gunma, Saitama	20
4) Kanto (South)	Chiba, Kanagawa, Yamanashi	22
5) Tokyo	Tokyo	17
6) Hoku-riku-Shin'etsu	Niigata, Toyama, Ishikawa, Fukui, Nagano	11
7) Tokai	Gifu, Shizuoka, Aichi, Mie	21
8) Kinki	Shiga, Kyoto, Osaka, Hyogo, Nara, Wakayama	29
9) Chugoku	Tottori, Shimane, Okayama, Hiroshima, Yamaguchi	11
10) Shikoku	Tokushima, Kagawa, Ehime, Kochi	6
11) Kyushu	Fukuoka, Saga, Nagasaki, Kumamoto, Oita, Miyazaki, Kagoshima, Okinawa	21
Total		180

## **2. Electoral Districts for the Election of Members of the House of Councillors**

The members of the House of Councillors (242 in total) are separated into two groups elected under the following systems (Art. 4, par. 2).

### **(1) Local Constituency System**

Out of the 242 members, 146 are elected under the local constituency system on a prefectural basis. The boundaries of these constituencies are the same as those of prefectures. The fixed number of members for each constituency is provided for in the Election Law, which is distributed according to the population in each prefecture (from 2 seats to 10 seats. See Art. 14 and the annex list 3).

### **(2) Proportional Representation System**

The remaining 96 members of the 242 are elected nationally under the proportional representation system.

## **3. Electoral Districts for the Election of Members of Assemblies of Local Authorities**

The number of members of the assembly of local authorities is provided for by prefectural/municipal bylaws within the maximum number of members according to the size of population of each local authority stipulated by Art. 90 (prefecture) and 91 (municipality) of the Local Autonomy Law. As for the unit of demarcation, there are different criteria for each level of local authority (Art. 15).

(1) Prefectural Assemblies

The area of a county (called "*Gun*": an area composed of several towns and villages) or a city is designated as a constituency with one or more members. The fixed number of members is distributed according to the size of population of each constituency. If the population of certain areas is less than the population per member, they are to be combined with other constituencies to form a new electoral district, either compulsorily or facultatively.

(2) Municipal Assemblies

The whole area of a municipality (city, town, or village) is designated as an electoral district. However, a municipality can produce two or more constituencies through municipal bylaws if it has special needs.

Constituencies in a Designated City correspond to administrative wards.

**cf. Fixed Number of Seats of Local Authorities' Assemblies  
(Art. 90 and 91 of the Local Autonomy Law)**

Type of Local Authorities	Population	Upper Limit of Number of Seats
Prefecture (Excluding Tokyo)	~ 749,999	40
	750,000 ~ 999,999	$40 + [(X - 700,000) / 50,000]$
	1,000,000 ~	$45 + [(X - 930,000) / 70,000]$ (maximum 120)
Tokyo	~ 749,999	$40 + (Y / 1,000,000)$
	75,000 ~ 999,999	$40 + [(X - 700,000) / 50,000]$ $+ (Y / 1,000,000)$
	1,000,000 ~	$45 + [(X - 930,000) / 70,000]$ $+ (Y / 1,000,000)$ (maximum 130)
City	~ 49,999	26
	50,000 ~ 99,999	30
	100,000 ~ 199,999	34
	200,000 ~ 299,999	38
	300,000 ~ 499,999	46
	500,000 ~ 899,999	56
	900,000	$56 + 8 \times [(X - 500,000) / 400,000]$ (maximum 96)
Town and Village	~ 1,999	12
	2,000 ~ 4,999	14
	5,000 ~ 9,999	18
	10,000 ~ 19,999	22
	20,000 ~	26

Note : X = population of the local authority concerned

Y = total population of special wards

The number calculated in [ ] should be rounded down.

Local authorities set the number of seats through bylaws in the range of these Upper limit of number.



## CHAPTER VIII. VOTERS LIST

### 1. Permanent Voters List

Those who are not registered on the voters list may not cast a ballot even though they have suffrage (Art. 42 of the Election Law).

The voters list is prepared and kept in the custody of the election management committee of each municipality. In the list, the name, address, gender, date of birth, etc. of each voter must be included (Art. 20).

Once a voter is registered on the list, the registration remains permanently valid until he/she is removed from the list owing to his/her death, loss of nationality, or the lapse of 4 months after his/her removal to another municipality.

A Japanese citizen over 20 years old who lives within the area over which the consulate controlling his/her address exercises jurisdiction may apply for registration on overseas voters list (Art. 30-5).

He/she may be registered on the list when he/she lives within the area over which the consulate controlling his/her address exercises jurisdiction for at least these months successively (Art. 30-4).

### 2. Procedures for the Registration of Voters

#### (1) Registration

A municipal election management committee is empowered to register ex-officio a Japanese 20 years of age and older who has a residence within the area of the municipality concerned and whose name has been on record in the Basic Registration Book of Inhabitants of said municipality for more than three months successively from

the day of registration on the Book, or from, for a person who has newly moved into the municipality, the day when the transmission of registry is made. (Art. 21).

There are two types of registration ; one is a quarterly registration made in March, June, September and December, and the other specially conducted for each election (Art. 19 and 22).

On the other hand, the registration on overseas voters list is made based on requests (Art. 30-4).

(2) Exhibition, Formal Objections, and Lawsuits

After registration, the election management committee of each municipality is required to make open to the public, voters' names, addresses and the dates of birth registered on the list (Art. 23). When a voter has an objection in regard to his/her own registration or that of others, he/she may lodge an objection with the municipal election management committee concerned during the period of exhibition (Art. 24). Those who are not satisfied with the ruling on their objection can resort to a lawsuit (Art. 25).

(3) Indication and Nullification

In case a voter is disfranchised according to the legal provisions, or a voter has moved out of a certain municipality, the municipal election management committee concerned has to immediately make an indication to that effect on the voters list.

A municipal election management committee must delete the name of a voter from the list as soon as possible if he/she dies, has lost Japanese nationality, or has transferred residence from the municipality concerned for four consecutive months (Art. 28).

## CHAPTER IX. CANDIDATURE - RUNNING FOR ELECTION

### 1. Notification of Candidature

#### (1) Notification on the Single-Member Constituency System for the House of Representatives

Political parties to which at least 5 members of the Diet belong or which have garnered at least 2% of the nationwide total of valid ballots at one of the latest certain elections\* can announce the name of their candidate for each constituency to each election meeting chairman of the constituency. In addition, notification made by a voluntary candidate and that of a nominated candidate made by a nominator may also be accepted (Art. 86 of the Election Law).

\*In the context of this chapter, "certain elections" refers to any one of the following national elections: a general election under the single-member constituency system and under the proportional representation system for the House of Representatives, a regular election under the local constituency system and under the proportional representation system for the House of Councillors.

#### (2) Notification on the Proportional Representation System for the House of Representatives

Not only the political parties of (1) above but also all political organizations which are ready to field candidates accounting for at least 20 percent of the fixed number in the regional constituency, can submit their list of candidates in the order of priority for being elected (Art. 86-2).

In an election under the proportional representation system for the House of Representatives, the political parties of (1) above can, on exception, list a candidate for

election under the proportional representation system, while those parties notify the same candidate for the election held at the same time in the single-member constituencies included in the regional constituency (so-called “double candidature”, Art. 86-2 par. 4).

The Election Law limits the maximum number of candidates at each regional division to its fixed number of seats, though the candidates of double candidature are not counted (Art. 86-2 par. 5). The parties of (1) above can also place the candidates of double candidature in the same priority on the list (Art. 86-2 par. 6).

(3) Notification on the Proportional Representation System for the House of Councillors

Political parties to which at least 5 members of the Diet belong or which have garnered at least 2% of the nationwide total of valid ballots in one of the latest national elections, and the political organizations which are ready to field at least 10 candidates in the regular election including those for local constituencies can submit their nationwide list of candidates. (Art. 86-3).

Double candidature in any other election is prohibited.

(4) Notification for Elections other than (1), (2) and (3)

A candidate him/herself or his/her nominator may announce the name of the candidate (Art. 86-4).

## **2. Period of Notification**

The notification of candidature must be made on the day that the date of the election is publicly announced.

### **3. Prohibition and Restriction of Candidature**

A person is prohibited from being a candidate in more than one election at a time (except the double candidature circumstance already mentioned) and one who does not have suffrage may not be a candidate (Art. 86-8 87).

There are also some restrictions concerning candidature of public servants (with some exceptions) and personnel in offices related to elections (Art. 88 and 89).

### **4. Deposits**

With the exception of elections for members of town/village assemblies, candidates, nominators or political parties are required to make a deposit of a specified amount of money when they announce their candidature or the names of their candidates (Art. 92).

The deposit may revert to the National Treasury or local authority concerned in cases when the number of votes which a candidate garners in an election does not reach a certain minimum specified number (Art. 93). In the case of elections under the proportional representation system of both Houses, the amount to be reverted is calculated using the “number of elected candidates” from the party’s list and the “number of candidates on the eligible list” (Art. 94).

### Election Deposits

Type of Election	Amount of Deposit
<b>Members of the House of Representatives:</b>	
– candidate on the single-member constituency system	¥3,000,000 each
– political party on the proportional representation system	For each regional constituency : ¥3,000,000× $\alpha$ +¥6,000,000× $\beta$
<b>Members of the House of Councillors:</b>	
– candidate on the local constituency system	¥3,000,000 each
– political party on the proportional representation system	¥6,000,000 × $\gamma$
Members of Prefectural Assemblies	¥600,000 each
Prefectural Governors	¥3,000,000 each
Designated City Assembly Members	¥500,000 each
Designated City Mayors	¥2,400,000 each
City Assembly Members (excluding Designated Cities and including Special Wards)	¥300,000 each
City Mayors (excluding Designated Cities and including Special Wards)	¥1,000,000 each
Town/Village Mayors	¥500,000 each

Note :  $\alpha$ : the number of candidates of double candidature

$\beta$ : the number of candidates not being candidates in single-member constituencies

$\gamma$ : the number of candidates

### Method of Calculating Fund Reversion

Type of Election	Calculation
House of Representatives :	
– single-member constituency	If $X < 1/10 \times Y$ , all deposits confiscated
– proportional representation	If $(X_1 \times 3,000,000) + (X_2 \times 2 \times 6,000,000) = S < D$ D-S confiscated
House of Councillors :	
– local constituency	If $X < 1/8 \times (Y \div N)$ , all deposits confiscated
– proportional representation	If $(X_3 \times 2) < X_4$ $6,000,000 \times (X_4 - X_3 \times 2)$ confiscated
Local Assemblies : (prefectures or cities)	If $X < 1/10 \times (Y \div N)$ , all deposits confiscated
Governors or Mayors : (prefectures or cities)	If $X < 1/10 \times Y$ , all deposits confiscated

- Notes :
- X: the number of votes which a candidate garnered
  - Y: the number of valid votes of a constituency
  - N: the fixed number of seats of a constituency
  - D: amount of deposit
  - X<sub>1</sub>: the number elected (those listed as double candidature and elected under the single-member constituency system)
  - X<sub>2</sub>: the number elected (excluding X<sub>1</sub>)
  - X<sub>3</sub>: the number elected
  - X<sub>4</sub>: the number of candidates

## CHAPTER X. BALLOTING

### 1. Principles of Balloting

Elections are carried out through balloting. Here we will review and give additional explanation about the principles of balloting.

(1) Poll Principles:

Balloting must be carried out by the voter him/herself on the day of the election and at the designated polling station.

(2) Voluntary Balloting:

It is entirely the voter's right to decide whether to cast a ballot or not.

(3) Guarantee of Secrecy:

Secrecy in balloting is guaranteed by the Constitution (Par. 4, Art. 15 of the Constitution).

(4) One-person One-vote Principle, Single Ballot System:

A person with suffrage may cast only one ballot in each election. In the "election" referred to here, each national election of both Houses is divided into two independent elections; one under a constituency system and the other under a proportional representation system (Art. 36 of the Election Law).



### Ballot Format

1) Ballot forms for elections of both Houses under the constituency system.

Front

(fold)

Ballot for ... Election	Prefecture (City) (Ward) (Town) (Village) Election Management Committee (public seal)

Reverse

(fold)

<ul style="list-style-type: none"><li>• Directions</li></ul> <ol style="list-style-type: none"><li>1. Write the name of one candidate in the space below.</li><li>2. Do not write the name of a person who is not a candidate.</li></ol>	
<table border="1"><tr><td>Name of candidate</td></tr></table>	Name of candidate
Name of candidate	

2) Ballot forms for elections of the House of Representatives under the proportional representation system.

Front

(fold)

Ballot for ... Election	Prefecture (City) (Ward) (Town) (Village) Election Management Committee (public seal)

Reverse

(fold)

<ul style="list-style-type: none"><li>• Directions</li></ul> <p>Write the name or the abbreviation of one political party or one political organization.</p>	
<table border="1"><tr><td>The Name or abbreviation of political party, or political organization</td></tr></table>	The Name or abbreviation of political party, or political organization
The Name or abbreviation of political party, or political organization	

3) Ballot forms for elections of the House of Councillors under Open-list proportional representation system.

Front

(fold)

Ballot for ... Election	<table border="1"> <tr> <td style="text-align: center;">                 Prefecture (City) (Ward) (Town) (Village)                  Election Management Committee                  (public seal)             </td> </tr> </table>	Prefecture (City) (Ward) (Town) (Village) Election Management Committee (public seal)
Prefecture (City) (Ward) (Town) (Village) Election Management Committee (public seal)		

Reverse

(fold)

<ul style="list-style-type: none"> <li>• Directions</li> <li>1. Write the name of one candidate in a space below.</li> <li>2. You may write the name or the abbreviation of one political party or one political organization in a space below instead of the name of one candidate.</li> </ul>	<table border="1"> <tr> <td style="padding: 5px;">                     The Name or abbreviation of                      political party, or political organization                 </td> </tr> </table>	The Name or abbreviation of political party, or political organization
The Name or abbreviation of political party, or political organization		

A voter must write the name of only one candidate (in the case of an election for the House of Representatives under the proportional representation system, the name or the abbreviation of only one political party or political organization, and in the case of an election for the House of Councillors under the proportional representation system, the name of only one candidate registered on the candidate list of the House of Councillors or the name or the abbreviation of only one political party or political organization) on the ballot paper (Art. 46. cf.Art.68).

The voter must write the name of a candidate or a party by him/herself. However, if a voter is physically handicapped or illiterate, a specified person may provide assistance. Balloting using braille is permitted for the blind (Art. 47 and 48).

In the case of an election for heads of local governments or members of local assemblies (facultatively provided for by the bylaw, Art. 46-2), ballots with the names of the candidates pre-printed may be used, and the voters may simply mark one of them.

## **2. Polling Districts and Polling Stations**

A unit area for balloting is called a “polling district.” The area of a municipality is usually divided into several polling districts as occasion demands. At the time of the general election of the House of Representatives on September 11, 2005, the total number of polling districts throughout the country was 53,021.

Every polling district has one polling station.

In most cases, polling stations are established in municipal offices, schools, or public halls, etc.

## **3. Superintendents of the Poll and Poll Observers**

A superintendent of the poll is responsible for administering the balloting. They are selected by the municipal election management committee from the residents who have suffrage for the election concerned (Art. 37).

Observers oversee the administration of the balloting to see that it is carried out fairly. Two to five persons are selected by the municipal election management committee. (Art. 38).

## **4. Balloting Hours**

Balloting is usually carried out from 7 : 00 a.m. to 8 : 00 p.m. on the election day. Under special circumstances, the starting time may be adjusted forward or backward by the municipal election management committee (with previous approval from the prefectural election management committee) within the limit of two hours. The closing time also may be adjusted forward within the limit of four hours (Art. 40).

**5. Advance Balloting and Absentee Balloting (Art. 48-2 and 49)**

In principle, a voter must cast his/her ballot at a polling station on the day of election. However, voters who will be unable to go there on the election day due to work, illness, or other specified reasons can cast their ballots between the day next to the public announcement and the day prior to the election through advance balloting system or absentee balloting system.

In addition, voters with serious physical handicaps are permitted to use the postal service for absentee voting.

**6. Overseas Absentee Balloting (Art. 49)**

Overseas Absentee Balloting enable sthe member of the specified overseas-delegated organization to ballot. This system was established in the amendment of the Election Law in Junw 2006. Voters who belong to the specified overseas-delegated organization and are unable to go to a polling station on the day of election due to work or other spedified reasons can cast their ballots between the day after the public announcement and the day before the election through absentee ballting system.

**7. Ocean Balloting (Art. 49 )**

Ocean Balloting enables the crew of the ship sailing on the open sea to ballot in facsimile. This system was established in the amendment of the Election Law in April 1999 whose purpose is to settle the difficulty of delivering their ballots to their homeland in the existing advance balloting system or absentee balloting system. Ocean Balloting is available in the election of members of the House of Representatives and the election of members of the House of Councillors and available for the crew on the oceangoing ship who is expected

to pursue their business on the election day.

#### **8. Antarctic Balloting (Art. 49)**

Antarctic Balloting enables the member of the organization which does a scientific survey conducted by Japan around the Antarctic area to ballot by facsimile. This system was established in the amendment of the Election Law in June 2006 whose purpose is to settle the difficulty of delivering their ballots to their homeland in the existing advance balloting system or absentee balloting system. Antarctic Balloting is applied to the election of members of the House of Representatives and the election of the members of the House of Councillors and available for the member who belongs to the Antarctic survey party at the institution of Japan which is used for the task of the scientific survey concerned or on the ship which conveys the survey party concerned between the day after the public announcement and the day before the election.

#### **9. Overseas Balloting (Art. 49-2)**

Voters registered on overseas voters list can take part in national elections. A Japanese citizen who has resided in the jurisdiction of a particular consulate for at least three months successively can apply for to be registered on the list (Art. 30-4).

##### **(1) Balloting at Diplomatic Establishments Abroad**

Registered overseas voters can vote at any polling station supervised by chiefs of diplomatic establishments abroad. Through the Ministry of Foreign Affairs, the ballots are delivered to the designated polling districts of municipalities where the voters are registered.

##### **(2) Balloting by Mail**

Overseas voters with difficulties to vote at diplomatic establishments can vote by mail. They can get ballot paper from the municipalities where they are registered and send the ballot back to the municipal election management committee.

(3) Balloting at Domestic Polling Station

Overseas voters who temporarily come back to Japan during a election or who have not been registered on a voters list after coming back to Japan can vote through balloting on the election day, advance balloting or absentee balloting within Japan.

## **10. Computerized Balloting**

Considering the development of information society, computerized balloting system was established by the exemption law of the Election Law in December 2001. This system enables voters to use the electromagnetic votes recording devices in balloting in the election of the local authorities under the local ordinance. Computerized balloting is available in the election of assembly members and heads of local authorities. The results such as quick ballot counting and reducing invalid votes are expected through this system. The electromagnetic votes recording device in this system is the one which can record which candidate he/she has voted. In addition, to secure fairness of the election, the device must meet the requirements such as the one that a voter can't ballot more than 2 votes, that secret voting must not be infringed and that voting data recorded on the electromagnetic votes recording medium must be protected.

## **CHAPTER XI. BALLOT COUNTING AND DETERMINATION OF PERSONS ELECTED**

### **1. Ballot Counting**

To administer ballot counting, superintendents of ballot counting are appointed for each election. Ballot counting is carried out with observers in attendance. The ballot counting district is usually equal to the area of a municipality (Art. 18 of the Election Law).

The superintendents of ballot counting must report to the chairman of the election meeting the number of votes garnered by each candidate and other election results once the counting is finished (Art. 66).

### **2. Determination of Persons Elected**

The chairman of the election meeting convenes the election meeting to determine the persons elected based on the results of ballot counting. The methods of determination differ between the constituency systems and the proportional representation systems.

#### **(1) Constituency Systems (Art. 95)**

In a single-member constituency (election for the members of the House of Representatives under the single-member constituency system, the head of local authority, etc.), a candidate with the largest number of votes is declared the winner, while in a multiple-member constituency, the winners are determined in order of their votes; however, before being formally elected, the candidates are required to obtain more votes than the legal minimum number required.

### The legal minimum numbers of votes to be obtained

Type of Election	Calculation
Members of the House of Representatives (single-member constituency system)	$\frac{1}{6} \times \text{the number of total valid votes}$
Members of the House of Councillors (local constituency system)	$\frac{1}{6} \times \frac{\text{the number of total valid votes}}{\text{the number of members to be elected in an ordinary election in the electoral district}}$ <p style="font-size: small;">(when the number of members to be elected in the electoral district in the election concerned is more than the number of members to be elected in an ordinary election, the former number instead)</p>
Assembly members of local authorities	$\frac{1}{4} \times \frac{\text{the number of total valid votes}}{\text{the number of members to be elected in the electoral district}}$ <p style="font-size: small;">(in case of no electoral district, the total number of members to be elected)</p>
Heads of local authorities	$\frac{1}{4} \times \text{the number of total valid votes}$

When more than one candidate garners the same number of votes for the final seat, the chairman of the election meeting is empowered to determine the winner by lottery.

#### (2) Proportional Representation System (Art. 95-3)

Under this system, seats are assigned to political parties in proportion to the number of votes for each party (in the case of the House of Representatives, in each regional constituency ; in the case of the House of Councillors, nationally). The means of assignment is the d'Hondt formula, determining the distribution for each party according to the quotients obtained by dividing the number of votes polled for each party by integers. For example, to cite a specific case of three parties (A, B, and C) in a regional division of 10 seats, the assignment for them would be as follows:



Polled Votes	Party A	Party B	Party C
		270,000	354,000
Divided by 1	2) 270,000	1) 354,000	4) 140,000
by 2	5) 135,000	3) 177,000	10) 70,000
by 3	7) 90,000	6) 118,000	46,667
by 4	67,500	8) 88,500	35,000
by 5	54,000	9) 70,800	28,000
Assignment	3 seats	5 seats	2 seats

The seats won by a particular party are allocated to its candidates in the order of their listing. However, in the case of the election for the House of Councillors under the proportional representation system, winners are determined in order of their votes based on the candidate list of the House because it is the open-list proportional representation system. When a vacancy occurs, the runner(s)-up on the list is/are awarded the seat(s).

In the case of an election for the House of Representatives, where double candidature is permitted, the candidates elected on the single-member constituency system are eliminated from the proportional representation list. In order to identify the elected double candidates, the pre-ferential election management committees must inform the final returns of the election on single-member constituency system to the Central Election Management Council, when the elections of both systems are held simultaneously (Art. 101).

(3) Open-list Proportional Representation System (Art. 95-3)

This system is used in the election of 96 seats of 242 of the House of Councillors. In this system, voters can write candidate's name or party's name. As well as Proportional Representation System, seats are assigned to political parties in proportion to the number of votes for each party by the d'Hondt formula. But in this Open-list system, persons elected are determined in the order of numbers of votes in each party. For instance, the case described below is allocating 5 seats to 2 parties (Party A and party B) and the total votes of Party A is 4,000,000 and that of Party B is 3,000,000.

Party A (Total votes: 4,000,000)				Party B (Total votes: 3,000,000)			
awarded/failed	rank	name	number of votes	awarded/failed	rank	name	number of votes
awarded	1	C	1,200,000	awarded	1	G	900,000
awarded	2	D	1,000,000	awarded	2	H	700,000
awarded	3	E	800,000	failed	3	I	500,000
failed	4	F	600,000	failed	4	J	300,000
votes for the parties			400,000	votes for the parties			600,000

Suppose we can assign 3 seats to Party A and 2 seats to Party B using the d'Hondt formula, candidates are sequenced in the order of numbers of votes in each party. That is to say, in the case of Party A, the order is C, D, E, F, and persons elected are determined in the order.

In addition, in the election of members of the House of Councilors, double candidature is not permitted.

## CHAPTER XII. ELECTION CAMPAIGNS

While there are various restrictions imposed on election campaigns for the purpose of securing a fair and equal election, certain kinds of election campaigns are publicly managed or sponsored for the same reasons. Now we will examine the details of this system.

Like other systems already explained, there exist certain differences between campaigning on the constituency system and on the proportional representation system; on the proportional representation system, i.e. the principal actors of the campaigns are political parties. And we must add that in the context of election campaigns, political parties which field candidates on single-member constituencies for the election of the House of Representatives often work as principal actors. Here we use the word “political party” to signify the above parties.

### **1. Restriction Concerning Election Campaign Periods**

In principle, election campaigning is permitted only for the period beginning on the day of the notification of candidature through the day before election day (Art. 129 of the Election Law). This period differs according to the type of election (Art. 31~34), but no election campaigning is permitted before the notification of candidature.

### Period of Election Campaign

Type of Election	Period
Members of the House of Councillors and Prefectural Governors	17 days
Designated City Mayors	14 days
Members of the House of Representatives	12 days
Members of Prefectural Assemblies and Designated City Assemblies	9 days
Members of Assemblies and Mayors (City)	7 days
Members of Assemblies and Mayors (Town/Village)	5 days

## 2. Restrictions on Election Campaigns Concerning Personnel Relative to Elections

To secure fair and equal elections, certain public service personnel as well as other categories of people are prohibited from participating in election campaigns as follows:

### (1) Managerial Personnel Responsible for Elections

The superintendent of the poll or of ballot counting and the chairman of the election meeting or of the election sub-meeting are not permitted to conduct election campaigns in the area in which they hold said offices (Art. 135).

### (2) Specified Public Service Personnel

The public service personnel listed below are prohibited from conducting election campaigns during their tenure of such offices (Art. 136):

- Members of the Central Election Management Committee, staff of the Ministry of Internal Affairs and Communications engaged in work concerning the above Committee, members of election management committees and the staff of secretariats thereof
- Judges
- Prosecutors
- Auditors

- Members of public safety commissions
- Police officers
- Tax collection officials of the national/local government.

(3) Other Public Personnel

Officials of the national/local government and other specified public corporations cannot participate in election campaigns by making use of their present positions (Art. 136-2). Under the National Public Service Personnel Law, political activities are almost entirely prohibited for all national government personnel (Art. 102 of the Law), while in the case of local government personnel, certain types of campaigns are permitted only outside the administrative area concerned (Art. 36 of the Local Public Service Personnel Law).

(4) Other Categories

Restrictions are also imposed on educators, minors (persons under 20 years of age), and those whose suffrage is suspended due to election crimes or violation of the Political Funds Control Law (Art. 137 ≈ 137-3 of the Election Law).

### **3. Public Speaking in Election Campaigns**

Public speaking is one of the most fundamental methods for election campaigning, but there are various restrictions under the Election Law.

(1) Speech Making by Individual Candidates or Parties

Individual candidates can make speeches at certain public facilities (schools, civic halls, etc.) (Art. 161). Doing so is gratuitous only once at each facility (Art. 164).

Not only the individual candidate's speeches but also the platforms held by political parties which field candidates in the election are permitted in any of the

facilities such as those listed above (Art. 161).

No speech making for campaigns is permitted for election of the House of Councillors on the proportional representation system.

(2) Street Rallies

Rallies held by candidates or by their parties are permitted only from 8 : 00 a.m. to 8 : 00 p.m. There are some limitations such that the number of campaign staffs is limited and that they must wear armbands when candidates hold rallies. (Art. 164-5~164-7).

(3) Broadcasting

In national elections as well as those for prefectural governor, a system for campaigning by radio and/or television may be used. Such broadcasts can be classified into two types: the expression of political opinions and the presentation of candidates' career resumés.

- The expression of political opinions : Candidates (in the case of elections for the members of the House of Councillors on the local constituency system and for prefectural governors) or political parties (for other types of election) can express their political views, free of charge, over the radio and the television, using the facilities of NHK (Broadcasting Association of Japan) or other private broadcasting stations. In the case of broadcasts conducted by political parties, they can also introduce their candidates via radio and television (Art. 150).
- The presentation of candidates' career resumés: Broadcasting stations are required to provide a service to candidates (excluding those in an election on the proportional representation system) by broadcasting their names, ages, background and other

information via radio and television (Art. 151).

(4) **Intermission Speeches, Personal Interviews, Election Campaigning by Telephone and Repeated Slogan Shouting**

There is no restriction on election campaigning by speaking toward audiences during intermissions at cinemas and theaters, meeting friends and others on the streets, or carrying out election campaigning using the telephone.

Repeated slogan shouting, calling out certain specified phrases repeatedly over a short period of time, unless done at venues so designated or done via campaign car from 8 : 00 a.m. to 8 : 00 p.m., is prohibited (Art. 140-2).

**4. Election Campaigns Using Campaign Literature and Illustrations**

The use of posters, handbills, and postcards are the most fundamental methods for campaigning. In order to maintain fairness, strict restrictions are imposed on the use of such methods ; other means than provided for by the Election Law are legally prohibited from use in election campaigning.

(1) **Restrictions on the Distribution of Campaign Literature**

Distribution of campaign literature is not permitted, except for standard postcards and handbills of a fixed size as listed in the table below (Art. 142). Parties fielding candidates in elections for the House of Representatives under the proportional representation system are allowed to use just two kinds of handbills. Those for the House of Representatives on the single-member constituency system are permitted to use standard postcards and handbills.

Instead of above, in the case of the general election of the House of Representatives and the ordinary election of the House of Councillors, parties are

permitted to use brochures, etc. which mention important policies related to national administration for campaigning (Art. 142-2).

Individual candidates are permitted to use handbills only in the case of elections for both Houses and chief executives of local entities. Postcards which individual candidates are permitted to use are available free of charge.



### Numbers of Postcards and Handbills to be Distributed

Type of Election	Number of Postcards Permitted	Number of Handbills Permitted
Election for the House of Representatives:		
Single-member Constituency		
– Candidates	35,000	70,000 (up to 2 kinds)
– Political Parties	$20,000 \times M$ for each prefecture concerned	$40,000 \times M$ for each prefecture concerned (not more than 40,000 for each constituency concerned)
Proportional Representation		
– Political Parties	prohibited	unlimited in the constituencies concerned (up to 2 kinds)
Election for the House of Councillors :		
Constituency		
	$35,000 + 2,500 \times (N-1)$	$100,000 + 15,000 \times (N-1)$ (maximum 300,000, up to 2 kinds)
Proportional Representation		
	150,000	250,000 (up to 2 kinds)
Prefectural Governors		
	$35,000 + 2,500 \times (N-1)$	$100,000 + 15,000 \times (N-1)$ (maximum 300,000, up to 2 kinds)
Members of Prefectural Assemblies	8,000	prohibited
Mayors of Designated Cities	35,000	70,000 (up to 2 kinds)
Members of Assemblies of Designated Cities	4,000	prohibited
City Mayors	8,000	16,000 (up to 2 kinds)
City Assembly Members	2,000	prohibited
Mayors of Towns/Villages	2,500	5,000 (up to 2 kinds)
Town/Village Assembly Members	800	prohibited

Notes:

M = The number of candidates for the single-member constituencies in the prefecture concerned.

N = The number of single-member constituencies (of the House of Representatives election) in the prefecture concerned.

(2) Display of Campaign Literature and Illustrations

The display of campaign literature and illustrations is prohibited, apart from those listed below. Restrictions are also imposed on the size and number (Art. 143).

- 1) Posters, banners, lanterns, and sign-boards displayed for the purpose of indicating election campaign offices.
- 2) Posters, banners, lanterns, and sign-boards displayed on motor vehicles or boats used in election campaigns.
- 3) Sashes and arm bands worn by candidates.
- 4) Posters, banners, lanterns, and sign-boards used at places where speeches are given. In the elections for the House of Representatives under the single-member constituency system, for the House of Councillors under the local constituency system, and for prefectural governor, banners or sign-boards must be displayed outside the platform meeting place, and no other literature and illustrations may be displayed there (Art.164-2, pars. 1 and 4).
- 5) Posters announcing platform meetings by election candidates for the House of Representatives under the single-member constituency system, for the House of Councillors on the local constituency system and for prefectural governor.
- 6) Use of Posters in election campaigning in other ways.

Each municipal election management committee provides places for displaying campaign posters mentioned above in 5) and 6) for elections for the House of Representatives on the single-member constituency system, for the House of Councillors on the local constituency system, and for prefectural governor. Displaying these posters in other places is prohibited. As for elections for local assemblies and

municipal mayors, the prefectural or municipal governments concerned can provide places for displaying these posters according to the provisions of their own bylaws (Art. 144-2).

Posters can be produced free of charge, within the above set limits, in the case of individual candidates' election for the House of Representatives on the single-member constituency system and the House of Councillors on the local constituency system (if provided for by bylaws, also in the case of elections for prefectural offices and city offices).

(3) Newspaper Advertisements

A candidate or a political party can place newspaper advertisements during the period of the election campaign within the limitations of the Election Law. This advertising may be done free of charge within the set limits in the case of elections for both Houses and for prefectural governor (Art. 149).

(4) Election Bulletins

Official bulletins containing candidates' names, political opinions, and background are issued at the time of an election for the House of Representatives on the single-member constituency system, for the House of Councillors on the constituency system, and for prefectural governor. In the case of elections of both Houses under the proportional representation system, election bulletins carrying the names of political parties, their political views, names of the registered candidates with their resumés, and the expected winning order (of candidates) are published (Art. 167≈172-2).

The bulletins are issued by prefectural election management committees, and in elections for local assemblies or municipal mayors can be issued if provided for by bylaw.

## **5. Other Controls and Restrictions Related to Election Campaigns**

### **(1) Prohibition of House-to-House Canvassing (Art. 138)**

Not only the candidates and their campaigners but also any others are prohibited from canvassing voters' residences, offices, or other places with the purpose of asking them for votes.

### **(2) Prohibition of Signature-Collecting Campaigns (Art. 138-2)**

Launching a signature-collecting campaign toward voters for the purpose of influencing their choice in the election is prohibited.

### **(3) Prohibition of Publication of Results of Popularity Polls (Art. 138-3)**

No one is permitted to publish the progress or results of a popularity poll related to candidates who may assume public office through election.

### **(4) Restriction of the Provision of Food and Drink (Art. 139)**

As for the provision of food and drink, only tea and sweets in usual cases and, in elections other than those for the House of Representatives under the proportional representation system, a fixed number of box lunches for election campaigners and staff at election offices may be provided.

### **(5) Prohibition of Public Demonstrations (Art. 140)**

Public demonstrations are totally banned in election campaigns.

### **(6) Restrictions concerning the Use of Motor Vehicles, Boats and Loud Speakers (Art. 141)**

Restrictions imposed on the use of motor vehicles, boats and loud speakers in election campaigns are as follows:

- 1) In elections other than the election for the House of Representatives under the proportional representation system, one or two motor vehicles or boats and

one or two sets of loud speakers are admitted for each candidate.

In elections for the House of Representatives on the single-member constituency system and for the House of Councillors on the constituency system, candidates may use motor vehicles free of charge.

2) In elections for the House of Representatives, political parties can use these devices, within the permitted number, while, in elections for the House of Councillors under the proportional representation system, parties are not allowed to make use of them.

(7) **Restriction Concerning Post-Election Propaganda Activities (Art. 178)**

Certain post-election activities are banned, including making house-to-house visits to voters, distributing literature and illustrations, utilizing newspapers and magazines, and holding congratulation parties.

**6. Publicly Managed and / or Sponsored Election Campaigns**

Despite the various restrictions imposed on election campaigns by the Election Law, the large amount of money necessary for carrying out a campaign often leads to corruption.

One of the particular features of the election system in Japan is the various kinds of public management and sponsorship for election campaigns on a large scale, in order to prevent corruption and to assure equal opportunity. For example, in the general election of the House of Representatives held on September 11, 2005, the budgets for publicly managed and/or sponsored election campaigns amounted to as much as 24,705 million yen.

## **CHAPTER XIII. ELECTION CAMPAIGN REVENUE AND EXPENDITURES**

### **1. Restriction of Expenditures for Election Campaigns**

For the purpose of eliminating inequalities in campaigns due to economic factors and also to alleviate the economic burden, the expenditures for election campaigns are limited to a certain amount (Art. 194). The determination of a person elected is nullified if his/her campaign expenses are proved to be in excess of the limit.

The limits on expenditures (statutory campaign expenses) are shown in the table below.

### Limits on Expenditures

Type of Election	Statutory Campaign Expenses for Each Candidate	
Members of The House of Representatives (candidates on single-member constituency)	$¥15 \times N +$	¥19,100,000
Members of The House of Councillors (candidates on the proportional representation system)		¥52,000,000
Members of The House of Councillors (candidates on local constituency)	$(¥13 \text{ or } ¥20) * \times N/M +$	¥23,700,000
Members of Prefectural Assemblies	$¥83 \times N/M +$	¥3,900,000
Members of Designated City Assemblies	$¥149 \times N/M +$	¥3,700,000
Members of City Assemblies (excluding Designated Cities)	$¥501 \times N/M +$	¥2,200,000
Members of Town/Village Assemblies	$¥1,120 \times N/M +$	¥900,000
Prefectural Governors	$¥7 \times N +$	¥24,200,000
Mayors of Designated Cities	$¥7 \times N +$	¥14,500,000
City Mayors (excluding Designated Cities)	$¥81 \times N +$	¥3,100,000
Mayors of Towns/Villages	$¥110 \times N +$	¥1,300,000

Notes :

\* When the number of seats in the local constituency is 2, the unit is ¥13, and in other cases it is ¥20.

M: number of members to be elected in the constituency

N: number of registered voters in the constituency

The above provisions do not apply in elections for the House of Representatives under the proportional representation system.

## **2. Campaign Accountant**

The candidate or his/her nominator is required to appoint a person to be responsible for the revenue and expenditure for the election campaign (Art. 180). Any expenditure required for the election campaign must be disbursed in principle by this campaign accountant (Art. 187).

The Campaign Accountant must keep a record of all revenue including contributions and expenditures, and report on the status of receipts and disbursements to the election management committee concerned by a specified date (Art. 189). A summary of this report is to be made public (Art. 192).

## **3. Restriction of Contributions**

Various restrictions are imposed on contributions concerning elections or other political activities for the purpose of maintaining a clean election system and fair government.

### **(1) Ban on Contributions by Those Closely Connected with the National or Local Authorities**

Contributions concerning elections or other political activities by the following persons, etc., are prohibited:

- a) Persons having a special relationship with the national, or local authorities in terms of contracts or other matters (Only contributions made in connection with elections are banned.) (Art. 199 par.1)
- b) Companies and corporations which receive subsidies from the national or local



authorities (Art. 22-3 pars. 1 and 4 of the Political Funds Control Law)

- c) Companies and corporations which receive capital or contributions from the national or local authorities (Art. 22-3 pars. 2 and 4 of the Political Funds Control Law)
- d) Companies and corporations furnished with a loan, the lender of which receives subsidies for interest payments regarding to the loan from the national or local authorities (Art. 199 par. 2 of the Election Law)

(2) Ban on Contributions by Candidates

A candidate or a person preparing to run for election is prohibited from making contributions to any person or organization in his/her constituency. Also contributions in the name of a candidate or a person preparing to run for election are prohibited (Art.199-2).

(3) Restrictions on Other Contributions

Contributions made to any person or corporation in the constituency of a candidate or a person preparing to run for election by the company or other corporation for which he/she is an executive official, or by the organization supporting him/her are banned or restricted (Art. 199-3 and 199-5).

(4) Ban on the Receipt of Contributions from Foreign Nationals

The receipt of contributions in connection with elections or other political activities from any foreign national, foreign corporation or foreign organization is not permitted (Art. 22-5 of the Political Funds Control Law).

(5) Banning of Anonymous Contributions

It is not permitted to make or receive anonymous contribution in connection with elections or other political activities (Art. 22-6 of the Political Funds Control Law).

## CHAPTER XIV. LAWSUITS

Electoral lawsuits are classified into two categories : those concerning the validity of elections and those concerning the determination of persons elected.

### 1. Lawsuits Concerning Validity of Elections

The object of the lawsuit of this type is the validity of the whole or a part of an election. The plaintiff is a candidate or a voter.

#### (1) Lawsuit on the Municipal Level (Art. 202)

When there exists ambiguity as to the validity of elections held in a municipality, an objection must be lodged with the municipal election management committee by the voter or candidate concerned. An application for screening can be made to the prefectural election management committee if the plaintiff is not satisfied with the decision of the municipal committee. If dissatisfied with the result of the screening, the lawsuit can be taken to the High Court.

#### (2) Lawsuit on the Prefectural Level (Art. 203)

A candidate or a voter may lodge an objection with the prefectural election management committee and subsequently bring the suit to the High Court if dissatisfied with the decision of the prefectural committee.

#### (3) Lawsuit on the National Level (Art. 204)

A candidate (including a political party fielding candidates in the case of the election of the House of Representatives on the single-member constituency system; in the case of the election of the House of Representatives on the proportional representation system, a political party fielding the candidate list of the House, etc.

instead of a candidate; in the case of the election of the House of Councillors under the proportional representation system, a political party fielding the candidate list of the House, etc. or a candidate on the list) or a voter having objections concerning the validity of the elections may file a suit directly with the High Court.

## **2. Lawsuits Concerning Determination of Persons Elected**

In these suits, the validity of the determination of persons elected is the issue, based on the assumption that the election itself was legally executed.

For elections on the local level, as in the case of lawsuits concerning the validity of an election, candidates or voters may make an objection, apply for screening and take suits to the High Court (Art. 207). However, in the case of elections for both Houses, the plaintiff or the accuser is restricted to those who are not elected, the political parties fielding candidates, the political parties fielding the candidate list, etc. (excluding those for the House of Councillors on the local constituency system.) (Art. 208).

## CHAPTER XV. ELECTION CRIMES

In Japan, election crimes are divided into two types : criminal offenses and administrative offenses. The former are of an unethical nature (said to be “natural” crimes) and include bribery, fraud, etc. The latter are crimes in violation of various administrative restrictions set forth in regard to election campaigns such as the distribution or display of documents.

### 1. Tendencies of Election Crimes

The recent tendency in election crimes as witnessed in the latest election of the House of Representatives (September 11, 2005) is as follows:

#### **Election Crimes Committed during the Election for Members of The House of Representatives**

(held on September 11, 2005)

Type of Crime	Number of Cases	Number of Persons Arrested
• Bribery, induction of profits	146	422
• Infringement on the freedom of elections	34	32
• House-to-house canvassing	14	29
• Violation in regard to documents	18	43
• Others	46	53
<b>Total</b>	<b>258</b>	<b>579</b>

## **2. Sanctions against Election Crimes**

In addition to the sanctions set out individually under the Public Offices Election Law, supplementary sanctions to be taken against election crimes are as follows:

- (1) Nullification of the Election of a Candidate and Disfranchisement Due to Election Crimes by a Candidate (Art. 251 and 252)

The election of a candidate is made invalid in principle when an elected person is proved to have committed an election crime relative to the election through which he/she was elected and is given a sentence.

The violator could usually be deprived of the qualification for voting and future candidacy for a certain period of time.

- (2) Nullification Due to Election Crimes Committed by Public Officials or Others (Art. 251-4)

The election of a person having held a public position (regardless of differences between the national level, local level, specified national incorporated administrative agencies, specified local incorporated administrative agencies, Japan Post or finance corporations) and elected in an election of either House held within three years after his/her retirement on the local constituency system for which he/she is a candidate for the first time after his/her retirement becomes invalid when other persons engaged in the same service as he/she was and, receiving instructions or requests from him/her in connection with the election are involved in election crimes such as bribery, induction of profits, etc., and given a sentence, etc.

- (3) Associated Sanction Due to Election Crimes Committed by General Manager of Election Campaign, Campaign Accountant, Local Campaign Manager, Relatives or Secretary of a Candidate (Art. 251-2)

When a general manager of the election campaign, a campaign accountant, a local campaign manager, relatives, or a secretary to a candidate commits an election crime such as bribery, induction of profits, etc., or violates the law related to electoral funds (in the case of a campaign accountant) and is given a sentence, the election of the person becomes invalid and his/her qualification for candidacy is suspended for a certain period of time.

(4) Associated Sanction Due to Election Crimes Committed by the  
Manager/Supervisor of Organized Election Campaign (Art. 251-3)

When the manager/supervisor of an organized election campaign commits an election crime such as bribery, induction of profits, etc., and is given a sentence, the election of the person becomes invalid and his/her qualification for candidacy is suspended for a certain period of time.

## **CHAPTER XVI. REGULATION ON FINANCING OF POLITICAL ACTIVITIES**

As political parties and organizations seek to participate more and more effectively in the political power system, they must conduct various kinds of political activities so as to develop a more influential status in the structure. This results in a rush for money to finance their political activities. Politicians also need to conduct political and electoral campaigns relating to their elections, and so they tend to cause heated fund-raising wars which can lead to acts of misconduct in some cases.

In order to prevent political corruption and maintain fairness in political activities, the “Political Funds Control Law” provides a set of regulations on financing political activities.

### **1. Definitions of a Political Organization, a Political Party and Others**

- (1) Definition of a Political Organization (Art. 3, par. 1 of Political Funds Control Law)

According to this Law, a political organization is defined as follows;

- 1) an organization whose original purpose is to promote, support or object to a political principle or policy
- 2) an organization whose original purpose is to recommend, support or object to a certain candidate
- 3) an organization whose main activities conducted organizationally and continually are either of the above-mentioned

Political parties, political funding organizations and fund management organizations (explained later) are kinds of political organizations. In this chapter, the word “political organization(s)” refers to all kinds of these political organizations.



(2) Definition of a Political Party (Art. 3, par. 2)

Political parties are defined as follows and granted some privileges as described later:

- 1) a political organization which has at least 5 Diet members
- 2) a political organization which obtained at least 2% of votes nationwide in one of the following six elections:
  - the last general election for the House of Representatives on the single-member constituency system
  - the last general election for the House of Representatives on the proportional representation system
  - either of the last 2 regular elections for the House of Councillors on the local constituency system
  - either of the last 2 regular elections for the House of Councillors on the proportional representation system

(3) A Political Funding Organization (Art. 5)

A Political party may designate one organization as its “political funding organization.” It gives financial support to a political party, and has privileges for the receipt of political contributions, as described later.

(4) A Fund Management Organization (Art. 19)

A politician, a candidate and a person who is preparing to run for an election may designate one political organization whose representative is him/herself as his/her “fund management organization” in order to administer his/her political funds. It also has the privileges for the receipt of political contributions.

## **2. Regulations on Finance of Political Activities**

### **(1) Report on Establishment (Art. 6 and 8)**

When a political organization is newly established, or is created out of an existing ordinary (i.e. non-political) organization, it is required to report its establishment to the prefectural election management committee or to the Minister for Internal Affairs and Communications within 7 days from the day of establishment.

The report regarding a political organization (excluding political parties and political funding organizations in this paragraph) which conducts its political activities within the area of one prefecture is submitted to the prefectural election management committee concerned. The report regarding a political organization, which conducts its political activities beyond the area of one prefecture or outside the prefecture where its principal office is located, is made to the Minister for Internal Affairs and Communications through the election management committee of the prefecture where the organization's principal office is located. The report regarding a political organization and a political funding organization is also submitted to the Minister for Internal Affairs and Communications through the election management committee of the prefecture.

Political organizations may neither receive any political contributions nor make any disbursements for their political activities including election campaign, without filing this report.

### **(2) Disclosure of Finances (Art. 12, 20 and 20-2)**

Political organization must submit annual financial reports of their political activities to the prefectural election management committee or to the Minister for

Internal Affairs and Communications. This report is published annually by September 30 every year in the official gazette of the national or prefectural government. After publication, it remains available for public inspection for 3 years.

In this financial report, the organization must identify the sources of contributors that have contributed more than 50,000 yen and the total amount of contribution from that source. When the organization has received more than 200,000 yen from one source as payment for a political funding party\*, also the source and the total amount must be identified.

\*A political funding party means an event requiring payment for attendance, whose profit is to be spent for political activities. Political funding parties are, in principle, to be held by political organizations.

### (3) Restrictions on Contributions (Art. 20-2~22)

The Political Funds Control Law provides quantitative and qualitative limitation on contributions related to political activities.

One of the quantitative limitations is that the aggregate amount of political contributions made by an individual, a company, a labor union, etc. (except a political organization), may not exceed the limit specified by the Law (“total limitation”). The other quantitative limitation (“individual limitation”) is that an individual, is prohibited from contributing to the same recipient over the annual limit specified by the law. It is prohibited for companies, labor unions, and other organizations (except political organizations) to make contributions for political activities except to political parties and political funding organizations. Although individuals may make contributions for political activities within the total limit and within 1.5 million yen a year to each politician, such contributions must not be made in cash or securities, except when they

are made for election campaigns.

Several qualitative regulations related to political contributions are provided in the Law, regulating the contributions made by a corporation which receives subsidies from national or local government, by a corporation which has incurred financial deficits, or by a foreign national or a foreign corporation, and those made anonymously or in the name of other persons or organizations, etc. (See Chapter XIII, par. 3)

Quantitative Limitations on Annual Political Contributions

Contributor	Individual		Company, Labor Union, etc.		Political Organization	
	total	per each	total	per each	Political Party	Political Funding Organization
Recipient Political Party and Political Funding Organization Fund Management Organization Other Political Organization Individual Statesman	20 million yen/year	No Limitation	*7.5~100 million yen/year	No Limitation	No Limitation	No Limitation
	10 million yen/year	1.5 million yen/year	Prohibited	Prohibited	No Limitation	50million yen/year (for the same Political Organization)

Notes: \*The ceiling depends on the amount of capital, the number of the union members, etc.

Money and securities are prohibited, except those made in regard to election campaigns.  
 When Political Funding Organization is contributor or recipient, contribution is limited to account transfer.  
 (except for contribution equal to or less than 1,000 yen and contribution by transfer of real estate or loan, including setting of surface rights)

## CHAPTER XVII. SUBSIDIES FOR POLITICAL PARTIES

The Law for Government Subsidies for Political Parties became effective in 1995 to create a system in which the national government subsidizes political parties in light of the importance of the political parties' functions in the parliamentary democratic politics. The Law is designed to contribute to the sound development of democratic politics by promoting the sound development of political activities of political parties and securing their legal and fair activities (Art. 1 of the Law for Government Subsidies for Political Parties).

### 1. Political Parties Entitled to Political Party Subsidies (Art. 2)

In the Law for Government Subsidies for Political Parties, "Political Parties" entitled to subsidies are defined as the following political organizations.

- 1) a political organization which has at least 5 Diet members
- 2) a political organization which has at least 1 Diet member and obtained at least 2% of votes nationwide in one of the following six elections:
  - the last general election for the House of Representatives on the single-member constituency system
  - the last general election for the House of Representatives on the proportional representation system
  - either of the last 2 regular elections for the House of Councillors on the local constituency system
  - either of the last 2 regular elections for the House of Councillors on the proportional representation system

## **2. Submission of Party Reports (Report by Political Parties Wishing to Receive Subsidies) (Art. 5 and 6)**

A political party wishing to receive a subsidy has to report on the prescribed matters as of the “basic date”<sup>\*</sup> within 15 days annually to the Minister for Internal Affairs and Communications. If a general election for the House of the Representatives or a regular election for the House of Councillors is held, a political party wishing to receive a subsidy has to submit a report on the prescribed matters as of the “electoral basic date”<sup>\*\*</sup> within 15 days to the Minister for Internal Affairs and Communications.

<sup>\*</sup> The basic date is the later of the following:

- 1) January 1
- 2) the electoral basic date of the election held in the previous year

<sup>\*\*</sup> The electoral basic date is the later of the following:

- 1) the day after a general election or a regular election
- 2) the first day of the term of newly elected Diet members

## **3. Total Amount of Subsidies (Art. 7)**

The total amount of the subsidies is determined in the annual budget, based on 250 yen multiplied by the population (the number of residents determined by the latest national census and published in the official gazette).

The budget for FY 2007, is 31,941,996 thousand yen. (250 yen×127,767,994)

## **4. Calculation of the Amount of Each Political Party’s Subsidy (Art. 8 and 9)**

The amount of each political party’s subsidy for the year is calculated based on the number of the Diet members and obtained votes as of the basic date, as follows:

Category			Calculation			
Amount Based on Number of Diet Members (1/2 of the total subsidy)			Amount Based on Number of Diet Members	$\times \frac{1}{4} \times$	$\left( \frac{\text{Number of Diet Members Belonging to the Political Party}}{\text{Total Number of Diet Members Belonging to Political Parties}} \right)$	(1)
Amount Based on Number of Votes Obtained (1/2 of the total subsidy)	Last General Election for Members of the House of Representatives	Single-Member Constituency Election	$\left( \frac{\text{Amount Based on Number of Votes Obtained}}{4} \right) \times$	$\frac{1}{4} \times$	$\left( \frac{\text{Percentage of Votes Obtained}}{1} \right)$	a
		Proportional Representation Election	$\left( \frac{\text{Amount Based on Number of Votes Obtained}}{4} \right) \times$	$\frac{1}{4} \times$	$\left( \frac{\text{Percentage of Votes Obtained}}{1} \right)$	b
	Last Two Regular Elections for Members of the House of Councillors	Local Constituency Election	$\left( \frac{\text{Amount Based on Number of Votes Obtained}}{4} \right) \times$	$\frac{1}{4} \times$	$\left( \frac{\text{Average Percentage of Votes Obtained in Last Two Elections}}{1} \right)$	c
		Proportional Representation Election	$\left( \frac{\text{Amount Based on Number of Votes Obtained}}{4} \right) \times$	$\frac{1}{4} \times$	$\left( \frac{\text{Average Percentage of Votes Obtained in Last Two Elections}}{1} \right)$	d
	Total Amount Based on Number of Votes Obtained		a + b + c + d			(2)
Amount of a Political Party's Subsidy			(1) + (2)			

$$\text{Percentage of Votes Obtained} = \frac{\text{Number of Votes Obtained by a Political Party}}{\text{Total Number of Votes Obtained by All Political Parties}}$$

If a general election or a regular election is held during the year, the amount of each political party's subsidy for the year is calculated by adding the amounts per month in the following manner:

[example] A general election or an regular election has been held and the electoral basic date is in July.

$$\begin{aligned} \text{The amount per month for the January to July period} &= (X) \\ &= \text{the amount calculated as of the basic date} \times 1/12 \end{aligned}$$

$$\text{The amount per month for the August to December period} = (Y)$$



= the amount calculated as of the electoral basic date  $\times 1/12$

The amount of each political party's subsidy for the year =  $7 \times (X) + 5 \times (Y)$

If a general election or a regular election is held in the year after the electoral basic date, the amount of each party's subsidy is calculated in the same manner stated above.

#### **5. Grant of Subsidies (Art. 11)**

The subsidy for each party is granted as follows : 1/4 of the subsidy in April, 1/3 of the remaining sum in July, 1/2 of the remaining sum in October and the remaining sum in December. The subsidy is transferred to the party's bank account.

#### **6. Submission of Report on Expenditure of Subsidies (Art. 17 and 18)**

An accountant for the political party is required to submit a report on the party's expenditure of subsidy for the year to the Minister for Internal Affairs and Communications. An accountant for the political party's branch is also required to submit a report on the branch's expenditure of subsidies both to the accountant at the party's headquarters or the branch that has provided the branch with the political party subsidy and to the election management committee of the prefecture where the branch's principal office is located.

In this report, the accountant has to identify the recipients of payments of 50,000 yen or more, other than personnel cost and lights, heat and water, and other prescribed matters.

#### **7. Publication of Expenditure Reports (Art. 31 and 32)**

The Minister for Internal Affairs and Communications notifies the public of the summaries of the reports in the official gazette by September 30 of the year the reports are submitted. The Minister keeps the reports for 5 years, counted from the day of the publication

by the official gazatte. The reports are offered for public inspection at the Ministry of Internal Affairs and Communications during this period.