

Federal Act dated 16<sup>th</sup> July 1948 On the Board of Audit  
(Board of Audit Act (R.H.G.) 1948).

I. Chapter.

The duties of the Board of Audit with respect to the Federal government's expenditure and revenues.

A. Public administration, monopolies and Federal enterprises.

1. Audit of accounting and financial performance.

§ 1. (1) The Board of Audit is responsible for auditing the complete scope of the finances of the public economy. Subject to such audit are:

1. All expenditures and revenues of the Federation (Federal government);
2. the full scope of the loan finance of the Federation;
3. the financial management of movable and immovable Federal property.

(2) Expenditures different in amount or type from the Federal Budget (Federal Budget Draft) shall be monitored by the Board of Audit. Such expense items therefore shall, unless already approved by special legislation, be brought to the knowledge of the Board of Audit – except in case of imminent danger, before implementation - ; this comprises also such expense items involving their exceeding a partial loan finance allocated to a unit effecting payments in accordance with chapters of the Federal Budget.

(3) The Board of Audit is also responsible for examining the management of such funds, endowments and institutions administered by Federal organs or by persons (panels of persons) appointed for this purpose by organs of the Federation.

(4) Following a resolution of the National Council as well as upon a justified request of the Federal Government or of a Federal Minister, regarding special cases within the respective area of his jurisdiction, the Board of Audit shall carry out an audit of the management of funds and report the result to the National Council or the requesting authority.

§ 2. (1) In implementing its control pursuant to § 1, the Board of Audit shall ascertain whether the management of funds complies with existing legislation and regulations and other rules issued on basis of such legislation, and also whether it is governed by thrift, efficiency and expediency. It shall be limited by no means to arithmetical examination only.

(2) In exercising this control, the Board of Audit is obligated to realize both the possibility of reducing or avoiding expenses as well as increasing or creating revenue.

§ 3. (1) In exercising and for the purpose of its responsibility to audit, the Board of Audit communicates directly with all entities subject to its audit.

(2) It is authorized to:

1. request at any time such entities to submit any information it deems necessary, in writing or directly;
2. request to be submitted invoice books, documents and other materials (such as business documents, pieces of correspondence, contracts);
3. have its agents inspect on the premises any books, invoice documents and other materials relating to the management of funds, and
4. order investigations (such as cash audits) on the premises of an administrative office to be carried out by the administrative unit it reports to and to have its agents

participate in such official acts, as well as effect audits of outsourced cash units in presence of a managing officer of the respective administrative unit.

§ 4. (1) The units as specified in § 3 para (1) shall reply fully, directly and without delay to any queries of the Board of Audit, give any information required and comply with any request made by the Board of Audit for the purpose of the particular audit.

(2) The Federal Ministries as well as the administrative units directly reporting to them, monopolies and public enterprises shall report any rules and general instructions relating to the revenue and expenditures of the Federation or having any effect on the finances of the Federation, simultaneously also to the Board of Audit.

§ 5. The Board of Audit shall report the result of its audit as well as any motions resulting therefrom to the units audited either directly or by way of the authorities they report to in the matter. The units mentioned shall comment the criticisms and motions of the Board of Audit contained therein within three months maximum, including information on measures taken, if applicable. The Board of Audit shall communicate its audit also to the Federal Ministries involved.

## 2. Organization of the accounting system.

§ 6. (1) Together with the Ministry of Finance, the Board of Audit shall create a suitable and easy to handle accounting procedure, in coordination with the Federal Ministry in charge to the extent this could involve the internal organization of an administrative unit.

(2) In principle, the Federal Ministries may issue basic rules and instructions in the sphere of accounting and cash management only in agreement with the Board of Audit and the Federal Ministry of Finance. The agreement reached with these authorities shall always be referred to in the respective ruling.

(3) Other rules and instructions of general nature in accounting and cash management shall be communicated to the Board of Audit and the Federal Ministry of Finance before they are issued.

§ 7. In case of fundamental disagreement on the application or interpretation of accounting rules and on the accounting of specific cases of administration of funds (debit against loan facilities), the Federal Ministry of Finance shall seek agreement with the Board of Audit before deciding on the issue. In case no agreement is reached, the provisions of §9, para (1) shall apply accordingly.

§ 8. The Board of Audit shall inform the Federal Ministry in charge and the Federal Ministry of Finance of circumstances ascertained regarding organization and implementation of the accounting system and supervision of accounting departments.

## 3. Preparation of the financial statement of the Federation, evidence of Federal debt, reporting.

§ 9. (1) In agreement with the Federal Ministry of Finance the Board of Audit schedules the date and the form of the annual statement of accounts. It shall audit the annual financial statements which shall be directly presented to it, remedy deficiencies found directly with the accounting departments and edit the Federal financial statement. Before being submitted to the National Council, this statement shall be forwarded for comment to the Federal Minister of Finance. Within three

weeks the Federal Minister of Finance may submit comments to the Federal budget results which shall be taken into account by the Board of Audit or submitted to the National Council simultaneously with the Federal financial statement with any reply to the comments, if applicable. The Board of Audit shall submit the Federal Government's closed accounts to the National Council for constitutional procedure in any case at the latest by 30<sup>th</sup> September of the subsequent fiscal year.

(2) Simultaneously with the Federal budget results, the Board of Audit shall submit to the National Council once each year evidence on the status of the Federal debt.

#### 4. Countersignature of the debt instruments of the Federation.

§ 10. (1) All deeds evidencing financial debts of the Federation shall, to the extent they constitute an obligation on the part of the Federation, be countersigned by the President of the Board of Audit, or by his deputy in case he is prevented to do so. The countersignature only warrants the legality of the debt entered into and its due registration in the general ledger of the public debt.

(2) If upon entering into a financial debt no deeds are executed, the Board of Audit is responsible for monitoring on a permanent basis the registration of such debt in the ledgers provided therefor.

#### B. Commercial enterprises.

§ 11. (1) The Board of Audit shall audit the effectiveness and expediency of the administration of funds of commercial enterprises with independent legal personality, organized on basis of a special law with the duty to be trustees for the administration and the management of Federal property or for which the Federation has assumed a contingent liability, such audit to be carried out in full scope or parts of it and to cover the compliance of existing rules and the correctness of the annual accounts, by inspection of the account books, documentation and other materials (such as business documents, contracts, pieces of correspondence), as well as by requesting information.

(2) Each year such enterprises shall submit their business plans and annual accounts including the annual reports. The audit of the annual financial statements is to take place before formal approval of the directors' action. The Board of Audit shall communicate the result of the audit of the annual statements as well as other audits effected to the supervising organ of the company as well as to the Federal Ministry in charge.

(3) Irrespective of the audit it is obligated to carry out pursuant paras (1) and (2), the Board of Audit shall, upon request of the Federal Government or of the Federal Minister in charge, also carry out special audits and communicate the respective result to the requesting authority.

(4) The President of the Board of Audit may delegate representatives with advisory capacity to any negotiations of the supervising organ. Such agents are entitled to request certain matters to be included in the agenda. They may at any time request information from the supervisory organ and from the board of directors.

(5) Enterprises in which one of the enterprises mentioned in para (1) holds a financial share or in case of a financial share equivalent to § 12 para (1) of the subject Federal Act, may be audited by the Board of Audit, applying the provisions of § 12 accordingly. In such cases the Board of Audit shall communicate the result of the audit to the supervisory organs of the enterprises named in para (1) and to the

Federal Ministries in charge, and, if applicable, to the authorities having issued the request pursuant para (3).

§ 12. (1) The Board of Audit is responsible for auditing the administration of funds of any other enterprises in which the Federation alone or jointly with other legal entities subject to audits of the Board of Audit holds at least 50 per cent of the share capital or which the Federation operates alone or jointly with other such legal entities. Control of enterprises by other financial, commercial or organizational measures shall be deemed equivalent to such holding of financial shares. Enterprises on any further level for which the prerequisites pursuant to the subject paragraph are given shall also be subject to audits by the Board of Audit. The audit shall cover the arithmetic correctness, compliance with the applicable rules, as well as the thrift and expediency of the management of funds of such enterprises.

(2) The Federal Ministries safeguarding the interests of the Federation with regard to such enterprises shall immediately upon receipt forward a copy of balance sheets and accounts of such companies to the Board of Accounts as well as, within three months, the result of any examination of such data. At the same time, any reports of representatives of the Federation in the administration of such companies shall be communicated to the Board of Audit, and any other documentation required from the files shall be made available.

(3) For audit purposes the Board of Audit is authorized to inspect all books and documents of account as well as other materials (such as business documents, contracts, pieces of correspondence) including those of the current fiscal year of the enterprises named in para 1 and request all information it deems necessary.

(4) The Board of Audit shall communicate the result of its audit to the Federal Ministry in charge and to the Ministry of Finance.

(5) On occasion of an audit by organs of the Board of Audit as well as of publication of the audit's result, company and manufacturing secrets of the audited company must not be disclosed.

#### C. Corporations under public law and other legal entities.

§ 13. (1) The administration of funds of the Federation and of such amounts of money made available from public funds for the promotion of objectives of public administration on the part of corporations under public law is subject to audit by the Board of Audit. For this purpose the Board of Audit audits, applying §§ 3 and 4 para (1) accordingly, the arithmetic correctness, the use according to instruction and dedication as well as the thrift, efficiency and expediency of the administration of funds.

(2) The Board of Audit shall communicate the result of its audit to the Federal Ministry in charge.

(3) If otherwise Federal funds are made available to a legal entity not being part of the Federal administration in order to accomplish certain objectives, the Board of Audit is authorized to audit the use of such funds. For this purpose the provisions of paras (1) and (2) shall apply accordingly.

§ 14. (1) The Board of Audit has the right to call in experts in the course of its audit assignments, in particular in cases of §§ 11 and 12. Such experts shall be selected after hearing the opinion of the Federal Ministry involved. The experts shall be put on oath for this activity before court.

(2) The experts are obligated to keep confidential such business and production secrets which become accessible to them during this activity, misuse of such secrets is subject to the provisions of penalty applicable ) to violation of business and production secrets by company employees (unfair competition).

#### D. Collection of income data

§ 14a. (1) For all enterprises and institutions subject to being audited by the Board of Audit and for which reports to the National Council are mandatory, the Board of Audit shall investigate every other year the average incomes including all social and fringe benefits of members of the board of directors and the supervisory board as well as of all employees and also additional retirement benefits, presently or in future, due to persons formerly having been part of such group of persons, for each one of the preceding two years. For this survey § 3 para 2 subpara 1 and § 4 subpara 1 shall apply accordingly.

(2) In the report to be submitted for this purpose to the National Council the average incomes of the mentioned groups of persons shall be specified separately and the additional pension benefits in one sum for each enterprise and for each institution.

#### II. Chapter.

The responsibilities of the Board of Audit with regard to the administration of funds of the independent scope of activities of the Laender, municipality associations and municipalities.

##### 1. Laender.

§ 15. (1) The Board of Audit shall audit the expenditures and revenue covered by the independent scope of activities of the Laender, and also the management of funds of endowments, funds and institutions administered by organs of a Land or by persons (panels of persons) of a Land, appointed for this purpose by organs of the Land. It further is responsible for auditing the management of funds of any other enterprises in which the Land alone or jointly with other legal entities subject to audits of the Board of Audit holds at least 50 per cent of the share capital or which the Land operates alone or jointly with other such legal entities.

With regard to the definition of a share held, § 12 para 1 shall apply accordingly. Enterprises on any further level for which the prerequisites pursuant to the subject paragraph are given shall also be subject to audits by the Board of Audit. The audit shall cover the arithmetic correctness, compliance with the applicable rules, as well as the thrift and expediency of the management of funds of such enterprises; it however does not cover the resolutions determining the management of funds of the representative bodies having constitutional jurisdiction.

(2) If one of the enterprises having a legal personality of its own, as named in para (1), becomes subject to a statutory audit pursuant to application of the Stock Corporation Act, directly or accordingly, by an auditor of annual accounts appointed by the government of the Land in agreement with the Board of Audit, the Board of Audit shall perform the audit on basis of the report of the auditor of annual accounts to be submitted to the Board. The Board of Audit has the right to request the auditor of annual accounts to provide further information if the particular case so requires, the Board of Audit also may seek information from the enterprise and carry out a supplementary audit in the enterprise. For this purpose the Board may inspect all books and documents of accounts and other materials (such as business documents, contracts, pieces of correspondence) including those of the current year and seek

any information it deems necessary. The government of the Land may issue, by agreement with the Board of Audit, guidelines for the auditors of the annual accounts for their audit. On occasion of an audit by organs of the Board of Audit as well as of publication of the audit's result, company and manufacturing secrets of the audited company must not be disclosed.

(3) If funds of a Land are made available to a legal entity not being part of the administration of the Land in order to accomplish certain objectives, the Board of Audit is authorized to audit the use of such funds. For this purpose the provisions of § 13, paras (1) and (2) shall apply accordingly.

(4) Upon resolution of a Laender Parliament or upon request of the number of Members of a Laender Parliament as determined by the Constitutional Act of the respective Land, the Board of Audit shall audit particular acts of administration of funds covered by its responsibility (para 1). The Board of Audit shall also, upon justified request of the Laender Government, effect particular acts of audits of administration of funds covered by its responsibility (para 1) and communicate the result of such audit to the respective Laender Government.

(5) Each year the Laender Governments shall forward their budgets and annual accounts – the latter ones before being presented to the Laender Parliament, however at the latest within six months after expiry of the fiscal year – to the Board of Audit.

(6) The Board of Audit has the right to audit the administration of funds as a whole or with regard to certain parts. For this purpose the Board can at any time request all necessary information to be provided and books and documents of accounts and other materials ( such as business documents, contracts, pieces of correspondence) to be submitted, inspect the books and document of accounts and other materials on the premises as well as have the cash registers (outsourced cash) audited through its organs participating in such official acts.

(7) The Board of Audit has the right to call in experts in the course of its audits, who shall be selected after having heard the respective Laender Government. The experts shall be put on oath for this activity before court. They shall be subject to the provisions of § 14 para (2).

(8) The Board of Audit shall communicate the result of its audit to the respective Laender Government. Such government shall comment within three months maximum, including information on measures taken, if applicable.

(9) The Board of Audit shall report to the Parliament of the Land on its activity during the preceding year and related to the respective Land, at the latest by 31<sup>st</sup> December of each year. In addition, the Board of Audit may report to the Parliament of the Land at any time on particular circumstances ascertained. Simultaneously with the presentation to the Parliament of the Land, the Board of Audit shall forward each report to the Laender Government as well as to the Federal Government. After having been presented to the Laender Parliament, the reports of the Board of Audit shall be published.

§ 16. The provisions of § 15 shall also apply to the audit of the administration of funds of the City of Vienna, with the Municipal Council taking the place of the Laender Parliament and the Municipal Senate taking the place of the Laender Government.

## 2. Municipality associations.

§ 17. The provisions of § 18 shall apply accordingly to the audit of the administration of funds of municipality associations.

### 3. Municipalities.

§ 18. (1) The Board of Audit shall audit the revenue and expenditures of municipalities with a population exceeding 20 000 persons, and also the administration of funds of endowments, funds and institutions administered by organs of a municipality or by persons (panels of persons) of a municipality, appointed for this purpose by organs of the municipality. It further is responsible for auditing the administration of funds of any other enterprises in which a municipality with a population exceeding 20 000 alone or jointly with other legal entities subject to audits of the Board of Audit holds at least 50 per cent of the share capital or which the municipality operates alone or jointly with other such legal entities. With regard to the definition of a share held, § 12 para 1 shall apply accordingly. Enterprises on any further level for which the prerequisites pursuant to the subject paragraph are given shall also be subject to audits by the Board of Audit. The audit shall cover the arithmetic correctness, compliance with the applicable rules, as well as the thrift and expediency of the administration of funds of such enterprises.

(2) If one of the enterprises having a legal personality of its own, as named in para (1), becomes subject to a statutory audit pursuant to application of the Stock Corporation Act, directly or accordingly, by an auditor of annual accounts appointed by the government of the Land in agreement with the Board of Audit, the Board of Audit shall perform the audit on basis of the report of the auditor of annual accounts to be submitted to the Board. The Board of Audit has the right to request the auditor of annual accounts to provide further information if the particular case so requires; the Board of Audit also may seek information from the enterprise and carry out a supplementary audit in the enterprise. For this purpose the Board may inspect all books and documents of accounts and other materials (such as business documents, contracts, pieces of correspondence) including those of the current year and seek any information it deems necessary. The government of the Land may issue, by agreement with the Board of Audit, guidelines for the auditors of the annual accounts for their audit. On occasion of an audit by organs of the Board of Audit as well as of publication of the audit's result, company and manufacturing secrets of the audited company must not be disclosed.

(3) If funds of a municipality as specified in para (1) are made available to a legal entity not being part of the administration of the municipality in order to accomplish certain objectives, the Board of Audit is authorized to audit the use such funds. For this purpose the provisions of § 13, paras (1) and (2) shall apply accordingly.

(4) The Board of Audit shall, upon justified request of the Laender Government, effect particular acts of audits of administration of funds covered by its responsibility (para 1).

(5) The mayors of the municipalities as specified in para (1) shall forward their budgets and annual accounts – the latter ones before being presented to the City Council, however at the latest within six months after expiry of the fiscal year – to the Board of Audit and at the same time to the Government of the Land.

(6) The Board of Audit has the right to audit the administration of funds as a whole or with regard to certain parts. For this purpose the Board can at any time request all necessary information to be provided and books and documents of accounts and other materials ( such as business documents, contracts, pieces of correspondence) to be submitted, inspect the books and document of accounts and other materials on

the premises as well as have the cash registers (outsourced cash) audited through its organs participating in such official acts. The provision of § 15 para 7 shall apply accordingly.

(7) The Board of Audit shall communicate the result of its audit to the respective mayor. The mayor shall comment within three months maximum, including information on measures taken, if applicable. The Board of Audit shall communicate the result of its audit of administration of funds including any comment of the mayor and, if applicable, any reply to it on the part of the Board of Audit, to the Laender and the Federal government.

(8) The Board of Audit shall report to the City Council on its activity during the preceding year, as far as the respective municipality is concerned, at the latest by 31<sup>st</sup> December of each year. It shall communicate each report simultaneously to the City Council, the Laender as well as the Federal government; the report shall also contain the report to the Land Parliament (§ 15 subpara 9). After having been presented to the City Council, the reports of the Board of Audit shall be published.

§ 19. The Board of Audit shall also, upon justified request of the respective Laender Government, effect particular acts of audits of administration of funds of municipalities with a population of less than 20,000 and communicate the result of such audit to the respective Laender Government.

(2) For this purpose, the provisions of § 18 paras 1 through 3 and 6 as well as 7 shall be applied accordingly.

### III. Chapter.

The duties of the Board of Audit with respect to  
the administration of funds of the Social Insurance Institutions.

§ 20. (1) Irrespective of the supervision by the Federal Government as provided in the Social Insurance Regulations, the Board of Audit has the right to audit the administration of funds as a whole or with regard to certain parts, applying the provisions of § 2, para (1), accordingly. For audit purposes the Board of Audit is authorized to request being submitted the annual budgets, the annual accounts including annual reports as well as all explanations and information it deems necessary and inspect all books and documents of account as well as other materials (such as business documents, contracts, pieces of correspondence).

(2) The Board of Audit has the right to call in experts in the course of its audits, who shall be selected after the Federal Ministry in charge of the highest level of supervision of the respective insurance institution has been heard. The experts shall be put on oath for this activity before a court, they are subject to the provisions of § 14 para (2).

(3) The result of the audit shall be communicated to the Federal Ministry in charge of the highest level of supervision of the respective insurance institution.

(4) § 14a shall also apply to social insurance institutions.

### IV. SECTION

The duties of the Board of Audit with respect to the financial situation of  
statutory professional representative bodies

§ 20a. (1) Irrespective of the statutory supervision and the powers pursuant to § 13 paras 1 and 3, § 15 para 3 and § 18 para 3, the Board of Audit has the right to audit the administration of funds of statutory professional representative bodies with regard

to their arithmetic correctness, compliance of the regulations existing as well as the thrift and expediency. This audit however does not cover the resolutions of the competent organs of the statutory representative bodies determining the administration of funds for fulfilling the duties as representative body

(2) For audit purposes the Board of Audit is authorized to request being submitted all explanations and information it deems necessary and inspect on the premises all books and documents of account as well as other materials (such as business documents, contracts, pieces of correspondence).

(3) The Board of Audit has the right to call in experts in the course of its audits, who shall be selected after the authority in charge of the highest level of supervision of the respective statutory professional representative body has been heard. The experts shall be put on oath for this activity before a court, they are subject to the provisions of § 14 para (2).

(4) The Board of Audit shall communicate the report of its audit simultaneously to the Chairman of the organ appointed under the terms of the statutes (representative body) and the authority in charge of the highest level of supervision of the statutory professional representative body. The Chairman of the organ appointed under the terms of the statutes (of the representative body) shall have the report of the Board of Audit published.

(5) The statutory professional representative bodies shall each year communicate to the Board of Audit the budget and the annual accounts.

#### V. Chapter. Other provisions.

§ 21. The President of the Board of Audit shall be sworn into office by the Federal President. The document of appointment shall be executed by the Federal President and countersigned by the Federal Chancellor on the day of swearing into office. With the exception of the salary the President of the Board of Audit ranks equal to a Federal Minister.

§ 22. (1) All personnel matters of the Board of Audit staff shall be managed on an independent basis, with the proviso of the powers of the Federal President, by the President of the Board of Audit within the framework of the regulations generally applicable to civil servants.

(2) Any powers vis a vis a civil servant pursuant to a statute or a regulation of the Federal Government or of a Federal Minister shall be exercised by the President of the Board of Audit when employees of the Board of Audit are affected.

§ 23. (1) The President of the Board of Audit communicates with the National Council and its committees directly and personally or by any agent delegated by him.

(2) He is obligated to give at any time information on matters of his scope of powers to the National Council and its committees.

§ 24. The President of the Board of Audit or his deputy shall be called in for the meetings of the Federal Government where they shall have an advisory status:

1. if matters are discussed which involve safeguarding, exercising and the results of the audit of the administration of funds, fundamental issues of accounting or the involvement of the Board of Audit with regard to servicing the national debt or if such matters are being dealt with upon the initiative of the Board of Audit;

2. if personnel matters of the employees of the Board of Audit are being dealt with.

VI. Chapter.  
Final provisions.

§ 25. (1) Chapter IV, the new name of the former Chapters IV and V and § 25 as amended by the Federal Act Federal Law Gazette I No 119/1996 shall become effective as of 1<sup>st</sup> January 1997.

(2) § 21 last clause as amended by the Federal Act, Federal Law Gazette No. 64/1997 becomes effective as of July 1<sup>st</sup> 1997.

§ 26. (1) The Federal Government is in charge of the execution of the subject Federal Act, it shall coordinate for this purpose with the President of the Board of Audit.

(2) To the extent the organization of the Board of Audit is concerned, the President of the Board of Audit shall be in charge of the subject Federal Act.