



LANDTAG
NIEDERSACHSEN

CONSTITUTION OF LOWER SAXONY

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CONSTITUTION OF LOWER SAXONY

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PREAMBLE

Conscious of its responsibility towards God and mankind, the people of Lower Saxony has given itself this Constitution through its state assembly.

First section

Principles of state authority, constitutional rights and state objectives

Article 1

State principles, state symbols, state capital

- (1) The state of Lower Saxony has issued from the states of Hanover, Oldenburg, Brunswick and Schaumburg-Lippe.
- (2) The state of Lower Saxony is a liberal, republican, democratic, social constitutional state in the Federal Republic of Germany committed to the protection of natural necessities of life and forming part of the European international community.
- (3) Lower Saxony has as its coat of arms a white horse against a red background and in its flag the colours black-red-gold with the state coat of arms. Further details are regulated by legislation.
- (4) The state capital is Hanover.

Article 2

Democracy, constitutionality

- (1) All state authority is based on the people. It is exercised by the people in elections and polls and through special bodies responsible for legislation, executive power and jurisdiction.
- (2) The legislation is bound to the national and state constitutional order, and the executive power and jurisdiction to the law.

Article 3

Constitutional rights

- (1) The people of Lower Saxony subscribes to human rights as the basis of the state community, of peace and of justice.
- (2) The constitutional rights and civic rights stipulated in the Basic Law of the Federal Republic of Germany are an integral part of this constitution. They combine legislation, executive power and jurisdiction as directly valid state law. Respect for the constitutional rights, in particular the implementation of the equality of women and men, is a constant task of the state, the municipalities and the administrative districts.

(3) No one may be discriminated against or favoured for reasons of his sex, his parentage, his race, his language, his native country and origin, his faith, his religious or political beliefs. No one may be discriminated against for reasons of his disability.

Article 4

Right to education, school system

- (1) Each person has a right to education.
- (2) There is general compulsory education. The entire school system is under the supervision of the state.
- (3) The right to establish schools in free sponsorship is guaranteed. They have a claim to state funding if they are approved in accordance with Article 7, subsections 4 and 5 of the Basic Law of the Federal Republic of Germany and satisfy the approval conditions in the long term.
- (4) Further details are regulated by legislation.

Article 4 a

The protection and upbringing of children and young people

- (1) Children and young people, as autonomous persons, have the right to have their dignity respected and to be brought up without violence.
- (2) ¹Any person bringing up children or young people is entitled to be given appropriate assistance and due consideration by the state. ²The state and society shall ensure that children and young people are able to live in conditions appropriate to their age.
- (3) Children and young people shall be protected against physical or mental neglect and maltreatment.

Article 5

Arts and sciences, institutions of higher education

- (1) The state protects and sponsors the arts and sciences.
- (2) The state maintains and sponsors universities and other institutions of higher education.
- (3) The institutions of higher education have a right to self-administration within the context of legislation.

- (4) Further details are regulated by legislation.

Article 6

Art, culture and sport

The state, the local authorities and the administrative districts protect and promote art, culture and sport.

Article 6 a

Employment, housing

The state will strive to achieve that all persons are given the chance to work in order to earn their living, and that all persons are offered adequate housing.

Article 6 b

The protection of animals

Animals are living beings and are to be respected and protected as such.

Second section

The state assembly

Article 7

Functions of the state assembly

The state assembly is the elected representation of the people. Its functions are in particular to exercise the legislative power, to adopt resolutions on the state budget, to elect the Prime Minister, to collaborate in formation of the government and to supervise the executive power in accordance with this constitution.

Article 8

Election of the state assembly

- (1) The members of the state assembly are elected in a general, direct, free, equitable and secret ballot.
- (2) All Germans who have reached the age of 18 and have their habitual residence in the state of Lower Saxony are entitled to vote and eligible.

(3) Electoral nominations for whom less than five percent of the votes are given are not awarded a seat.

(4) Members of the Federal Diet, the Federal Government, the European Parliament and of the state assemblies and governments of other federal states are not allowed to belong to the state assembly.

(5) Further details are regulated by legislation. This can in particular make the right to vote and the eligibility dependent on a specified duration of the habitual residence.

Article 9

Electoral period

(1) The state assembly is elected for a period of five years. Its electoral period starts with its convention and ends with the convention of the next state assembly.

(2) The next state assembly is to be elected not less than 56 and not more than 59 months after the beginning of the electoral period, or within two months in the event of the state assembly being dissolved.

(3) The state assembly convenes not later than 30 days after its election.

Article 10

Dissolution of the state assembly

(1) The state assembly can adopt a resolution on its dissolution. The resolution is irrevocable.

(2) The motion for dissolution can be tabled only by at least one-third of the members of the state assembly. The resolution is subject to the approval of two-thirds of the members present but at least to the approval of the majority of members of the state assembly.

(3) The motion for dissolution cannot be put to the vote before the eleventh but must be put to the vote not later than the 30th day after conclusion of the talks.

Article 11

Beginning and end of term of office, election scrutiny

- (1) Membership of the state assembly begins on acceptance of the vote but not before the beginning of the electoral period.
- (2) On request, the state assembly scrutinises the election. It also decides whether a member of the state assembly has lost his or her seat, unless the loss is the outcome of a judicial decision.
- (3) Further details are regulated by legislation. Decisions according to paragraph 2 can be delegated to a committee or to the Speaker.
- (4) The decisions according to paragraphs 2 and 3 can be contested at the state tribunal.

Article 12

Legal status of members of the state assembly

The members of the state assembly represent the people as a whole. They are not bound to assignments and instructions and are subject only to their conscience.

Article 13

Candidature, exercising a mandate, indemnification

- (1) Any person standing for election to the state assembly is entitled to the leave required to prepare his or her election.
- (2) No one may be prevented from taking a seat in the state assembly. The termination of an employment contract for this reason is inadmissible.
- (3) The members of the state assembly are entitled to adequate indemnification to secure their independence. Further details are regulated by legislation.

Article 14

Indemnity

A member of the state assembly may not be prosecuted or persecuted for official reasons or held liable elsewhere outside the state assembly on the grounds of his or her vote or on the grounds of a comment which he or she has made in the state assembly, on a committee or in a political party. This does not apply to slander or libel.

Article 15

Immunity

- (1) A member of the state assembly can be held liable for or arrested for an offence incurring a penalty only with the approval of the state assembly unless he or she is detained while committing the offence or not later than on expiry of the following day.
- (2) The approval of the state assembly is moreover required for any other restriction of the personal freedom of a member of the state assembly or for the institution of proceedings against a member of the state assembly in accordance with Article 18 of the Basic Law of the Federal Republic of Germany.
- (3) Any criminal proceedings and any proceedings in accordance with Article 18 of the Basic Law of the Federal Republic of Germany against a member of the state assembly, any detention and any other restriction of his or her personal freedom are to be suspended at the request of the state assembly.

Article 16

Privilege of witnesses

- (1) Members of the state assembly are entitled to refuse to give evidence on persons who have confided facts to them as members of the state assembly or to whom they have confided facts in this capacity as well as on these facts themselves.
- (2) Persons who have been called upon by members of the state assembly in exercising their mandate are accorded the same status as the members themselves. The member of the state assembly decides on the exercising of their privilege of witnesses unless his or her decision cannot be induced in the foreseeable future.
- (3) As far as the privilege of witnesses extends, seizure is inadmissible.

Article 17

Indictment of members of the state assembly

- (1) The state assembly can indict a member of the state assembly before the state tribunal on the charge of acquisitive abuse of his position as a member of the state assembly.
- (2) The motion for institution of the proceedings must be tabled by at least one-third of the members of the state assembly. The resolution on the institution of proceedings is subject to the consent of two-thirds of the members of the state assembly.

(3) If the state tribunal upholds the charge, the member of the state assembly loses his or her seat.

Article 18

Presiding committee

(1) The state assembly elects its Speaker, his or her deputy or deputies and the recording clerk (presiding committee).

(2) The Speaker exercises his or her domiciliary right and the administrative power in the rooms of the state assembly. Any search of or confiscation in these rooms is subject to his or her consent.

(3) The Speaker represents the federal state in matters of the state assembly, heads its administration and exercises the official powers. In doing so, he or she is bound only to the law. He or she makes important personnel decisions in consultation with the presiding committee.

(4) The state assembly can remove members of the presiding committee from office by resolution in response to a motion tabled by the majority of members of the state assembly. The resolution is subject to the agreement of two-thirds of the members of the state assembly.

Article 19

Political parties, opposition

(1) Members of the state assembly can combine to form political parties in accordance with the procedural rules of the state assembly.

(2) The political parties and members of the state assembly not supporting the state government have a right to equal opportunities in parliament and in public. They are entitled to the funding needed for performing their special functions; further details are regulated by legislation.

Article 20

Committees, Council of Elders

(1) The state assembly appoints committees to prepare its resolutions.

(2) The political parties must be represented on the committees in accordance with their strength, but at least with one member in a consultative capacity. Adequate account must be taken of independent members of the state assembly. Each committee member can table motions with the committee.

(3) To support the Speaker in parliamentary matters, the state assembly forms a Council of Elders. Paragraph 2 is applied accordingly.

Article 21

Procedural rules, convention, resolution

(1) The state assembly sets itself procedural rules.

(2) The Speaker of the state assembly convenes the state assembly and stipulates, in so far as the state assembly has not adopted a resolution on this, the beginning and the agenda of the sessions. The state assembly must be convened without delay if one-quarter of its members or the state government demands this, specifying the subject matter.

(3) The state assembly is convened to its first session by the Speaker of the previous assembly. Paragraph 2, sentence 2 applies accordingly.

(4) The state assembly adopts resolutions with the majority of the cast votes provided no other ruling is specified by this constitution. Divergent rulings can also be made for resolutions on state assembly procedure and for elections by the procedural rules or by law. The presence of a quorum is regulated by the procedural rules.

Article 22

General public

(1) The state assembly acts in public. In response to a motion tabled by one-tenth of its members or to a motion tabled by the state assembly, the general public can be excluded by agreement of two-thirds of the members of the state assembly present. The decision on the motion is made at a non-public session.

(2) Truthful reports on the public sessions of the state assembly and its committees remain free of any responsibility.

Article 23

Presence of the state government

(1) The state assembly and its committees can demand the presence of any member of the state government.

(2) The members of the state government and their representatives have access to the sessions of the state assembly and its committees. They must be heard at any time. They are subject to the administrative power of the Speaker or of the Chairman.

(3) Paragraph 2, sentences 1 and 2, does not apply to the sessions of the fact-finding commissions, the committee charged with election supervision and the committee charged with preparing the election of members of the state tribunal.

Article 24

Information, submission of records and access to public institutions

(1) Queries by members of the state assembly must be answered promptly and completely by the state government in the state assembly and in its committees to the best of its knowledge.

(2) The state government has, if so requested by at least one-fifth of the committee members, to submit records on the subject matter of a committee meeting promptly and completely and to provide access to public institutions. This applies to records and institutions which are not in the hand of the state in so far as the state can demand submission or access.

(3) The state government need not comply with the request in so far as the operational efficiency and individual responsibility of the state government would be substantially impaired or it is to be feared that disadvantages will be inflicted on the well-being of the federal state or of the nation or protection-meriting interests of third parties infringed by the disclosure of facts. Reasons must be given for the decision.

(4) Further details can be regulated by legislation.

Article 25

Duty of the state government to provide information

(1) The state government is obliged to inform the state assembly early and completely of the preparation of laws and of fundamental issues of regional planning, locational planning and implementation of large-scale projects. The same applies, in so far as objects of fundamental significance are concerned, to the preparation of directives, to the collaboration in the Senate of the Federal Parliament and to cooperation with the federal government, the federal states, other states, the European Community and their executive bodies.

(2) Article 24, paragraph 3, sentence 1 is applicable accordingly.

(3) Further details can be regulated by legislation.

Article 26

Handling of petitions

The handling of requests and complaints addressed to the state assembly is incumbent upon the state assembly, which calls upon the committee responsible according to the procedural rules for preparation.

Article 27

Fact-finding commissions

(1) The state assembly has the right, and in response to a motion tabled by at least one-fifth of its members the duty, to deploy fact-finding commissions to clarify facts and circumstances in the public interest. The commission assignment may be expanded against the will of the applicant only if the essence of it is preserved and no substantial delay is to be expected.

(2) The commissions hear the necessary evidence. If one-fifth of the commission members considers a specific piece of evidence necessary, the commission must hear it.

(3) The hearing of evidence is public. The consultations are not public. Exclusion of the public from the hearing of evidence and admission of the public to the consultation are subject to a two-thirds majority of the commission members. The decision on exclusion of the public is made at a non-public meeting.

(4) Courts of law and administrative authorities must give legal and administrative assistance and to allow their employees to give evidence to the commissions. This does not apply in so far as reasons according to Article 24, paragraph 3 are in conflict.

(5) The commissions report on the investigations. Commission members who consider a report inapplicable can express their opinion in an annex to the report.

(6) The state assembly can regulate the procedure of the commission more closely by law or procedural rules. If it determines nothing to the contrary, the regulations on criminal proceedings are to be applied analogously to the investigations by the commissions and the courts of law and authorities petitioned by them. The privacy of letters and the secrecy of mail and of telecommunications remain unaffected.

(7) If a court of law considers the investigation delegated to a commission to be unconstitutional and if this is crucial to its decision, it must suspend the procedure and obtain the decision of the state tribunal.

(8) The reports by the commissions are withdrawn from judicial debate. The courts of law are free in the appraisal and judgement of the facts and circumstances underlying the investigation.

Third section

The state government

Article 28

Function and composition

- (1) The state government exercises the executive power.
- (2) The state government comprises the Prime Minister and the ministers.
- (3) Members of the Federal Government, the European Parliament and of the state assemblies of other federal states are not allowed to belong to the state government.

Article 29

Formation of government

- (1) The Prime Minister is elected by the state assembly with the majority of its members without debate in a secret ballot.
- (2) The Prime Minister appoints the other members of the state government and designates a member to represent him or her.
- (3) The state government requires confirmation by the state assembly for assumption of office.
- (4) The appointment and removal from office of a member of the state government by the Prime Minister after the confirmation is subject to the approval of the state assembly.
- (5) If confirmation is refused, the procedure according to paragraphs 1 to 3 can be repeated.

Article 30

Dissolution of the state assembly, simplified formation of government

- (1) In the event of the formation and confirmation of the government on the basis of Article 29 not materialising within 21 days of the newly elected state assembly being convened or of a state government resigning, the state assembly adopts a resolution on its dissolution within a further 14 days. The resolution requires the majority of the members of the state assembly.

(2) In the event of no resolution being adopted on the dissolution, a new election of the Prime Minister takes place without delay. The person receiving most votes is elected. Further formation of government is undertaken in accordance with Article 29, paragraph 2. Article 29, paragraph 3 is not applicable.

Article 31

Beliefs and official oath

On taking office, the members of the state government must confess before the state assembly to the principles of a liberal, republican, democratic, social constitutional state committed to the protection of natural living principles and to take the following oath:

„I swear that I will devote my strength to the people and the state, preserve and defend the Basic Law of the Federal Republic of Germany and the constitution of Lower Saxony as well as the laws, perform my duties conscientiously and exercise justice towards all people.“

The oath can be taken with or without the affirmation „So help me God“.

Article 32

Vote of no confidence

- (1) The state assembly can pass a vote of no confidence in the Prime Minister.
- (2) The motion can be tabled only by at least one-third of the members of the state assembly. The motion can be put to the vote not earlier than 21 days after conclusion of the debate.
- (3) The vote of no confidence can be carried only by the state assembly electing a successor with the majority of its members.

Article 33

Resignation

- (1) The members of the state government can resign at any time.
- (2) The Prime Minister is deemed to have resigned as soon as a newly elected state assembly convenes or as soon as the state assembly passes a vote of no confidence in him or her.
- (3) If the Prime Minister retires or resigns, the state government is deemed to have resigned.

(4) In the event of their resignation, the members of the state government are obliged to continue conducting their duties until these are taken over by their successors.

Article 34

Legal status of members of the government

(1) The members of the state government are not civil servants. Their income is regulated by law.

(2) The members of the state government are not allowed to practise any other paid office, trade or profession nor to belong either to the management or to the board of directors of an acquisitive company. The state government can allow exceptions, in particular for delegation to executive bodies of companies in which the public sector is involved. Any exception must be notified to the state assembly.

Article 35

State representation, treaties

(1) The Prime Minister represents the state outwardly.

(2) State treaties relating to matters of legislation are subject to approval by the state assembly.

Article 36

Prerogative of mercy, amnesty

(1) The Prime Minister exercises the prerogative of mercy in individual cases. He or she can delegate his or her powers elsewhere.

(2) Amnesties and the quashing of criminal cases are subject to legislation.

Article 37

Policy guidelines, departmental principle, jurisdiction of the state government

(1) The Prime Minister determines the policy guidelines and bears the responsibility for them. Within these guidelines, each member of the state government manages his or her portfolio independently and under his or her own responsibility.

- (2) The state government adopts resolutions
 1. on all matters which are delegated by law to the state government,
 2. on the appointment of the delegates on the Senate of the Federal Parliament and their voting,
 3. on the delineation of the portfolios,
 4. on issues concerning more than one portfolio, if the members of the state government involved fail to agree,
 5. on draft statutes which it introduces to the state assembly,
 6. on ministerial orders in so far as there is no legislation to the contrary.

Article 38

Administrative organisation, official powers

- (1) The state government adopts resolutions on the organisation of the public administration insofar as the organisation is not regulated by legislation.
- (2) The state government appoints and discharges the professional judges and civil servants.
- (3) The state government can delegate these powers to individual members of the state government or elsewhere.

Article 39

Sessions of the state parliament

- (1) The Prime Minister chairs the state government and manages the business in accordance with rules of procedure to be adopted by the state government. The rules of procedure are to be published.
- (2) The state government passes its resolutions with a majority of votes. No member is allowed to abstain. In the event of a tie, the Prime Minister gives the casting vote. The presence of a quorum in the state government and representation of the ministers are regulated by the rules of procedure.
- (3) The rules of procedure can make a ruling deviating from paragraph 2, sentence 1 for deliberation of the draft budget and for the adopting of resolutions on expenditure outside the budget.

Article 40

Indictment of members of the government

- (1) The state assembly can indict members of the state government before the state tribunal for having wilfully and knowingly infringed the constitution or a law in exercising their office. Article 17, paragraph 2 is applied accordingly.
- (2) If the state tribunal finds in terms of the indictment, it can declare the member of the state government to have forfeited his or her office. The indictment is not affected by the resignation of the member of the state government before or after its being brought.
- (3) Each member of the state government can, with the approval of the state government, apply for a decision by the state tribunal on a charge levelled in public against the member in accordance with paragraph 1, sentence 1. Further procedure is subject to the provisions of paragraph 2.

Fourth section

Legislation

Article 41

Requirement of the statutory form

Generally binding regulations of the state authority through which rights or duties are founded, changed or reversed require the statutory form.

Article 42

Legislative process

- (1) The laws are passed by the state assembly or by referendum.
- (2) Prior to a resolution being adopted by the state assembly, the state government can demand that voting be suspended for up to 30 days.
- (3) Draft statutes are introduced to the state assembly from within it, by the state government, by popular initiative or petition for a referendum.

Article 43

Ordinances

(1) The state government, ministries and other authorities can be authorised by legislation to issue regulations in terms of Article 41 as ordinances. The legislation must determine the contents, purpose and extent of the authorisation.

(2) The legal foundation must be specified in the ordinance. The authorisation to pass an ordinance can be delegated only if permitted by law and only by ordinance.

Article 44

Emergency decrees

(1) If the state assembly is prevented by force majeure from meeting freely and if this is recorded by the Speaker of the state assembly, the state government can pass decrees with legal force which are not in conflict with the constitution for the purpose of maintaining public safety and order or for the lifting of a state of emergency.

(2) These decrees are subject to the approval of the Council of Elders of the state assembly.

(3) If the Council of Elders is also prevented by force majeure from meeting freely and if this is recorded by the Speaker of the state assembly, the decrees are subject to the approval of the Speaker of the state assembly.

(4) The decrees must be submitted without delay to the state assembly, which can revoke them.

Article 45

Execution, promulgation, validation

(1) Laws passed in accordance with the constitution must be executed without delay by the Speaker of the state assembly and promulgated by the Prime Minister in the Gazette of Laws and Ordinances. Ordinances are executed and, subject to a statutory ruling elsewhere, promulgated by the body passing them in the Gazette of Laws and Ordinances.

(2) Ordinances which are passed on the basis of Article 44 are executed by the Speaker of the state assembly together with the Prime Minister and, if promulgation is not possible in the Gazette of Laws and Ordinances, are given official notice.

(3) Each law and each ordinance is to determine the date of validation. In the absence of such a provision, they come into force on the 14th day after expiry of the date on which the Gazette of Laws and Ordinances was issued.

Article 46

Constitutional amendments

- (1) This constitution can be amended only by a law explicitly amending or supplementing its wording.
- (2) Constitutional amendments which are in conflict with the principles set out in Article 1, paragraph 2 and Article 2 are inadmissible.
- (3) Any law amending the constitution is subject to the approval of two-thirds of the members of the state assembly. Constitutional amendments by referendum are subject to Article 49, paragraph 2.

Fifth section

Popular initiative, petition for a referendum and referendum

Article 47

Popular initiative

70 000 persons entitled to vote can demand in writing that the state assembly deals within the framework of its constitutional power with specific matters of political decision-making. Their representatives have the right to be heard.

Article 48

Petition for a referendum

- (1) A petition for a referendum can be directed towards having a law passed, amended or revoked within the framework of the legislative power of the state. The petition for a referendum must be based on an elaborated draft statute furnished with reasons. Laws on the state budget, on public dues and on salaries and superannuation benefits cannot be the subject of a petition for a referendum.
- (2) The state government decides whether the petition for a referendum is admissible; the state tribunal can be invoked against its decision.
- (3) The petition for a referendum materialises if it is backed by ten percent of those entitled to vote. The state government then refers the draft statute with its comment to the state assembly without delay.

Article 49

Referendum

- (1) If the state assembly fails to accept essentially unamended a draft statute which has been referred to it on the basis of a petition for a referendum within six months, a referendum is held on the draft statute not later than six months after expiry of the deadline or after the resolution by the state assembly not to accept the draft as a law. The state assembly can submit to the people a draft statute of its own on the subject of the petition for a referendum for its decision.
- (2) A law is passed by referendum if the majority of those casting their votes, but at least one-quarter of those entitled to vote, has approved the draft. The constitution can be amended by referendum only with the approval of at least half those entitled to vote.

Article 50

Reimbursement of expenses, regulatory statute

- (1) If a petition for a referendum has materialised, the representatives of the petition for a referendum have a right to reimbursement of the costs involved in providing adequate information to the general public on the objectives of the petition for a referendum.
- (2) Further details on popular initiative, petition for a referendum and referendum are regulated by legislation.

Sixth section

Jurisdiction

Article 51

Courts of law and judges

- (1) The judicial power is exercised on behalf of the people by the courts of law appointed in accordance with legislation.
- (2) The courts of law are staffed with professional judges and with magistrates in cases specified by law.
- (3) It can be specified by law that a judicial appointments committee is involved in the appointment of professional judges.
- (4) The judges are independent and subject only to the law.

Article 52

Impeachment of a judge

(1) If a professional judge infringes the principles of the Basic Law of the Federal Republic of Germany or of this constitution in office or outside office, the German constitutional court can decree with a two-thirds majority in response to a motion tabled by the state assembly that the judge is to be transferred to a different office or pensioned off prematurely. In the event of a wilful infringement, he or she can be discharged. The motion tabled by the state assembly can be passed only with the majority of its members.

(2) Under the provisions of paragraph 1, the German constitutional court can revoke the appointment of magistrates.

Article 53

Recourse to legislation

If a person is violated in his or her rights by public authority, he or she has recourse to legislation.

Article 54

Jurisdiction of the state tribunal

The state tribunal decides

1. on the interpretation of this constitution in the event of disputes concerning the scope of the rights and duties of a supreme state body or another party, which are furnished with their own rights by this constitution or in the procedural rules of the state assembly or of the state government, in response to a petition by the supreme state body or other party;
2. in the event of disputes, on the implementation of popular initiatives, petitions for a referendum or referendums in response to a petition by the petitioners, the state government or one-fifth of the members of the state assembly;
3. in the event of differences of opinion or doubts, on the formal or factual compatibility of federal state law with this constitution in response to a petition by the state government or one-fifth of the members of the state assembly;
4. on the compatibility of a federal state law with this constitution on submission by a court of law in accordance with Article 100, paragraph 1 of the Basic Law of the Federal Republic of Germany;

5. on appeals on constitutional issues by local authorities and associations of local authorities concerning infringement by a federal state law of the right to self-government;
6. on the other cases delegated to it through this constitution or by law.

Article 55

Constitution and procedure of the state tribunal

- (1) The state tribunal comprises nine members and nine deputy members, each of which represents one member.
- (2) The members and deputy members of the state tribunal are elected for seven years by the state assembly without debate with a majority of two-thirds of the members of the state assembly present, but at least with the majority of its members. Re-election is permissible only once.
- (3) During their term of office, the members of the state tribunal may not belong either to the state assembly or to the state government or to a corresponding body of the federal government or of another federal state or to the European Community. They may not be professionally in the service of the state nor of a public body, institution or foundation under the supervision of the state. Service as a professional judge and as a university lecturer is exempt from this ruling.
- (4) A law regulates further details on the constitution and the procedure of the state tribunal and determines in what cases its decisions have legal force.
- (5) The state tribunal is domiciled in Bückeberg.

Seventh section

Administration

Article 56

State administration

- (1) The state executes its administration through the state government and through authorities subordinate to it.
- (2) The general structure and the spatial organisation of the general state administration are subject to legislation.

Article 57

Self-administration

- (1) Local authorities and administrative districts and the other public bodies administrate their matters within the framework of the law under their own responsibility.
- (2) In the local authorities and administrative districts, the people must have a representation which has issued from general, direct, free, equitable and secret ballots. In local authorities, the municipal assembly can take the place of an elected representation.
- (3) The local authorities are the only bodies legally and economically responsible for all public expenditure in so far as the laws do not explicitly determine otherwise.
- (4) Local authorities, administrative districts and other municipal bodies may, by law or by an ordinance based on law, be assigned mandatory functions which they are to perform on their own responsibility, or have federal government functions delegated to them which they are to perform in compliance with directives. In respect of any substantial and necessary costs occasioned by provisions pursuant to Sentence 1 of this paragraph, appropriate financial compensation is to be provided for by law without delay. If any modification of such provisions pursuant to Sentence 1 of this paragraph gives rise to a substantial increase in such costs, the financial compensation is to be adjusted accordingly; in the event of the costs being reduced it may be adjusted. Financial compensation in respect of provisions covered by Sentence 1 of this paragraph introduced before 1st January 2006 is governed by the law as previously applicable; in the case of a transfer of functions Sentence 3 applies without restriction, provided however that in the event of a reduction of the costs no adjustment takes place. Sentence 1 of this paragraph applies mutatis mutandis if functions are assigned to other bodies incorporated under public law, provided that provisions to cover the costs are adopted without delay.
- (5) The state ensures through its supervision that the laws are observed and the delegated functions performed in accordance with the instructions.
- (6) The municipal umbrella organizations are to be heard before general questions that are of immediate concern to the local authorities or administrative districts are ruled upon through law or statutory order.
- (7) Should any claim be made upon the state as a result of an infringement of law by a local authority, the state may seek recourse from the local authority concerned in accordance with the provisions of an appropriate state law.

Article 58

Financial management by the local authorities and administrative districts

The state is obliged to provide the local authorities and administrative districts with the funds needed to perform their functions by opening up its own sources of tax revenue and within the scope of its financial capacity by means of a fiscal equalisation among the authorities and districts.

Article 59

Changes to local authority areas and administrative districts

- (1) In the public interest, local authorities and administrative districts can be dissolved, combined or reformed and partial areas can be reorganised by local authorities and administrative districts.
- (2) Changes to local authority areas are subject to legislation. Partial areas can also be reorganised by covenant between the local authorities or administrative districts involved with the approval of the state.
- (3) The population of the local authorities involved must be heard prior to any change of local authority areas.

Article 60

Civil service

The exercising of sovereign powers is to be delegated as a permanent function as a rule to members of the civil service who have civil service status under public law. They serve the entire people, not one party or other group, and must perform their office and their duties impartially and without regard to the person from objective aspects only.

Article 61

Eligibility of civil servants

The eligibility of civil servants to representative bodies can be restricted by law.

Article 62

State commissioner for data protection

- (1) The state commissioner for data protection checks that the public administration acts in accordance with the law when handling personal data. He or she reports to the state assembly on his or her activity and its results.
- (2) The state assembly elects at the proposal of the state government the state commissioner for data protection with a majority of two-thirds of the members of the state assembly present, but at least the majority of its members.
- (3) The state commissioner for data protection is independent and only bound to the law.
- (4) Further details are regulated by legislation. This legislation can make personnel decisions relating to the state commissioner for data protection dependent on his or her collaboration. The legislation can provide for further functions of the state commissioner for data protection.

Eighth section

Public finance

Article 63

State assets

- (1) The state assets are the property of the people. State assets may not be disposed of or mortgaged except with the consent of the state assembly. The consent may be given in general or for each individual case.
- (2) Paragraph 1 applies correspondingly to the disposal and mortgaging of assets which are owned by third parties and administrated by the state.

Article 64

Fiscal planning

The budget management must be based on multi-year fiscal and investment planning. Further details are regulated by legislation.

Article 65

State budget

(1) For each fiscal year, all state income must be estimated according to the original cause and all state expenditure according to purposes separately in the budget. The budget must be balanced in income and expenditure. In addition, appropriations for the following years can be disclosed.

(2) The administration may make only that expenditure estimated in the budget and commit the state to expenditure in future fiscal years only to the extent to which it is authorised by the budget.

(3) In the case of state operations and special state assets, only the supplies or deliveries need to be estimated in the budget.

(4) The budget is adopted in advance by law.

(5) The budget act may cover only those regulations relating to the income and the expenditure of the state and to the period for which the budget act is passed. The budget act can prescribe that the regulations expire only on promulgation of the next budget act or, on authorisation in accordance with Article 71, at a later date.

Article 66

Temporary financial management

(1) If by the end of a fiscal year the budget for the following year has not been adopted by law, the Speaker of the state assembly, the state government, the president of the state tribunal and the president of the state audit office are authorised until promulgation of the budget act to make all expenditure which is essential

1. to maintain statutory institutions and to implement measures adopted by law,
2. to meet commitments of the state that are grounded in law,
3. to continue with construction work, procurement and other activities or to continue

to grant funding for these purposes, insofar as funds for these purposes have already been approved in the budget of a previous year.

(2) In so far as income from taxes, duties and other sources not based on a special law or the operating cash reserves cover the expenditure under paragraph 1, the state government may procure by credit the funds needed for maintaining the economic management up to a level of one-quarter of the total of the expired budget.

Article 67

Unscheduled and unbudgeted commitments

- (1) In the event of unforeseen and unobjectionable need, unscheduled and unbudgeted expenditure and unscheduled and unbudgeted commitments are admissible with the consent of the finance minister. This does not apply if the state assembly can still make a decision on the expenditure in due time through a supplementary budget act unless the expenditure does not exceed a sum to be fixed in the budget act, earmarked funds are provided by another source or a due legal commitment by the state is to be fulfilled.
- (2) Further details can be regulated by legislation. This can determine in particular that unscheduled and unbudgeted expenditure and commitments are to be notified to the state assembly and are subject to its approval.

Article 68

Budget-relevant laws

- (1) Anyone submitting a draft statute must detail the costs and revenue shortfall to be expected in the foreseeable future for the state, for the local authorities, for the administrative districts and for any other public administration organisations involved.
- (2) The state assembly may adopt resolutions on measures affecting an already approved budget only if the necessary cover is simultaneously provided.

Article 69

Rendering of account, discharge

The finance minister must render account to the state assembly on all income, expenditure and commitments in the course of the next fiscal year. Account must be rendered on the assets and the liabilities or other evidence must be submitted. The state assembly adopts a resolution on discharge of the state assembly.

Article 70

State audit office

- (1) The state audit office, whose members have judicial independence, audits the accounting and the economic efficiency and regularity of the financial and economic management. It reports on this to the state assembly and informs the state government simultaneously. Further details are regulated by legislation. Further functions can be delegated to the state audit office by law.

(2) At the proposal of the state government, the state assembly elects the president and the deputy president of the state audit office with a majority of two-thirds of the members of the state assembly present, but at least the majority of its members, for a twelve-year period. The state government appoints the president, the deputy president and, at the proposal of the Speaker with the approval of the state assembly, the further members of the state audit office. Further details are regulated by legislation.

Article 71

Credit uptake, guarantees

The raising of credits and the standing of surety or the assumption of guarantees or other warranties which may lead to expenditure in future fiscal years are subject to authorisation determined or determinable according to their level by law. Credits must not exceed the expenditure estimated for self-financed investments, investment promotion measures and for the rescheduling of debts. Exceptions are admissible only to ward off sustained disruption of the macro-economic balance or to ward off an acute threat to the natural necessities of life.

Ninth section

Transitional and concluding provisions

Article 72

Matters of special interest and transferred institutions of the former states

(1) Matters of cultural and historical interest of the former states of Hanover, Oldenburg, Brunswick and Schaumburg-Lippe must be preserved and promoted by legislation and administration.

(2) The transferred historically founded institutions of these states must continue to serve local interests and to be maintained in so far as their modification or closure is not necessary in the pursuance of organisational measures covering the entire state of Lower Saxony.

Article 73

Assignment of sovereign rights

Powers incumbent upon the state under public law can be assigned to the Free and Hanseatic City of Hamburg for the territory designated in Article 1, paragraph 2 of the treaty between the Free and Hanseatic City of Hamburg and the State of Lower Saxony dated 26th May/4th June 1961 (Lower Saxony Gazette of Laws and Ordinances 1962, p. 151).

Article 74

Majorities and minorities of the members of the state assembly

Majorities or minorities of the „members of the state assembly” in the context of this constitution are calculated in accordance with the statutory number of members.

Article 75

Parliaments of other federal states

Article 22, paragraph 2 and Articles 114, 15 and 16 apply correspondingly to parliaments of other federal states of the Federal Republic of Germany.

Article 76

Provisional regulation for the electoral period

(1) The Twelfth Electoral Period of the State Assembly ends on 20th June 1994. Article 6, paragraph 1, sentence 3 of the Provisional Constitution of Lower Saxony continues to apply until the end of the Twelfth Electoral Period. The Commission in accordance with Article 12 of the Provisional Constitution of Lower Saxony remains in existence until the State Assembly of the Thirteenth Electoral Period convenes. Article 18 of the Provisional Constitution of Lower Saxony continues to apply to this Commission.

(2) The Thirteenth Electoral Period starts with the end of the Twelfth Electoral Period. The election and convention of the State Assembly of the Thirteenth Electoral Period are still subject to Article 4, paragraph 2, sentence 2 and Article 6, paragraphs 2 and 3 of the Provisional Constitution of Lower Saxony. The State Assembly of the Thirteenth Electoral Period is elected for a period of four years. The State Assembly of the Fourteenth Electoral Period must be elected not earlier than 44 months and not later than 47 months after the start of the Thirteenth Electoral Period; for the rest, Article 9, paragraph 2 of this constitution is to be applied.

Article 77

Provisional regulation for the staffing of the state tribunal

The members of the state tribunal and their deputies remain in their office in the time for which they have been elected after this constitution comes into force.

Article 78

Entry into force

- (1) This constitution comes into force on 1st June 1993.
- (2) The Provisional Constitution of Lower Saxony dated 13th April 1951 (Lower Saxony Gazette of Laws and Ordinances, sect. 1, p. 5), last amended by Article 1 of the law passed on 27th November 1991 (Lower Saxony Gazette of Laws and Ordinances, p 301) expires simultaneously.