
MAJOR LEGISLATION

Jan. - Dec., 1981

1. Constitutional and Administrative Law

Administrative Law

Nearly 100 laws went into force in the year under review, most of them concerning administration. For convenience sake, they were divided into three categories, (a) laws concerning administrative reform, (b) taxation laws reflecting the fiscal crisis, and (c) others.

(a) Administrative reform related laws.

The “Act Concerning Special Measures for Promoting Reconstruction of the Management of the Japanese National Railways,” (promulgated and put into force on Dec. 27, 1980, Ch. 111), called for the abolition of deficit-ridden railway lines and others as one of the measures aimed at reconstructing the Japanese National Railways, which has been suffering from a chronic fiscal deficit.

Local autonomous entities whose zone of administration entails such deficit lines raised strong opposition against abolition which, they contended, would deprive their residents of a means of trans-

portation.

The "Act on the Housing and Urban Improvement Corporation," (promulgated on May 22, 1981, to go into effect within six months, Ch. 48), was designed to inaugurate the new "Housing and Urban Improvement Corporation" by consolidating the existing Japan Housing Corporation and the Land Development Corporation, and was also in line with the proposed integration and abolition of certain administrative systems advocated as one of the major pillars of administrative reform.

The "Act Concerning the Reduction of State Subsidies and Other Extraordinary Steps as part of the Measure Needed at Present to Promote Administrative Reform" (promulgated and put into force on Dec. 4, 1981, Ch. 93) provided for restrictions on the scope of child allowances, a reduction of the state share of contribution to the welfare pension insurance enterprise, and a reduction of subsidies and the state share concerning specifically designated areas during the period 1981 through 1983, in accordance with the first recommendations on administrative reform submitted by the Second Ad Hoc Council on Administrative Reform on July 10, 1981. The items covered by this Act involve 36 existing acts.

Criticism has been raised by some scholars against the legislative procedure by which all of the 36 acts were deliberated into a package instead of examining each one of them separately.

(b) Taxation related laws.

The revision of many tax laws such as the Liquor Tax Act and the Stamp Act was introduced to increase tax revenues in the light of the fiscal crisis.

Among them was the act calling for a partial revision of the "Exceptions to the Tax Law Act," promulgated on Mar. 31, 1981 and put into force in part on Apr. 1 and in part on May 1, Ch. 13. The new act will take such steps as i) raising reduced rates of the corporation tax applicable to ordinary income distributed as dividends, ii) increasing taxation on expense accounts concerning social activities, and iii) raising reduced rates of commodity taxes on regular passenger cars.

The “Act on Revision of Various Fees” (promulgated and put into force on May 19, 1981, with part of it implemented on June 1, Ch. 45) will raise fees relating to 34 acts.

The “Act Calling for a Partial Revision of State Tax Related Laws for Adjustment of Penal Regulations on Tax Evasion” (promulgated and put into force on May 27, 1981, Ch. 54) will raise the maximum term to be served on tax dodgers from three to five years and extend the period of extinctive prescription from five to seven years on cases involving the evasion of state taxes by illegal means.

(c) Other laws.

The new “Banking Act” (promulgated on June 1, 1981 to be put into force within a year, Ch. 59) was designed to carry out an overall revision of the old Banking Act (1927, Ch. 21).

The “Act Calling for Partial Revision of the Food Control Act” (promulgated on June 11, 1981 to be put into force within a year, Ch. 81) was designed to shift the former food control law system, established in anticipation of becoming completely insufficient in food, to a system matching the changed demand and supply situation of rice and other cereals.

The “Act Concerning the University of the Air” (promulgated and put into force on June 11, 1981, Ch. 80) regulates the establishment of the new University of the Air, its management, organization and finance.

Public servant related laws called for the specific attention of all laws related to administration. The act calling for a revision of two acts on public servants introduced the retirement age limit system for public servants. (See elsewhere for details on this matter.) The “Act Calling for a revision of the Retirement Allowances Act for National Public Officials” (promulgated on Nov. 20, 1981, Ch. 91 and put into force in part the same day with the balance to be put into effect on Jan. 1, 1982) was designed to review the retirement system and reduce the retirement allowances of those with more than 20 years service and encouraged to retire. These laws can be included in administrative reform laws

judging from their background and content.

“Act Calling for Partial Amendment of the Government Officials Act.”

(Promulgated on June 11, 1981, to be put into force on Mar. 31, 1985 with some exceptions, Ch. 77).

“Act Calling for Partial Amendment of the Local Officials Act.”

(Promulgated on Nov. 20, 1981 to be put into force on Mar. 31, 1985 with some exceptions, Ch. 92).

[Background of the Amendment]

The retirement age limit system has not been adopted for public service personnel except judges, prosecutors and university faculty members. Hence, the retirement of regular public officials has been, as a matter of general practice, left up to a system of encouraging retirement. But, there has been no guarantee that such persons are certain to retire even though “encouraged” to do so, and there have been many cases which have developed into disputes. (For reference, see p. 106, Volume 2, Waseda Bulletin of Comparative Law, 1982.)

The introduction of the retirement age limit system aims at ensuring a continuous refreshment of personnel and preventing the aging trend of employees.

Bills introducing the retirement age limit system have been shelved due to the conflicts between the government and opposition parties for lack of enough deliberations several times in the past, but with the passage of the current amendment bill the retirement age limit system has, at long last, been introduced.

[Outline of Amendment]

(a) Amendment to the Government Officials Act.

i) A retirement age limit system shall be introduced for regular government officials as from Mar. 31, 1985. ii) The age limit shall be 60 as a matter of principle. The age limit for doctors and dentists shall be 65, for guards 63, for other specific officials 60 to 65. iii) As exceptions to retirement upon reaching the age limit,

a system of extending service years and that of reemployment (both for one to three years) shall be introduced.

(b) Amendment to the Local Officials Act.

i) A retirement age limit system shall be introduced for general local officials as from Mar. 31, 1985. ii) The age limit shall be fixed by local ordinances on the basis of the age limit for national government officials. iii) There will be systems of extending service years and reemployment.

[Problems Concerning the Amendment]

The purpose of the current amendment is to maintain a healthy labor-management relationship, and on this score the following problems should be pointed out:

To begin with, since the retirement age limit system has so much to do with the fundamental structure of the public officials system, a thorough review of this system is necessary in introducing the retirement age limit. In this regard, it is rather problematical that the amendment was prompted in an attempt to link the wages of aged public servants with the fiscal crisis. Concerning wages, the seniority wage structure at present requires rescrutiny.

Secondly, it is doubtful whether retirement at 60 is suitable for a lifetime employment society such as in Japan, because this brings up the question of how to guarantee the livelihood of those forced to retire according to the age limit. Moreover, we have to take into account whether retirement at 60 is appropriate for our aging society now well in progress.

Thirdly, it is questionable that the current amendment failed to touch on the custom of encouraging employees to retire before they reach the age limit.

Fourthly, with regard to the amendment act of the Local Officials Act, the provision that the retirement age limit shall be fixed on the basis of that of national government officials will give rise to questions in connection with local autonomies guaranteed by the Constitution.

These problems mentioned above need to be thoroughly studied in academic circles as well as in practice by the time the amendment

acts go into effect in 1985.

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2. Law of Property and Obligations

1. Act Partially Amending the Food Control Act.

(Promulgated on June 11, 1981. Ch. 81. Put into force on Jan. 15, 1982, by Government Ordinance No. 343 of 1981)

[Issues]

The Food Control Act (Ch. 40 of 1932) was enacted in 1932 to strengthen state control of staple foods during the wartime. After the war, the act underwent the following amendments to cope with the changing economic conditions and the food supply-and-demand situation:

- 1) Establishment of the Food Distribution Corporation and expansion of the scope of staple foods subject to control (1947),
- 2) Strengthening of the distribution system through legislating the ration coupon system etc. (1949),
- 3) Abolition of the Food Distribution Corporation and transfer of the rationing mechanism to the private sector (1950) and,
- 4) Placing wheat under indirect control (1952).

The current legal amendment was the first of its kind since 1952.

The legalized system of food control had functioned very effectively until the period 1945 through 1950 when supplies were extremely scarce. Subsequent changes in economic conditions and food supply-and-demand situation, however, brought about the following changes in the system after 1965 against a background of greater relaxation in the supply-and-demand situation and an increased selective trend among consumers toward better