
MAJOR LEGISLATION

Jan. - Dec., 1982

1. Constitutional and Administrative Law

a. Constitutional Law

1. Public Officers Election (Amendment) Act.

Promulgated on Aug. 24, 1982. Ch. 81.

Japan has a bicameral system, made up of a House of Representatives and a House of Councilors. The House of Councilors, in addition to its local constituencies, has a nationwide constituency unprecedented in foreign countries, thus opening the way for men of learning and experience who do not belong to any specific political party or political organization to become members of the House of Councilors. It used to have the characteristic of a vocational representation.

The Public Officers Election Act provided for the election of members of the House of Councilors on the basis of a simple majority representation system in local constituencies with prefectures as a unit and a national constituency.

As a result of the current amendment, although local constituencies maintain the existing system, a proportionate representation

system was introduced for the national constituency in electing members in proportion to the votes garnered by respective political parties. This was the biggest feature of the current amendment.

Opinions have been voiced in some quarters that since the right of the voters to freely elect individuals instead of political parties is guaranteed by the Constitution, the amendment gives rise to doubt as to its constitutionality. (Constitution Article 15 (1)–(3)). Even if it is not unconstitutional, there is no denying the fact that candidates who do not belong to any specific political party or who belong to a minor party, have an only extremely small chance of being returned, and that the unique character of the House of Councilors, as mentioned above, will be toned down.

2. Act concerning Special Measures for Appointment, etc. of Foreign Teaching Staff Members at National or Public Universities.

Promulgated on Sept. 1, 1982. Ch. 89.

This act was aimed at paving the way for the appointment of foreigners as professors at national or public universities, thus promoting education and research at universities and enhancing international interchanges of science (Article 1).

Hitherto, the appointment of foreign teaching staff members at national universities (and also at public universities) as formal public servants had been limited up to the level of assistant, which corresponds to a teaching staff member. Foreign teachers whose rank is that of a lecturer or above at national universities used to be employed on the basis of a labor contract of one year's duration. The question then arose that the door was closed to the appointment of excellent foreigners as formal professors at national and public universities. Hence, the current law was enacted.

However, many other related problems still remain unsolved in that foreigners cannot become president or dean of a university faculty and that universities and elementary, junior and senior high schools are treated discriminately.

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