

4. Commercial Law

The Act Concerning the Central Depository System for Securities and Their Transfer on the Book.

The adoption of the central depository system for securities which allows the transfer and the pledging of shares to be done by merely registering transfers was discussed long before the law implementing such a system was enacted and promulgated as “the Act Concerning the Central Depository System for Securities and Their Transfer on the Book” (Law No. 30, 1984). It was enacted on May 15, 1984, and became effective together with its related rules on Nov. 14, 1984.

In connection with this Act, the Supreme Court Rule as to the Execution of Stock Certificates in Depository was provided, and became effective on Nov. 14, 1984.

A system of clearing purchases and sales by registering transfers had already been experienced. This system had been employed for stocks with pre-emptive rights since 1967 and for share certificates since 1971. The resulting convenience of the system is highly valued.

By Prof. TAKAYASU OKUSHIMA

Prof. YOICHI NAGAHAMA

HIROSHI HARUTA

HIDEAKI OTSUKA

5. Labor Law

The following is a description of three major pieces of legislation and amendment to legislation from the field of labor law.

1. Partial Amendment to the Disabled Persons Employment Promotion Act.

Promulgated on June 26, 1984. Ch. 50.

The main reasons for the amendment were the simplification of procedures for collection of unemployment penalties, which were imposed on enterprises that could not achieve the prescribed employment ratio of disabled persons to ordinary people, and for granting of employment promoting subsidies, and a partial expansion of the definition of disability. (Sections 5 and 6 and List No. 2.)

2. Partial Amendment to the Employment Insurance Act, etc.

Promulgated on July 13, 1984. Ch. 54.

This amendment is said to have been made to cope with extreme changes in the employment structure due to changes in recent economic and social circumstances, including the ageing of our society. The principal points in the amendment were: (1) an increase in the daily payments of the basic benefit (Articles 16 and 17), (2) exclusion of lump sum payments from the calculation of average wages (Article 17), (3) benefits over a longer period for aged, long-term, insured persons and benefits over a shorter period for young, short-term, insured persons (Article 22), (4) prolongation of the period before starting benefits for those people who resign at their option without material reason (Article 33), (5) abolition in principle of people who are more than 65 years old taking out new insurance policies (Article 6), and (6) benefits paid in a single sum (with a lower amount than the basic benefits) omitting the basic benefits for those people who have lost their employment after turning 65 (Article 37).

[Comment]

Although whether it is appropriate to exclude people who are more than 65 years old from the system is not certain, we submit

that it is appropriate to provide differences in the number of days that a benefit is payable to the aged and the number of days it is payable to young workers. This secures relatively high incomes for aged people by raising the maximum rate of the average wage in line with the increase in the number of aged people and the rise in the unemployment rate. Looking at the benefit as a whole, however, the basic amount is decreased by the step (2) noted above. Also in the step (3), the longer term pensions are continued but the period of receiving benefits for younger people is shortened and thus there is a decrease in the overall amount of benefits granted. The step (4) has generated a fear that it may restrict changes of occupation. From these points of view, it seems that the main purpose of the amendments was to reduce national financial expenses by lowering benefits and preventing younger workers from changing occupations rather than attempting to cope with present employment trends. Therefore, the adequacy of the amendments is doubtful when the stability of workers' lives and the securing of opportunities for an adequate selection of suitable occupations are considered.

3. The Act for Preparation of Acts Relevant to the Enforcement of the Tobacco Enterprise Act, etc.

Promulgated on August 10, 1984. Ch. 71.

Japan Tobacco & Salt Public Corporation, formerly a public corporation holding a monopoly in the tobacco and salt business, was reorganized into Japan Tobacco Industries, Limited, and placed under private management. The Public Corporations and National Enterprises Labor Relations Act (PCNELRA) was amended (in Article 2(1)(i)⑧ and Article 39) in accordance with Article 49 of the above Act to provide measures concerning labor in relation to the reorganization.

By these amendments, Japan Tobacco Industries Ltd. has been removed from the scope of application of the above PCNELRA. As a result, legal regulations such as restrictions on collective bargaining and prohibition of labor disputes have been

abolished.

[Comment]

It was conventionally maintained that the total prohibition of disputes by reason of the corporation's public nature was irrational and was contrary to Article 28 of the Constitution which provides the right to strike. The fact that the tobacco workers have been accorded the right to strike by the amendment to the relevant Act can be judged to be a step in the right direction. As a result, however, the consistency of the PCNELRA has been lost and the need to reorganize all labor management laws concerning the public sector has become an urgent issue.

By Prof. KAZUHISA NAKAYAMA
KUNIYUKI MATSUO

6. International Law

— Treaties and Agreements —

Multilateral:

International Agreement on Jute and Jute Products, accepted on June 1, 1983, coming into force with regard to Japan on Jan. 9, 1984, 47 Articles.

Convention Concerning the International Exchange of Publications, accepted on May 29, 1984, coming into force with regard to Japan on May 29, 1985, 21 Articles.

Convention Concerning the Exchange of Official Publications and Government Documents between States, accepted on May 29, 1984, coming into force with regard to Japan on May 29, 1985, 22 Articles.