

## 2. Administrative Law

### **An Act concerning a special case about the exemption of return credit about temporary payment on the Kanemi rice-oil pollution case(4provisions)**

Law No. 81, June18, 2007 (Effective on June 18, 2007)

#### **Background:**

The “Kanemi rice-oil pollution case” which is mentioned in this act is the following incident. In 1968, people who ate rice-oil produced by The KANEMI depot in Kitakyushu-shi, Fukuoka developed symptoms which PCB seemed to be the cause of, and the total number of the victims reached approximately 14,000 people centering on western Japan, and this was the largest-scale food poisoning incident ever known in Japan. The cause that the PCB became mixed in rice-oil was that PCB used as a deodorization medium was mixed in rice-oil from a pinhole in the manufacturing process of the rice-oil.

In 1970, victims of the Kanemi rice-oil pollution raised a claim for damages against the KANEMI depot which produced the rice-oil, the Kanegafuchi Scientific Industry, which is a manufacturer in PCB (at present, Kaneka), and a state.

The liability indemnity of the government and Kaneka and others was admitted in 1984 and 1985, and the judgment which approved the victim's charge is take was made, so that, about 2,700,000,000 yen was paid temporarily to patients by the government in 1984 and 1985. But after that the judgments by which the government and Kaneka won the case conversely were made, so that, the stream of the suit changed. As a result, a possibility that victims might lose their cases at the Supreme Court arose, so, in 1987 the victim side made a reconciliation with Kaneka, and retracted the appeal to the government.

As a result, a temporary payment return obligation at 1,700,000,000 yen has arisen on the victim side. The government took the viewpoint that there is an obligation in law for the return of the indemnity which is a

temporary payment to the end and did not admit exemption of debt for the return of this temporary payment. However, there were a lot of persons who have used the temporary payment concerned as a medical cost and the cost of living of the victim, too, and the return of the temporary payment concerned was unrealistic actually.

Under such circumstances, the person who was pessimistic about the return obligation on the victim and committed suicide appeared.

Such circumstances and in the sufficiency of the relief policy for the KANEMI rice-oil incident were considered, and this act, by which a debt for temporary payment concerned is exempted about a victim below a fixed annual income as a relief measure was established as legislation by members of the Diet.

### **Main Provisions:**

#### **Article 1, the aim of this act**

Considering the situation that a debtor of credit who is affected by the return of a temporary payment the government paid, based on a declaration of provisional execution of judgment which affects a claim for damages suit concerning the Kanemi oil pollution incident, which occurred centering on the Kyushu-district in 1968 (Fukuoka High Court Case No. (ne) 180 & 211 of 1978, Fukuoka District Court Kokura Branch Case No. (wa) 1&278 of 1981, Case No. (wa) 110 of 1982, Case No. (wa) 1 & 350 of 1982, Case No. (wa) 446 of 1983), has been put by present from occurrence of damage by an event concerned and much of debtor of credit concerned are a senior citizen, and in view of the vital importance of making sure that it will be possible to exempt the credit concerned early by setting the standard which affects income and property of a debtor of the credit concerned, this act sets a special case concerning management of national credit (law No. 114, 1956).

#### **Article 2, measures**

**Paragraph 1** About credit which affects the return of a temporary payment the government paid, in spite of a regulation of parenthesis prescribed by Article 32 Paragraph 1 of the act concerning the management of national credit, the revenue collector prescribed by the Article 4 Paragraph 2 of the act concerning the management of national credit,

when a debtor of credit concerned comes under “the standard which affects income and property” set as the next Paragraph and Paragraph 3 of this act, can exempt the arrears and interest which affect the credit concerned.

**Paragraph 2** “The standard which affects the income” will be, according to the regulations of Ministry of Agriculture, Forestry and Fisheries, the price from which the tax was subtracted from the total amount of the income of the household to which a debtor of prescribed credit belongs, to Article 2, Paragraph 1 of this act is the price set as each next number.

**Paragraph 3** “The standard which affects property” has to be relevant to each of the following numbered clauses concerning the property a household member possesses.

**Number 1** Based on value in land for residence and the building of a household member, the price which is considered in Article 1 of this act and was calculated by the regulations of the Ministry of Agriculture, Forestry and Fisheries becomes the living basis by which the land and a building concerned are a household constituent, and are the sheep rise which considers “The standard which affects the income” described in Article 2 Paragraph 2 of this act and decided by the regulations of the Ministry of Agriculture, Forestry and Fisheries.

**Number 2** Based on the value of fixed assets and current assets, besides those stated in Number 1 of this paragraph, the price which is considered in Article 1 of this act and was calculated by the regulations of the Ministry of Agriculture, Forestry and Fisheries are, according to the divi-

	The number of people of the family	The standard which affects the income
Number1	4 people	10,000,000 yen
Number2	More than 4 people	10,000,000 yen + the price to which one million yen for one person were added
Number3	Less than 4 people	10,000,000 yen—The price out of which one million yen for one person were pulled

sion in each number of paragraph 2 of this article, the price sheep rise set as each number concerned.

**Paragraph 4** Exemption by the regulations of paragraph 1 is accomplished based on application by a document from the debtor.

**Paragraph 6** A procedure of exemption by the regulations of paragraph 1 besides the regulation set by this act is decided by the regulations of the Ministry of Agriculture, Forestry and Fisheries.

**Paragraph 7** When the Minister of Agriculture, Forestry and Fisheries tries to set a regulation related to this act, the Minister of Agriculture, Forestry and Fisheries must consult with the Minister of Finance.

**Article 3, Consideration of the situation that a debtor is put into**

When a regulation of article 2 paragraph 1 is applied, the situation that a debtor of credit in prescribed in the said paragraph is put into has to be considered.

**Article 4, Tax exemption**

Taxes and other public charges can not be imposed on the economic profit when receiving an exemption by article 2 paragraph 1 of this act as the standard.

**Editorial Note:**

Though the victims of the Kanemi rice-oil pollution case received settlement money from the responsible enterprise and partial subsidy of medical expenses, for many victims who can not place at work because of physical condition and are in a severe economic condition, it is a great burden to return the obligation concerned.

By the formation of this act, a tentative solution will be planned for the problem on the suit about the Kanemi rice-oil pollution case which is called the largest scale food pollution case in Japan. And, after fiscal year 2008, such a public remedy as a lump-sum provision to the victims is also expected to be reduced.

But the time, approximately 40 years, has been too long after the Kanemi rice-oil pollution case occurred for victims.

Moreover, the accreditation criteria concerning the Kanemi rice-oil pollution of the current state is very strict, so among the approximately 14000 victims, an authorized person as a Kanemi rice-oil pollution victim move up only approximately 2,000 persons.

Thus there are a lot of problems which have to be settled from now on, like the state of the relief of non-authorized patients, the creation of an effective remedy and so on.

### 3. Law of Property and Obligations

#### **A partial amendment to the Money-Lending Business Regulation Act etc.**

Law No. 115, December 20, 2006 (Effective on December 19, 2007)

#### **Background:**

In Japan, the Civil Code has no provision on the upper limit of the agreed interest in a money-lending contract. Such a regulation is provided by the Interest Rate Restriction Act (hereinafter: “the Interest Act”), the Money-Lending Business Regulation Act (hereinafter: the “Act”) and The Regulation of the Receiving of Contribution, Deposits and Interest Rate Act (hereinafter: the “Contribution Act”). The Interest Act provides the upper limit of the interest rate according to the amount of the principal: if the principal is less than 100,000 yen, 20% per annum: if the principal is not less than 100,000 yen and less than 1,000,000 yen, 18% per annum: if the principal is not less than 1,000,000 yen, 15% per annum. However, Article 1 (2) of the Interest Act provides that if a debtor pays voluntarily interest exceeding the upper limit provided by Article 1 (1) of the Interest Act, he cannot request the return of a part of his payment in excess. Article 43 (1) of the Act before this amendment provided that, if the amount of money paid as agreed interest by a debtor under a pecuniary loan contract made in the money-lending business of a moneylender registered under Article 3 of the Act, exceeded the upper limit provided by Article 1 (1) of the