

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

Interest Act, as an exception, regardless of Article 1 (1) of the Interest Act, the payment of a part of the interest in excess should be construed to be a valid payment when the debtor had made the payment voluntarily and the moneylender had provided for the debtor documents satisfying the requirements provided by Article 17 (1) and Article 18 (1) of the Act (the so-called, *minashibensaikitei*). And Article 5 (1) of the Contribution Act provides the punishment for a money-lending contract with interest above 109.5% annum (in a leap year, 109.8%: 0.3% per day) and Article 5 (2) of the Contribution Act provides the punishment for a money-lending contract in the moneylender's business with interest above 29.2% annum (in a leap year, 29.28%: 0.03% per day). Usually, an interest rate that is not less than the upper limit of the Interest Act but less than the upper limit that will become an object of the punishment provided for by the Contribution Act, called generally the gray-zone interest-rate, has been used by the money-lending business when lending to a consumers and so on. In Japan, after Bubble Economy burst, a period of *super* low interest rate has continued in general. However, in the money-lending business for consumers, high gray-zone interest-rate was left on the grounds that imposing certain obligations such as registration in exchange for permission for a high interest rate by application of the *minashibensaikitei* principle is useful to prevent activities of underground moneylenders. However, recently, many social problems concerning the money-lending business, that is to say, illegal activities of moneylenders, suicides of debtors and so on, have occurred and the Supreme Court has made strict decisions concerning the conditions of the application of the *minashibensaikitei* principle to moneylenders. Under these circumstances, in order to work on problems concerning the money-lending business, including problems concerning interest rates, the Act was amended.

Main Provisions:

(1) The title of the Act:

The title of the Act is amended from the Money-Lending Business Regulation Act to the Money-Lending Business Act, that was commonly used to refer to this Act up to now.

(2) Stricter conditions on entering the money-lending business than before this amendment:

Entering the money-lending business is conditioned upon certain net assets of an entrant. The required net assets are raised to 20 million first and 50 million second in order to consider the period for preparation of a moneylender (Art. 6 (1) (Item) 14, (3) and (4) of the Act, Art. 1 of the Schedule). A moneylender is obligated to place in each office a chief of the money-lending business who gains the entitlement by passing an examination (Art. 4, Art. 6, Art. 12-3 and Art. 24-7–Art. 24-50 of the Act).

(3) The Money-Lending Business Association:

As a self-regulating institution, the Money-Lending Association organized nationwide, is a corporation granted under the Act by the prime minister with the aim of the protection of persons in need of funds and the fair operation of the money-lending business, is established (Art. 25–Art. 41-12 of the Act).

(4) The regulation of acts:

Even in the daytime, persistent debt collection is prohibited (Art. 21 (1) of the Act). A moneylender is obligated to hand a document to debtor in order to explain the contents of their contract before making a contract (Art. 16-2 of the Act). If a moneylender makes a life insurance contract with an insurer, the moneylender is obligated to hand a document to the debtor in order to explain that contents (Art. 16-3 of the Act). In that case, making a debtor's suicide a peril is prohibited (Art. 12-7 of the Act). A moneylender must not acquire a letter of attorney of the debtor on a notarial execution. And if a rate of agreed interest exceeds the upper limit of the Interest Act, the moneylender must not require of a notary a notarial execution (Art. 20 of the Act). A moneylender is obligated to explain to a joint and several guarantor that the guarantor cannot claim that the moneylender must demand payment of debt of a principal and that the moneylender must operate execution on debtor's property before a demand on the guarantor (Art. 16-2 (3) item.5 and Art. 17 (3) of the Act).

(5) Order to improve the operation of money-lending business:

The prime minister or each governor of Tokyo, Hokkaido and other prefectures, can order a moneylender to improve the operation of a money-lending business (Art. 24-6-3 of the Act).

(6) Control of excessive lending:

The Institution of Credit Information Organization is established in order that a moneylender understands the total amount of debt of each debtor (Art. 41-13–Art. 41-38 of the Act). A moneylender is obligated to use the information of Credit Information Organization, and the regulations considering the total amount of the debts of a debtor is provided newly (Art. 13–Art. 13-4 of the Act).

(7) Rate of interest:

The institution of “*minashibensai*” provided by Art. 43 of the Act before this amendment is repealed. And the interest rate in the case of a money-lending business prohibited by punishment is lowered to 20% (Art. 5 (2) of the Contribution Act).

(8) Measures concerning the regulation of an *underground* money-lender:

Punishment is provided newly on money-lending as a business with interest that exceeds 109.5% per annum (in a leap year, 109.8%) (Art. 5 (3) of the Contribution Act). Punishment for the operation of money-lending business without registration and so on is amended heavily (Art. 47 of the Act).

(9) Efforts of the government:

The government will strive to solve problems concerning plural and cumulative debts with the cooperation of ministries and agencies (Art. 66 of the Schedule).

(10) Effective date:

This amendment is effective on a date provided by Ordinance less than one year from the promulgation date, and in fact effective on December 19, 2007 (hereinafter: the principal effective date). However, certain parts of this amendment are effective on a different day from the principal effective date: the Act is to be effective on the promulgation date, after a month from the promulgation date, the principal effective date, the date provided by Ordinance after less than one and a half years from the principal effective date, and the date provided by Ordinance after less than two and a half years from the principal effective date in the order (Art. 1 of the Schedule). And at some time before and after two and a half years from the principal effective date, the state of enforcement of the Act and so on is to be examined and reviewed (Art. 67 of the Schedule).

Editorial Note:

Although passed near the end of December 2006, considering its importance, the Act is introduced here. This amendment is regarded as showing that the tolerance of the legislature for moneylenders, adopting a carrot-and-stick-policy, such as *minasibensaikitei*, has made a change of direction, toward stricter regulations on the money-lending business. However, since the amendment is to be effective part by part over a long time, there is a possibility of another change of direction of the legislature. And since certain important amendments, such as the repeal of *minashibensaikitei*, are to be effective in the final stages, the movement of the legislature on the regulation of the money-lending business should be watched carefully. In addition, please refer to “JUDICIAL DECISIONS 3. Law of Property and Obligations” of this annual report, in which one of the decisions of the Supreme Court considered strongly influential on this amendment is introduced.

4. Law of Civil Procedure and Bankruptcy

Act Revising the Code of Criminal Procedure, etc. to protect the rights and interests of crime victims

Law No. 95, June 27, 2007 (effective on April 1, 2008)

Background:

This Act which revises mainly criminal procedure to protect the rights and interests of the victims of crime contains an amendment of civil procedure at the same time.

On the basis of the Basic Act on Crime Victims (Law No. 161, December 8, 2004), a basic plan about measures and policies for crime victims, etc. was formulated in December 2005. The plan concerns not only issues about criminal procedure, but also about civil procedure. The concrete content of the amendment about civil procedure is to take measures in the Code of Civil Procedure to reduce a crime victim's mental anxiety or tension, etc. when they make statements as witnesses or par-