

Japanese Law News Monthly Bulletin 2004/4**HEADINGS****Focus in APRIL**

1. **Equity (securities law, corporate law)**
2. **Debt (insolvency law, banking and finance law)**
3. **Goods and Services (contracting, product liability, competition law)**
4. **Oversight and Policy (administrative law, public official law, tax policy)**
5. **Labour (employment law)**
6. **Social Context (NPO law, civil justice reforms)**
7. **Legal Policy (constitutional reform, international relations)**

Focus in APRIL:

New Arbitration Law – An English translation can be found at
<http://www.kantei.go.jp/foreign/policy/sihou/law032004_e.html>

1. Equity (securities law, corporate law)

A former president of a failed insect exterminating company, under indictment on charges of manipulating the prices of the firm's stock, was served with a new arrest warrant accusing him of window-dressing its accounts:

<<http://www12.mainichi.co.jp/news/mdn/search-news/902995/securities20law-0-2.html>>
(9 March) (Full text in PDF is available on request)

2. Debt (insolvency law, banking and finance law)

Trust businesses are getting inventive ahead of deregulation and expected revisions to the Trust Business Law (by the end of the year), exploring new areas of asset management, including copyrights and patents. To expand the scope of the industry, the revisions will allow trust businesses to handle a wider area of assets, including intellectual property. Non-financial companies will also be allowed to enter the business for the first time:

<<http://www.asahi.com/english/business/TKY200404200151.html>> (21 April)

The House of Representatives has approved a bill that would allow the government to funnel taxpayer money into financial institutions even if they are not insolvent. The bill is designed to prompt capital-short regional and community-based banks to accelerate the disposal of their bad loans and merge with other lenders to boost competitiveness. However, some economists argue that the bill will probably not serve as a powerful tool to stabilize the nation's financial system:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040424a1.htm>> (26 April)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040424a2.htm>> (26 April)

3. Goods and Services (contracting, product liability, competition law)

A nonprofit body hoping to create a standardized base for electronic commerce transactions in East Asia has signed an agreement with a state-run Chinese organization for joint research and development activities. The EA-ECA also plans to team up with similar standardization organizations in the United States and Europe for broad-based e-commerce standardization:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040420a5.htm>> (21 April)

The Fair Trade Commission is contemplating making a revision to the Antimonopoly Law with a primary goal to roughly double the surcharge it levies on profits earned through unfair means, so that Japan can be on par with other industrialized countries:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040426a1.htm>> (27 April)

4. Oversight and Policy (administrative law, public official law, tax policy)

The new Council for Promoting Regulatory Reform (succeeding the now-defunct Council for Regulatory Reform) is expected to focus on speeding up the privatization of administrative services during its three-year time frame:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040413a8.htm>> (13 April)

A set of bills aimed at privatizing four public highway corporations in fiscal 2005 are set to pass a House of Representatives plenary session:

<<http://home.kyodo.co.jp/all/display.jsp?an=20040427058>> (27 April)

A key policy-setting panel on Monday [26 April] finalized an interim report, proposing that Japan Post be fully privatized in 2012 at the earliest and maintain its nationwide network of post offices:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040427a2.htm>> (27 April)

5. Labour (employment law)

The Health, Labor and Welfare Ministry plans to have inspectors make unannounced nighttime visits to companies to clamp down on unpaid overtime and prevent deaths from overwork. This development reinforces earlier reforms including the ministry easing the standard for worker compensation claims regarding death from overwork, and 2002 guidelines asking companies to send employees with an average 80 hours or more of overtime a month for medical checkups by industrial physicians:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040427b4.htm>> (27 April)

Relatives of a loan worker at a Kyoto electronics firm who committed suicide last year has filed a damages suit claiming that the man's death was caused by overwork. The parents and wife of the 32-year-old man are seeking some 141 million yen in compensation at the Nagoya District Court:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040427b6.htm>> (27 April)

6. Social Context (NPO law, civil justice reforms)

[Legal Education]

Japan's 68 new law schools opened for business April 1, with about one-fifth of them failing to fill all available places, according to a survey by the Yomiuri Shinbun newspaper. The enrollment shortfall is believed to come after schools struggled to predict application trends among students in the first year of the new system. The new US-style law schools are part of the Japanese government's ambitious plan to boost the number of lawyers to 50,000 by 2018, from 23,000 now. The fact that Japan needs more lawyers at all reflects a shift in the country's corporate culture. To meet strong demand from American and European law firms, the Japanese government recently revised a law to make it easier for them to do business in Japan:

(12 April) (Full text is available on request)

[Juvenile Crime and Child Abuse]

The Japan Pediatric Society's recent disclosure of a number of cases of brain death resulting from child abuse may have implications for the planned revision of the Organ Transplant Law to enable children to be organ donors:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 13 April)

The National Police Agency (NPA) issued new guidelines fighting juvenile crime and preventing child abuse amid a growing number of serious crimes committed by minors and increasing child abuse in Japan:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=japan&an=>> visited on 22 April)

See also <<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?ek20040415ag.htm>> for a useful article with practical tips on dealing with juvenile arrest in Japan.

[Judicial Reform]

Ruling and opposition lawmakers have reached a basic agreement on penalties for proposed lay judges who leak information, deciding that only those judges who leak information on people involved in criminal cases will face prison:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=japan&an=>> visited on 21 April)

The bill on the lay judge system, in which selected citizens and professional judges try serious criminal cases together, was passed at a plenary session of the House of Representatives. The bill is set to be enacted during the current Diet session. The lay judge system is expected to be implemented by 2009:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 26 April)

[Constitution-Related Issues]

Japanese Prime Minister Junichiro Koizumi vowed to continue his controversial visit to the Yasukuni Shrine, despite a court ruling which has declared pilgrimages unconstitutional:

<<http://asia.news.yahoo.com/040407/afp/040407073634asiapacificnews.html>> (7 April)
(Full text in PDF is available on request)

7. Legal Policy (constitutional reform, international relations)

[International Relations]

Japan and Singapore will share information on materials that can be used in the production of weapons of mass destruction with the aim of preventing the spread of WMD. Under the agreement, the two nations will strengthen their oversight of exports, establish a unified system regulating trade in critical goods, and organize joint seminars on export control. Tokyo is scheduled to conclude a similar agreement with Hong Kong in May:
(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 21 April)

Japan and South Korea began their third round of negotiations in Seoul on Monday [26 April] in a bid to reach a free-trade agreement by the end of 2005:
<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040427a8.htm>> (27 April)

[Constitutional Reform]

A constitutional research panel of the Liberal Democratic Party is drafting revisions to the preamble of Japan's Constitution. The panel wishes to emphasize "healthy patriotism," while maintaining the renunciation of war stipulated in Article 9. But it plans to eliminate the second paragraph of Article 9, which forbids Japan from maintaining "land, sea and air forces as well as other war potential":
<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040421a2.htm>> (21 April)