

Japanese Law News Monthly Bulletin 2004/7**HEADINGS****FOCUS in July**

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

FOCUS in July: Poll revealed flaws in electoral system

The lower house electoral system may be one part of the problem. In the lower house election last autumn, candidates of the ruling Liberal Democratic Party and main opposition party Minshuto (Democratic Party of Japan) were defeated in 109 of the 300 single-seat constituencies across the nation, but were able to win election in the proportional representation race under the dual-candidacy system:

<<http://www.yomiuri.co.jp/newse/20040717wo03.htm>> (17 July) (Full text in PDF is available on request)

1. Equity (securities law, corporate law)

A former managing director of Seibu Railway Co. pleaded guilty Thursday [1 July] to providing benefits worth 89 million yen to a corporate racketeer and his accomplices by selling company-owned land at prices well below market value in 2001, thereby violating the Commercial Code:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040702a5.htm>> (1 July)

The Tokyo District Court ordered a halt Tuesday [27 July] to merger negotiations between Mitsubishi Tokyo Financial Group Inc. and UFJ Holdings Inc. in a move that could kill the creation of what would have been the world's largest banking group:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040728a1.htm>> (28 July)

See also, <<http://www.asahi.com/english/business/TKY200407280203.html>> (28 July)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040729a2.htm>> (29 July)

(Two other related texts are available in PDF on request)

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

The Financial Services Agency said Wednesday it will conduct special inspections of major banks for the fiscal first-half through Sept. 30 to check progress in reconstruction of their large corporate borrowers. The move is aimed at prompting major banks to step up efforts to dispose of nonperforming loans extended to such borrowers in time for the planned abolition next April of the government guarantee on full refunds of deposits, FSA officials said::

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=business&an=>> visited on 29 July). See also,

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040727a2.htm>> (27 July)

Two former executives of defunct Osaka-based Kofuku Bank were ordered by the Osaka District Court on Wednesday to pay a total of 7 billion yen in compensation to the Resolution and Collection Corporation of Japan (RCCJ), which took over the bank's nonperforming loans:

<<http://www.yomiuri.co.jp/newse/20040729wo26.htm>> (29 July)

3. Goods and Services (contracting, competition law, IP, PL, consumer law)

The Fair Trade Commission on Wednesday [30 June] filed for a court injunction to stop Usen Corp., the nation's leading cable music broadcaster, from using what officials call unfair discounts designed to monopolize the market:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040701a1.htm>> (1 July)

<<http://www.asahi.com/english/business/TKY200407010159.html>> (1 July)

Former Mitsubishi Motors Corp. President Katsuhiko Kawasoe and three others were charged Thursday [1 July] with negligence resulting in a fatal accident in 2002 involving a truck built by the automaker:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040702a3.htm>> (2 July)

The Fair Trade Commission warned Microsoft Corp. on Tuesday [13 July] to discontinue an anticompetitive practice in connection with software licensing deals with Japanese personal computer makers:

<<http://asia.news.yahoo.com/040713/ap/d83pnaeo0.html>> (13 July) (Full text in PDF is available on request). See also,

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040710a9.htm>> (10 July)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040714a1.htm>> (14 July)

Japanese electronics giant Matsushita Electric Industrial Co. Ltd. has settled a patent-infringement suit against a Canadian DVD maker regarding some of Matsushita's DVD patents. Under the terms of the settlement, Scarborough, Ontario-based Cinram International Inc will pay an undisclosed amount to the Japanese company in exchange for use of Matsushita's DVD replication patents:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040716a5.htm>> (16 July)

A number of ministries and agencies ... have started mapping out guidelines to give themselves a clearer understanding of the obligations to be met by companies under a new law covering protection of personal data. The move was prompted by a series of leaks of personal information on customers held by communications and credit-card companies:

<<http://www.yomiuri.co.jp/newse/20040719wo35.htm>> (19 July)

<<http://www.yomiuri.co.jp/newse/20040730wo32.htm>> (30 July)

(Full text in PDF is available on request)

The infrastructure ministry will form a task force to look at ways to prevent structure-related accidents, such as the revolving-door fatality in March at the Roppongi Hills complex in Tokyo:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040728b1.htm>> (28 July)

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

The Supreme Court ordered the Gifu prefectural government Tuesday [29 June] to disclose its draft environmental impact assessment of the planned Tokai circular expressway, overturning lower court rulings that supported the government's refusal to release the material:

<<http://www.yomiuri.co.jp/newse/20040630wo33.htm>> (30 June) (Full text in PDF is available on request)

The government might strip Japan Post workers of their public-servant status and might end the guarantee on ordinary deposits in 2007, when postal service privatization is phased in, according to government sources:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040724a2.htm>> (24 July)

<<http://asia.news.yahoo.com/040713/kyodo/d83pnfig1.html>> (13 July) (Full text in PDF is available on request)

Japan's finance minister said on Friday [30 July] the government needed to explore the possibility of a sales tax rise, although a decision on the sensitive subject would take a long time:

<<http://asia.news.yahoo.com/040730/3/1lriv.html>> (30 July) (Full text in PDF is available on request). See also,

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040730a3.htm>>

5. Labour (employment law, pension system)

The Health, Labor and Welfare Ministry has decided to urge companies not covered by the public-run corporate employee pension plans to join the employee pension system and, if they refuse to do so, will charge them the premium anyway:

<<http://www.yomiuri.co.jp/newse/20040712wo04.htm>> (12 July) (Full text in PDF is available on request)

Friday's [16 July] reprimand of Cabinet Legislation Bureau Director General Osamu Akiyama and other top bureaucrats over technical errors in pension reform laws illustrates the determination of Prime Minister Junichiro Koizumi and his close aides to restore public trust in the reforms:

(cited at <<http://www.yomiuri.co.jp/newse/20040718wo31.htm>> visited on 18 July 2004; full text in PDF is available on request). See also,

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040723a6.htm>> (23 July)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040728a6.htm>> (28 July)

The Tokyo High Court on Wednesday [21 July] upheld a lower court order that the former president of a cardboard manufacturer in Mito, Ibaraki Prefecture, pay 15

million yen in damages for abusing three mentally disabled women in his employ. The high court dismissed an appeal filed by the former boss, Masao Akasu, 57, and said the testimony of the plaintiffs, who sought a combined 30 million yen in compensation, was reliable:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040722b1.htm>> (22 July)

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

The bill to amend the Law Concerning Civil Litigation Costs so as to require the losing party in a civil lawsuit to pay the winner's legal fees failed to pass the Diet and was carried over to the next session:

<<http://www.yomiuri.co.jp/newse/20040701wo03.htm>> (1 July) (Full text in PDF is available on request)

The government is changing its attitude toward victims of human trafficking. Foreign woman brought to Japan illegally and forced into prostitution will soon be treated as victims rather than overstayers under a plan to stamp out the practice:

<<http://www.asahi.com/english/nation/TKY200407080144.html>> (8 July) (Full text in PDF is available on request)

A new panel will be set up to debate two key reforms of the nursing insurance system that have come under fire from nursing care providers and senior citizens' groups. In an unprecedented move, the ministry will establish a special subpanel in the Social Security Council to discuss anew a proposed expansion of the age range of payers of nursing care insurance premiums and the integration of the nursing care insurance with welfare schemes for the handicapped:

<<http://www.yomiuri.co.jp/newse/20040718wo32.htm>> (18 July) (Full text in PDF is available on request)

In the nation's first such ruling, the Tokyo District Court on Monday [12 July] awarded 50,000 yen in damages to a municipal employee who was a victim of passive smoking in the workplace:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040713a3.htm>> (13 July)

A group of 26 taxi drivers and users filed a lawsuit Thursday [on 22 July] at the Tokyo District Court, demanding 13.6 million yen in damages from the state over its alleged failure to actively curb smoking inside cabs:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040723b3.htm>> (23 July)

<<http://mdn.mainichi.co.jp/news/20040722p2a00m0dm014002c.html>> (22 July)

The government's top science council has voted to adopt policy recommendations that would permit limited cloning of human embryos for scientific research in Japan, an official said. Japan banned human cloning in 2001, but has permitted researchers to use human embryos that aren't produced by cloning:

<http://asia.search.news.yahoo.com/search/news_asia_pf?p=ukey%3A2678383> (24 July) (Full text in PDF is available on request)

Doctors and patients demanded in court Thursday [on 29 July] that the Japan Society of Obstetrics and Gynecology allow the controversial preimplantation genetic diagnosis of embryos. In the damages suit, the plaintiffs are demanding 77 million yen from the society for severely restricting opportunities for such diagnosis under its 1998 guidelines:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040730a8.htm>> (30 July)

Cf <<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040714a6.htm>> (14 July)

The Naha Family Court on Wednesday approved an application by a transsexual to alter her officially registered sex to female under a new law:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040730a7.htm>> (30 July)

[WWII-Related Issues]

In a landmark ruling Friday, the Hiroshima High Court overturned a district court decision and awarded 27.5 million yen to a group of Chinese brought to Japan in World War II and forced to work under brutal conditions:

<<http://www.asahi.com/english/nation/TKY200407100152.html>> (10 July) (Full text in PDF is available on request)

The Public Management Ministry has refused to pay condolence money to the bereaved family of a late Korean man, who lost three of his fingers after being conscripted by the Imperial Japanese Army, on the grounds that he did not lose his thumbs:

<<http://mdn.mainichi.co.jp/news/20040727p2a00m0dm010001c.html>> (27 July)

7. Legal Policy (constitutional reform, international relations)

[International Trade]

The removal of tariffs on industrial products is a key issue in negotiations among Japan and three Association of Southeast Asian Nations members--Thailand, the Philippines and Malaysia-- over a free trade agreement. If Japan's request for the lifting of tariffs is realized, it will give boost the country's exports of automobiles and digital household appliances:

<<http://www.yomiuri.co.jp/newse/20040722wo12.htm>> (22 July) (Full text in PDF is available on request)

Worried that too few of its farm products may be exempted from massive tariff cuts, Japan plans to keep up the pressure on other World Trade Organization members as they try to hammer out a multilateral trade agreement:

<<http://www.asahi.com/english/business/TKY200407220177.html>> (22 July)

China plans to propose to Japan the creation of a forum through which Chinese and Japanese experts can discuss a bilateral free trade agreement, Chinese Vice Commerce Minister Wei Jianguo said in an interview published Friday [30 July]. Wei said in the interview with the Nihon Keizai Shimbun in Tokyo on Thursday that it is crucial that the two countries quickly establish an FTA because Japan is China's largest trading partner:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=asia&an=>>> visited on 30 July)