

Lagislations

The Act for Intermediary Juridical Persons

[Law No. 49, June 15, 2002; Cyukan-hojin ho]

Intermediary juridical persons are, in Japan, juridical persons who do not aim at public or private interests. The Civil Code of Japan provides for public interest juridical persons and profit-making juridical persons, but it does not provide for intermediary juridical persons.

This law aims at providing the organization and management of intermediary juridical persons. In the Civil Code of Japan, a general provision about establishing juridical persons is in Article 33. Juridical persons may be formed only in accordance with the provisions of this Code and/or other laws. A provision about establishing public interest juridical persons is in Article 34, while profit-making juridical persons is in Article 35. That is, associations that are granted personality of juridical persons by the Civil Code are limited to associations that aim at public interests and profit making. Therefore, the Civil Code does not have provisions for intermediary associations (for instance, alumni association) that do not aim at public interests or profit making. Needless to say, there are no general revisions for this. However, there are several provisions about it in the other laws.

This law establishes the system of intermediary juridical persons, and makes up for the lacuna about it in the Civil Code. As a result, associations that have not become juridical persons up until now because it does not aim at public interests or profit making, should now be able to get it.

An association for granting personality of juridical persons as intermediary juridical persons is an association that aims at making common profits for the staff; it does not aim at distributing surplus to it (Article 2 I). Intermediary juridical persons are different from the public interests juridical persons who aim at making profits for unspecified individuals because it aims at making common profits for the staff; profit making juridical persons because it does not aim at distributing the surplus.

This law has two types of intermediary juridical persons: (1) intermediary juridical persons of limited liability (Article 2 II and Chap. 2); and, (2) intermediary juridical persons of unlimited liability (Article 2 III and Chap. 3). It is necessary for the intermediary juridical persons of limited liability to provide for the rule of establishment and management of it in detail though its staff does not take the responsibility for the creditor of the intermediary juridical persons of liability. Conversely, it is possible for the intermediary juridical persons of unlimited liability to be established and simply managed though its staff takes the responsibility for it. The reason for the kinds of intermediary

juridical persons of limited liability and the intermediary juridical persons of unlimited liability is the correspondence to various demands by becoming juridical persons. This is so because it is expected that associations, which will be able to become intermediary juridical persons, will be varied.

Regarding this law as it concerns the establishment of intermediary juridical persons, it is an adopted system of standard regulation concerning the formation of juridical persons. According to Article 6, 10 I, and 93 I, intermediary juridical persons shall be established, when people become its staff make articles of associations in common, and register its establishment in the main office. In the Civil Code of Japan, by establishing public interests juridical persons, it is necessary to get permission from competent authorities, etc. These are strict conditions. In this law, however, conditions of establishing intermediary juridical persons are not as strict as establishing public interests juridical persons. That is, public authorities rarely have anything to do with intermediary juridical persons because it does not aim at public interests. For this law, therefore, it is an adopted system of standard regulation which concerns the formation of juridical persons. This is similar to the incorporation of companies.

For the organization and management of intermediary juridical persons, there are many detailed revisions in this law. Therefore, I cannot describe it here. This law has 6 chapters and 163 articles. It is rather large because of the detailed revision. In this law, for intermediary juridical persons, there is an adopted system of standard regulation concerning the formation of juridical persons, and the superintending authorities of this law because of the adjustment of various relations of rights and obligations concerning the intermediary juridical persons.

This law will become effective April 1, 2003.

(K. KIMURA)