

PROMOTING THE ACTIVITIES OF REGISTERED FOREIGN LAWYERS

The Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers has been revised, including expanding the scope of arbitration cases in which registered foreign lawyers and foreign lawyers are permitted to provide procedural representation.

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In Japan, no person other than an attorney at law, etc. may, for the purpose of obtaining compensation, engage in the business of handling of legal services in principle. However, the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers went into effect in 1987, establishing the registered foreign lawyer system, enabling foreign lawyers to handle legal services that related to their country of primary qualification in Japan as registered foreign lawyers, so long as they meet certain requirements.

The main services of registered foreign lawyers include representing clients in international transactions that shall be governed by foreign law with foreign companies, drafting contracts for international transactions, and giving advice on things like local laws to companies expanding into overseas markets. They also provide procedural representation in international arbitration cases, where civil disputes over international transactions are

decided by a third party (arbitrator) appointed by concerned parties.

The foreign lawyers must receive approval from the Minister of Justice and register in the Japan Federation of Bar Associations' roll of registered foreign lawyers to work as registered foreign lawyers. There were 421 people registered as registered foreign lawyers as of April 2019 and the breakdown by home jurisdiction was as follows: 221 from the United States, 72 from the United Kingdom and 44 from China.

Since the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers was established, it has repeatedly been revised, including the easing of relevant requirements of experience of having performed professionally to become a registered foreign lawyer. The need for further revisions has increased, including the expanding demand for foreign law services, following an increase in international business transactions in recent years. Additionally, the number of international arbi-

tration cases is increasing globally, and international arbitration cases that don't rely on trials have started to become the global standard as a step in resolving international disputes between corporations. Promotion measures are being carried out with the goal of creating hubs for international dispute resolutions, particularly in Singapore, Malaysia, South Korea and other Asian countries. For this reason, in October 2019 the Japanese government submitted a bill to the Diet for a revised law aiming to expand the scope of international arbitration cases in which registered foreign lawyers are permitted to provide procedural representation, based on discussions with legal circles, the business world and academia. The bill was passed in May 2020.

The revised law has the following three main features:

(1) Expands the scope of representation in international arbitration; establishes provisions on representation in international mediation by registered foreign lawyers and foreign lawyers

Prior to the revision, international arbitration cases were defined as civil disputes with a place of arbitration within Japan, and as "those in which all or some of the parties are persons who have an address or a principal office or

Changes in Number of Registered Foreign Lawyers



Note 1: Statistical data as of April 1 of each year (from the Japan Federation of Bar Associations' statistical survey)

Note 2: The Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers became effective on April 1, 1987, and at that time, there were no registered foreign lawyers

Japan to acquire the two years of work experience in the country of primary qualification, and considering the opinion that it was desirable for registered foreign lawyers to acquire more experience providing work in Japan as it would improve legal services, the maximum period of provision of services in Japan that can be included in the calculation was increased to two years.

(3) Establishing a joint corporation system

The Attorney Act was revised in 2001 in Japan, allowing attorneys at law to become members and allowing multiple offices offering legal services to establish a legal professional corporation. With revisions to the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers in 2014, it became possible for a registered foreign lawyer corporation to be established consisting only of registered foreign lawyers, and through this revision, it became possible for an attorney at law/registered foreign lawyer joint corporation to be established consisting of attorneys at law and registered foreign lawyers. If the number of joint corporations offering one-stop legal services for Japanese and foreign law all over Japan increases, it is expected that it will result in an increase in user convenience and a promotion of expansion overseas for small and medium-sized Japanese corporations.

(1) and (2) will come into effect on August 2020, and (3) will come into effect on the date specified by Cabinet Order until November 2022. 

head office in a foreign jurisdiction.” But with this definition, there were problems where registered foreign lawyers could not intervene in matters where a Japanese subsidiary of a foreign corporation was a party in a dispute, or in matters where some of the procedures for hearings were conducted in Japan when the parties in dispute agreed that the place of arbitration was in a foreign country. For these reasons, the scope was expanded for international arbitration cases where registered foreign lawyers could provide procedural representation. By abolishing the requirement to have the place of arbitration within Japan, it allows even matters where the place of arbitration is in a foreign country to be treated as international arbitration cases. Additionally, like a Japanese subsidiary of a foreign corporation, it will be treated as an international arbitration case even if all parties involved have a head office or other such offices within Japan, if there is a specific connection to a foreign country as regards

something such as a party to the case or the governing law.

In addition to this, the revision establishes a provision for international mediation cases, allowing registered foreign lawyers and foreign lawyers to provide representation, even though the target of contractual disputes, trade disputes, and other commercial disputes between businesses is limited.

(2) Easing of the relevant requirements of experience of having performed professional duties

Before the revision the law required three years or more of experience of having performed professional duties in order to obtain registered foreign lawyer qualifications, and allowed for a maximum of a one-year period of provision of services to the employer, attorney at law, etc. based on knowledge of the law of a person's jurisdiction of qualification within Japan to be counted as part of the required three years. However, as there were foreign lawyers who had to leave