

J. Y. Interpretation No.398 (March 22, 1996) *

ISSUE: Article 18, Subparagraph 4, of the Farmers Association Act provides that moving out of an area where a farmers association [the term ‘cooperative’ is often used in the U.S.] is located will result in termination of membership. May said provision be adopted as a basis for suspending the comprehensive farmers health insurance coverage for the person who continues to maintain his status as a farmer and to pay his premium when due but moves away from the area where his farmers association is located? If so, does it conflict with Article 6 of the Farmers Health Insurance Act and Articles 7 and 10 of the Constitution?

RELEVANT LAWS:

Articles 7 and 10 of the Constitution (憲法第七條、第十條) ; Articles 1, 12, 14 and 18, Subparagraph 4, of the Farmers Association Act (農會法第一條、第十二條、第十四條、第十八條第四款) ; Article 6 of the Farmers Health Insurance Act (農民健康保險條例第六條) .

KEYWORDS:

Farmers Association (農會) , domicile (住所) , health insurance for farmers (農民健康保險) .**

* Translated by Dr. C.Y. Huang of Tsar & Tsai Law Firm.

** Contents within frame, not part of the original text, are added for reference purpose only.

HOLDING: A farmers association aims to protect the rights and interests of farmers, to increase their knowledge and skills, to promote modernization of agriculture, to increase income generated by production, to improve living standards for farmers, and to develop the economy in farming communities. Therefore, people living in an area where a farmers association is located and who actually engage in agricultural activities may join the association as members in accordance with the laws. Since a farmers association serves the farmers living in an area where the association is located, prerequisite for membership should naturally be “domicile in an area where an agricultural association is located” and “actual engagement in agricultural activities.” Article 18, Subparagraph 4, of the Farmers Association Act provides that moving out of an area where a farmers association is located will result in termination of membership. Such provision is natural for legal effect and does not contradict Articles 7 and 10 of the Constitution. However, with reference to Article 6 of the Farmers Health Insurance Act, if a member of a

解釋文：農會係以保障農民權益、提高農民知識技能、促進農業現代化、增加生產收益、改善農民生活、發展農村經濟為宗旨，得由居住農會組織區域內，實際從事農業之人依法參加為會員。農會既以其組織區域內之農民為服務對象，其會員資格之認定自以「居住農會組織區域內」及「實際從事農業」為要件。農會法第十八條第四款規定農會會員住址遷離原農會組織區域者為出會之原因，係屬法律效果之當然規定，與憲法第七條及第十條亦無牴觸。惟農會會員住址遷離原農會組織區域者，如仍從事農業工作，參酌農民健康保險條例第六條規定，其為農民健康保險被保險人之地位不應因而受影響，仍得依規定交付保險費，繼續享有同條例所提供之保障。主管機關發布有關命令應符合此意旨，以維護農民健康保險條例保障農民健康之目的。

farmers association moves away from the area where the farmers association to which he/she has been a member is located but still engages in agricultural work, his/her status as the insured under the health insurance for farmers shall not be affected. Accordingly, he/she may continue to pay premiums in accordance with regulations for coverage of the said insurance. Relevant decrees issued by the competent authority shall correspond with the aforesaid intention to uphold the purpose of the Farmers Health Insurance Act, which is to safeguard the health of farmers.

REASONING: As stipulated in Articles 1, 12 and 14 of the Farmers Association Act, a farmers association aims to protect the rights and interests of farmers, to increase the knowledge and skills of farmers, to promote modernization of agriculture, to increase income generated by production, to improve living standards for farmers, and to develop the economy in farming communities. Therefore, people living in an area where a farmers association is located and who actually engage

解釋理由書：農會係以保障農民權益、提高農民知識技能、促進農業現代化、增加生產收益、改善農民生活、發展農村經濟為宗旨，得由居住農會組織區域內，實際從事農業之人依法參加為會員，農會法第一條、第十二條、第十四條分別定有明文。農會既以其組織區域內之農民為其服務對象，其會員資格之認定，自以「居住農會組織區域」內及「實際從事農業」為要件。農會法第十八條第四款規定農會會員住址遷離原農會組織區域者為出會之原

in agricultural activities may join the association as members in accordance with the laws. Since a farmers association serves the farmers living in an area where the association is located, a prerequisite for membership should naturally be “domicile in an area where a farmers association is located” and “actual engagement in agricultural activities.” Article 18, Subparagraph 4, of the Farmers Association Act provides that moving out of an area where a farmers association is located will result in termination of membership. Such provision is natural for legal effect. Since registration of domicile change is done out of the free will of the party concerned, hence, there shall be no contradiction with Article 10 of the Constitution: “The people shall have freedom of domicile and freedom to change domicile.” Furthermore, since a person who actually engages in agricultural work is not prohibited by regulations relevant to the Farmers Association Act from applying for membership at a grass-roots farmers association located in the area to which he/she has recently moved, hence, there shall also be no contradiction with

因，係屬法律效果之當然規定。況辦理戶籍遷徙登記，係出於當事人之自願，應無違反憲法第十條人民有居住遷徙之自由；而實際從事農業工作者，又非不得依農會法之有關規定申請加入其新居住區域之基層農會為會員，亦無違反憲法第七條平等權之可言。惟農民健康保險係社會保險之一種，參酌農民健康保險條例第六條之規定，乃農民基於身分當然享有之權益。農民健康保險條例第五條第一項及第二項雖規定：「農會法第十二條所定之農會會員應參加本保險為被保險人，並以其所屬基層農會為投保單位。」「非前項農會會員，年滿十五歲以上從事農業工作之農民，參加本保險為被保險人者，應以其戶籍所在地之基層農會為投保單位。」僅係對基層農會受託辦理農民健康保險時應負責任範圍之特別規定，不得因而認為農民健康保險權益之享有，以維持農會會員或在原投保單位所在地設有戶籍為要件。是以農會會員住址遷離原農會組織區域，如仍從事農業工作，其為農民健康保險被保險人之地位不應因而受影響，仍得依規定交付保險費，繼續享有同條例所提供之保障。主管機發布有關命令應符合此意旨，以維護農民健康保險條例保障農民健康之目的。

the right of equality under Article 7 of the Constitution. Health insurance for farmers is one type of social insurance. With reference to Article 6 of the Farmers Health Insurance Act, farmers, based squarely on such status, shall be entitled to farmers health insurance. The Farmers Health Insurance Act stipulates: “A member of a farmers association as defined in Article 12 of the Farmers Association Act shall take out this insurance to become a policyholder, and choose the grass-roots farmers association to which he/she belongs as group insurance applicant” (Article 5, Paragraph 1); and “A farmer aged fifteen and above, who is not a member of the aforesaid farmers association but enrolls in this insurance plan, shall choose the grass-roots farmers association located in the same area as his/her domicile to be the group insurance applicant” (Article 5, Paragraph 2) merely provide the responsible scope for a grass-roots farmers association regarding arrangement of health insurance for farmers, and it shall not be interpreted that maintaining membership in a farmers association or domicile registration in an area where the group insur-

ance applicant took out the original insurance is the prerequisite for entitlement to the rights and interests of health insurance for farmers. Therefore, if a member of a farmers association moves away from the area where the farmers association in which he/she has been a member is located but still engages in agricultural work, his/her status as the insured under the health insurance for farmers shall not be affected. He/she may continue to pay premiums in accordance with regulations for coverage of the said insurance. Relevant decrees issued by the competent authority shall correspond with the aforesaid intention to uphold the purpose of the Farmers Health Insurance Act, which is to safeguard the health of farmers.

Justice Jyun-Hsiung Su filed dissenting opinion.

本號解釋蘇大法官俊雄提出不同意見書。