

J. Y. Interpretation No.111 (January 5, 1966) *

ISSUE: To what extent may the Interpretation Y. J. T. No. 3827 restricting the application of the Public Functionary Retirement Act to voluntary and/or involuntary retirement apply?

RELEVANT LAWS:

Articles 4 and 5 of the Public Functionary Retirement Act (公務員退休法第四條及第五條); Interpretation Yuan-je Tzu No. 3827 (司法院院解字第三八二七號解釋).

KEYWORDS:

Voluntary retirement (自願退休), involuntary retirement (命令退休), public functionary (公務員).**

HOLDING: This Yuan's Interpretation Yuan-je Tze No. 3827 only applies to the voluntary and/or involuntary retirement of a public functionary that occurred during the operative period of the Public Functionary Retirement Act promulgated in 1943.

解釋文：本院院解字第三八二七號解釋所稱認為聲請退休或命令退休，僅就其事件在中華民國三十二年公布之公務員退休法施行中發生者有其適用。

REASONING: This Yuan's Interpretation Yuan-je Tze No. 3827 seeks

解釋理由書：本院院解字第三八二七號解釋，係對民國三十二年公布

* Translated by Wei-Feng Huang.

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

to interpret the meaning of “retirement” in Article 11 of the Public Functionary Retirement Act promulgated in 1943. Though there may be further amendment to the Act, the interpretation only applies to the voluntary and/or involuntary retirement of a public functionary that occurred during the operative period of the Act. A person who has retired, whether voluntarily or involuntarily, during the operative period of the Act is entitled to claim pension. However, those who resigned or were dismissed or retrenched cannot make a claim after five years from the next calendar month following the act of resignation, dismissal or retrenchment.

Justice Chang-Hua Wang filed dissenting opinion.

Justice Shi-Ding Chin filed dissenting opinion.

施行之公務員退休法第十一條，所謂退職之涵義所為之解釋，厥後法律內容迭有變更，此項解釋僅適用於該法有效期間內所發生，應認為聲請退休或命令退休之事件，在該法施行中合於認為聲請退休或認為命令退休者，自得據此聲請退休金，但自辭職獲准免職或裁遣之次月起已經過五年者不在此限。

本號解釋王大法官昌華、金大法官世鼎分別提出不同意見書。