

J. Y. Interpretation No.188 (August 3, 1984) *

ISSUE: (1) On which date shall a uniform interpretation of this Yuan become effective? On the date of its declaration or the date as specifically indicated in the interpretation?

(2) How far may the validity of a Constitutional Court interpretation extend? Shall it be binding on all government agencies in dealing with cases of the same or similar nature or be invoked as a ground for a motion for a new trial if the opinions expressed by the court on the law or regulation in an irrevocable final judgment are held to be inconsistent with the purpose of the said law or regulation?

RELEVANT LAWS:

Article 78 of the Constitution (憲法第七十八條) ; Article 7 of the Grand Justices Council Adjudication Act (司法院大法官審理案件法第七條) .

KEYWORDS:

unified interpretation (統一解釋) .**

HOLDING: A unified interpretation made by this Yuan in respect of any statute or regulation upon petition by a central or local government agency by

解釋文：中央或地方機關就其職權上適用同一法律或命令發生見解歧異，本院依其聲請所為之統一解釋，除解釋文內另有明定者外，應自公布當日

* Translated by Raymond T. Chu.

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

reason of any difference in opinions of such agency on the application of such statute or regulation while performing its duties or functions shall become effective as of the date of delivery of the interpretation, unless otherwise expressly stated therein. Such interpretation shall be applicable where cases giving rise to such difference in opinions and other similar cases are being dealt with by all other government agencies. But if an irrevocable final adjudication has been made in respect of the case giving rise to such difference in opinions and the view expressed by the court on the application of any law or regulation is held by our interpretation to be inconsistent with the intention of such law or regulation, our interpretation may of course be invoked to support a motion for a new trial or an extraordinary appeal.

REASONING: Article 7 of the Grand Justices Council Adjudication Act¹, which provides that a central or local government agency may file a petition for

起發生效力。各機關處理引起歧見之案件及其同類案件，適用是項法令時，亦有其適用。惟引起歧見之該案件，如經確定終局裁判，而其適用法令所表示之見解，經本院解釋為違背法令之本旨時，是項解釋自得據為再審或非常上訴之理由。

解釋理由書：司法院大法官會議法第七條中央或地方機關就其職權上適用同一法律或命令所發生之歧見得聲請統一解釋之規定，係基於憲法第七十八

¹ Translator's Note: Pursuant to amendment made on February 3, 1993, this act is now titled Act of Constitutional Interpretation Procedure or, as may also be translated, Act of Interpretation Procedure for Grand Justices.

the unified interpretation of a statute or of the same agency on such statute or regulation while carrying out its duty or function, is based on Article 78 of the Constitution, which grants the Judiciary the power to give unified interpretation of all laws and orders, thus making the Judiciary responsible for interpreting the true and precise meaning of laws with binding force upon all government agencies in their application of such laws. An interpretation given by the Judiciary upon such application must therefore become effective as of the date of its delivery unless it is otherwise expressly stated therein.

Since a unified interpretation made by this Yuan in respect of a statute or regulation lays down a ground rule for government agencies in their application of law. The interpretation must therefore be made applicable where such law or regulation is being applied by such agencies in handling cases giving rise to such difference in opinions and other similar cases. If, however, an irrevocable final adjudication has been made in respect of the case giving rise to such difference in

條司法院有統一解釋法律及命令之權，使本院負責闡釋法律及命令之正確意義，俾為各機關適用該項法令之準據而設。本院依其聲請所為之解釋，除解釋文內另有明定者外，應自公布當日起發生效力。

本院就法律或命令所為之統一解釋，既為各機關適用法令之準據，於其處理引起歧見之案件及同類案件，適用是項法令時，自亦應有其適用。惟引起歧見之該案件，如經確定終局裁判，而其適用法令所表示之見解，經本院解釋為違背法令之本旨時，即屬適用法規顯有錯誤或違背法令，為保護人民之權益，應許當事人據該解釋為再審或非常上訴之理由，依法定程序請求救濟。

opinions and the view expressed by the court on the application of any law or regulation is held by our interpretation to be inconsistent with the intention of such law or regulation, and such adjudication constitutes an apparent error in application of law or a violation of law, the party must be allowed to seek remedies in pursuance of legal procedures by invoking our interpretation as a ground to support his motion for a new trial or for extraordinary appeal so that his right and interest may be protected.

Justice Shih-Ron Chen filed dissenting opinion.

本號解釋陳大法官世榮提出不同意見書。