

J. Y. Interpretation No.189 (October 5, 1984) *

ISSUE: Is the Regulation Governing the Retirement of the Factory Workers of Taiwan Province enacted by the provincial government without specific authorization of a law unconstitutional?

RELEVANT LAWS:

Article 153, paragraph 1, and Article 154 of the Constitution (憲法第一百五十三條第一項及第一百五十四條); the Regulation Governing the Retirement of the Factory Workers of Taiwan Province (台灣省工廠工人退休規則).

KEYWORDS:

voluntary retirement (自願退休).**

HOLDING: The voluntary retirement provided in the Regulation Governing the Retirement of the Factory Workers of Taiwan Province is constitutional.

解釋文：臺灣省工廠工人退休規則關於工人自願退休之規定，與憲法尚無牴觸。

REASONING: Article 153, Paragraph 1, of the Constitution provides: “The state, in order to improve the lively-

解釋理由書：按憲法第一百五十三條第一項規定：「國家為改良勞工及農民之生活，增進其生產技能，應制

* Translated by J. P. Fa.

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hood of laborers and farmers and to improve their productive skill, shall enact laws and carry out policies for their protection.” Article 154 of the Constitution further provides: “Capital and labor shall, in accordance with the principles of harmony and cooperation, promote productive enterprises. Conciliation and arbitration of disputes between capital and labor shall be prescribed by law.” Under the above stated constitutional principles, the provincial government may enact necessary regulations to supplement the inadequacy of the statutes and regulations of the central government. The Enforcement Rules of the Factory Act are authorized by Article 76 of the Factory Act. Article 36, Paragraph 12, of the Enforcement Rules provides clearly that retirement, pension, dismissal with severance pay, and other welfare shall be included. Since the voluntary retirement provisions provided in the Regulation Governing the Retirement of the Factory Workers of Taiwan Province are to provide protection for workers after retirement, they are consistent with the constitutional policy of labor protection. They also promote the replacement

定保護勞工及農民之法律，實施保護勞工及農民之政策」。第一百五十四條規定：「勞資雙方應本協調合作原則，發展生產事業。勞資糾紛之調解與仲裁，以法律定之」。省政府為保護勞工、促進勞資協調合作，於執行有關之中央法令時，如因其未臻周全，於不牴觸之範圍內，尚非不得訂定單行法規。內政部依工廠法第七十六條訂定之工廠法施行細則，於第三十六條第十二款，已規定工廠依工廠法第七十五條訂定工廠規則時，應載明有關退休、撫卹、資遣、福利事項。臺灣省政府所訂定之台灣省工廠工人退休規則關於工人自願退休之規定，既在維持工人退休後之生活，而與首述憲法規定實施保護勞工之政策無違，同時亦在促進工廠工人新陳代謝，提高生產效率及鼓勵工人專業服務，有利於工廠之經營，而符合憲法有關勞資雙方應本協調合作原則發展生產事業規定之精神，故與憲法尚無牴觸。

of retiring workers, raise productivity, and encourage professional service, all of which benefit the management of the factory. This development conforms to the constitutional spirit of harmony and cooperation between capital and labor in order to promote productive enterprises. Accordingly, there is no problem of constitutional validity.