equal to twenty days' pay for every year's service. Funds for these payments are obtained on a contributory basis from workers and government.

4. From the above it may be seen that regardless of funds appropriated in the budget, the government could legally make discharge payments which would be far in excess of the <u>average</u> out payments which were prescribed in the budget based on a three months' period. For example, an employee who is a member of the Mutual Aid Association could receive payments under the Mutual Aid Law (Law No. 69) or the Pension Law (Law No. 48) and, in addition, receive payment under Law No. 121 which prescribes he be paid at the rate of one month for every year's service. In any event, if the sum of these payments were less than an amount equal to three months' pay he would qualify for such amount under the Unemployment Insurance Law (Law No. 146). Therefore it is self-apparent that payments would exceed budgeted amounts.

5. Full efforts have been exerted through informal channels on appropriate agencies of the Japanese Government to take action which would forestall discharge payments that would in effect "unbutton" the present budget. However, because of the political impact of such initiative on the part of the present government, it has become clearly evident they do not intend to act to achieve a resolution of this problem. On the contrary, on March 18, 1949, the Cabinet made a public determination that they would pay retirement allowances under Law No. 121 and expand minimum payments under that law to a four months' period rather than the one and one-half months prescribed.

6. In order to forestall excessive separation allowances on the part of the government, it is recommended the attached SCAPIN be issued which will not only require the Japanese Government to revise existing legislation into a central law but also preclude out payments which would have the effect of exceeding the three months average scheduled in the budget until such legislation has been drafted and passed.

W. F. MARQUAT
Major General, U. S. Army
Chief, Economic and Scientific Section

COPY

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 121 ( )ESS/FIN
SCAPIN

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Separation Allowances for Government Employees

1. In accordance with the nine point stabilization program a consolidated balanced budget has been adopted for Fiscal Year 1949-50 and it is desired that legislation be enacted which will establish standard allowances, to be paid to government employees separated from government service, consistent with the amount of funds provided for such allowances in the budget.

2. Pending enactment of legislation in conformity with paragraph 1 above:

a. No payments of allowances to separated government employees of any class will be made upon the authority of the Law Concerning Appointment, Removal, Etc. of Government Officials Before Application of the Provisions of National Public Service Law Shall Be Made, Law No. 121 of 1947, or the authority of any other statutory ratification of the standards for such allowances set by the Cabinet decision of 29 March 1947; and

b. No payments of allowances to separated employees of any class will be made under Law No. 167 of 1947 to employees who are eligible for allowances under the Pension Law, Law No. 48 of 1923, as amended, the National Public Service Mutual Aid Association Law, Law No. 69 or 1948, or the Unemployment Insurance Law, Law No. 146 or 1947.

FOR THE SUPREME COMMANDER:

COPY

COPY

Economic and Scientific Section
Finance Division

WKL/EMR/JWH/eb
26 April 1949

MEMO FOR RECORD:

1. The consolidated balanced budget for Fiscal Year 1949-50 as presented by the Cabinet and as approved by GHQ provides for general reduction in Government employment and includes funds for payment of termination allowances to separated employees equal on the average to three months base salary and allowances.

2. Concurrently with the above action in connection with the budget the Cabinet on 18 March 1949 decided that the separation allowances should be paid according to the provisions of Article 4 of the regulation issued under Cabinet determination of 29 March 1947 provided however that the minimum allowance should be four months base salary and allowance.

3. The Cabinet decision of March 18 is inconsistent with the decision of the Cabinet which approved the budget and will result in a budget deficiency.

4. It is essential that this conflict be resolved and furthermore, that separation allowance should be restricted until this conflict is resolved. Separation allowances are also considered to be a matter of a character that should be stipulated by law in accordance with Law No. 72 of 1947.

5. It has not been possible to obtain action on the basis of informal discussions with the Japanese and it is therefore necessary that a SCAPIN be issued.

6. This proposed SCAPIN has been discussed informally with a member of the Civil Service Division, Government Section, the draft was modified in accordance with suggestions of that section, and the Civil Service Division has no objection to its issuance as an emergency financial measure or to its issuance without their formal concurrence.

W. K. L.

Mr. Harrison, 57-8809

File

4-26-49

CIVIL SERVICE DIVISION
Government Section

25 April 1949

MEMORANDUM FOR: Mr. Maynard Shirven

SUBJECT: Proposed SCAPIN for Japanese Government relating to "Separation Allowances for Government Employees".

1. Please personally return this file to Mr. Harrison of Public Finance Branch, ESS, and inform him that:

Memorandum for the record under date of 19 April 1949, item 5, which reads, "concurrence by Government Section, Mr. Shirven," is entirely in error. Government Section has not concurred, nor has Mr. Shirven represented such concurrence.

2. Civil Service Division has informally discussed the proposed SCAPIN with Public Finance Branch. Civil Service Division has not concurred nor has the matter been referred to Government Section. The position of Civil Service Division is that in view of the need for immediate action in the implementation of the Nine Point Economic Program, Civil Service Division will not object to this SCAPIN. If concurrence of the Civil Service Division were sought, matters of personnel management would be introduced which would complicate and in all probability delay decisions and actions in the matter.

3. If concurrence Government Section is desired, it should be sought through regular channels when the position of ESS has been resolved.

BLAINE HOOVER
Chief
Civil Service Division

BH:mw

1-Mr. Hoover
~~2-Mr. Shirven~~ Reed
3-file

CIVIL SERVICE DIVISION
Government Section

13 April 1949

MEMORANDUM FOR: Mr. W. Pierce MacCoy, Deputy Chief
Civil Service Division

SUBJECT : Informal Conference with ESS

WPMcC 4/14/49

In view of an apparent misunderstanding originating with Mr. Hutchinson of ESS in discussions with me concerning separation pay I think it might be advisable to record the following information:

On Friday, 8 April, I visited Mr. Hutchinson for the specific purpose of informing him concerning certain substantial and unpaid bills of Zentei which we felt would be of interest to ESS Finance as an example should be brought to the attention of the Ministry of Communications. This conversation was conducted just prior to lunch and one subject led to another. These included:

(a) ESS Finance's interest in establishing the use of standard classification for pay purposes in all agencies regardless of whether they would fall in the regular service or not. For those cases falling outside the regular service where special treatment in respect to pay should be considered this would be clearly identified.

(b) The status of appropriations to cover the pay of CMMC personnel. Mr. Reed stated that the understanding he had was that land-based personnel were part of the regular service and that, informally, the seamen were not considered as such for the months of February and March but that they would be as of 1 April. The appropriations for CMMC were set up on this basis and provided for an average pay to seamen under CMMC as regular government employees approximately ¥10,100 per employee per month. The estimate of the average pay of these personnel if converted to the regular service under the seamen's schedule would be ¥9,600. The difference is to be covered by special treatment provided for by law and in a manner similar to the special allowances provided for Kodans, that is, a range not to exceed certain limitations depending upon the position, the total average not to exceed a certain percentage.

(c) Mr. Hutchinson brought up the question of whether Government Section was going to issue a statement with respect to the policy on separation pay. He stated that funds had been provided in the budget to cover separation demands that may occur under the retrenchment program against mutual aid associations and the pension fund. Sufficient money is provided to cover an average of three months' separation pay under the Cabinet Order. This is substantially below that which Mr. Shirven estimated was needed, which I believe was somewhere in the vicinity of 6-9 months. I told Messrs. Hutchinson and Reed that I had not been working on this problem, Mr. Shirven had been. They stated that he had been in conference

with them. I told them that I would be glad to pass the information on since they did not feel any final decision as yet had been reached on handling separation pay. I was quite aware of the telephone conversation made by Mr. Hoover and therefore did not give the matter too serious thought.

(d) In generally discussing the effect of the proposed budget developed by the Dodge Mission, Mr. Reed estimated that the net effect of the rise in staple commodity prices might be as much as a 7 per cent increase. Mr. Reed further indicated that certain other policies were being seriously contemplated which he estimated might increase the cost of staple food as much as 15 per cent. This will all have a bearing on the cost of living and is something that we will have to observe carefully in the next 60 days to see whether the provisions of the NPSL with respect to the five point increase in the cost of living will be exceeded and require NPA to take immediate action.

MacDonald Salter

MacDONALD SALTER
Chief, Classification
& Compensation Branch

MS:jd

File

4-1-49

CIVIL SERVICE DIVISION
Government Section

31 March 1949

MEMORANDUM FOR: Mr. M. Shirven

SUBJECT : Recommendations on Separation Allowances

Mr. M. Salter has indicated that the study of the Chief of the Examination Branch on separations and separation allowances has resulted in a number of specific recommendations. He has suggested that such memoranda pertaining to these studies and recommendations which in any measure may have bearing upon a future pension program should be temporarily turned over for perusal to the Classification and Compensation Branch. In the event such materials are not available in written form, Mr. Salter has suggested that a brief discussion of these points should be held.

Walter P. Domanowski

WALTER P. DOMANOWSKI
Compensation Specialist

WPD:jb

CIVIL SERVICE DIVISION
Government Section

March 28, 1949

MEMORANDUM FOR: The Record

SUBJECT : Separation Allowances

1. I conferred briefly this morning with Mr. Hutchinson, ESS, Finance. I was informed by him that ESS has made no changes in the plan for reduction in staff, which was established at the conference on 4 March, 1949 and reported by memorandum For The Record on 7 March, 1949. I was further informed that ESS has not been approached on the subject of Separation Allowances except as reported in reference memorandum and that funds for payment of Separation Allowances have been budgeted on the basis of a rough estimate of three months' pay on the average for each employee to be separated. According to Mr. Hutchinson, Mr. Dodge believes that aside ~~of~~ from maintaining vested rights, Separation Allowances should follow the system established by Unemployment Insurance Law. This is entirely in accord with the position taken by this office at all times.

Maynard M Shirven

MAYNARD SHIRVEN
Chief, Examination Branch

MS:vr

29 Mar 5

GOVERNMENT SECTION
CIVIL SERVICE DIVISION

25 March 1949

MEMORANDUM FOR THE RECORD:

SUBJECT : Visit of Messrs Honda, Onogi and Nakagawa.

Mr. Honda, Minister of State and Messrs Onogi and Nakagawa called today. Mr. MacCoy and Mr.Shirven were present.

Mr. Honda presented the attached memorandum called, "Separation Pay to be Paid to Persons to be Discharged in the Proposed Administrative Readjustment Program (Cabinet Decision of March 19, 1949). I inquired whether any decisions on this matter had been announced to the press or the public. He stated they had not. I then asked whether his statement that the Cabinet had not made any statement to the press covered both the Cabinet and the Administrative Management Agency. He stated that it did and that neither one of them had made any public statement to the press relative to this matter.

I asked whether any other unit of GHQ had been approached in this connection. He said not by the Administrative Management Agency but that it was possible that the Minister of Finance had approached Public Finance Division, Economic & Scientific Section in this connection.

I informed him that we would consider the matter and talk with him at a later date. I cautioned him against any public announcement on the subject matter.

The matter is referred to Mr. Shirven for study, recommendation and report at the earliest possible date.

BLAINE HOOVER
Chief
Civil Service Division

BH/hm
Attachment

Separation Pay to be paid to Persons to be discharged in the Proposed Administrative Readjustment Program
(Cabinet decision of March 19, 1949)

As to the reparation pay to be paid to persons who are to be discharged in the proposed administrative readjustment program the following measures are to be considered in view of the prevailing social conditions:

The sum computed in accordance with Article 4 of the "Regulation for Separation Pay" (Cabinet decision of March 29, 1947) are to be paid. However, such amount are not to be less than four months' salaries including family and regional allowances.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

T.L.Blakemore
2635 Ex 473

CHECK SHEET

(Do not remove from attached sheets)

File No.: Subject: Allowances on Separation from Public Service - Government of Japan (Cont'd).

Note No.: 2. From: LS To: GS Date: 24 March 1949

1. After study and discussion with representatives of the Attorney General's Office and the Ministry of Finance, Legal Section has come to the following conclusions regarding the status of Japanese law on the questions asked in paragraph 4 of check note No. 1:

a. and b. A Cabinet Decision under the Meiji Constitution did not constitute an act of legislation. It was, as the title implies, simply a momentary statement of Cabinet policy whose validity continued only until superseded by a new decision or by some change in circumstances such as rendered the older decision obsolete. Cabinet Decisions under the New Constitution are of the same nature. A Cabinet Decision unquestionably is a constitutional action, since the Cabinet may set policies and may formalize them by "decisions" or any other means deemed appropriate.

c. A Cabinet Decision providing standards for the payment of separation allowances (i.e., the Decision of 29 March 1947 or that reached by the Yoshida Cabinet on 14 March 1949) does not, ipso facto, create legally enforceable obligations on the State. A Cabinet Decision constitutes neither a contract nor a binding promise. During the period of the Meiji Constitution lax budgetary practices permitted a minister to pay separation allowances directly from general funds not appropriated for that purpose. A Cabinet Decision such as that of 29 March 1947, therefore might coincide with the payment of allowances from non-earmarked funds available to a Ministry. With the reforms in budgetary practice following the adoption of the New Constitution, this possibility has been eliminated. At the present time, neither an old or a new Cabinet Decision regarding the policy for payment of separation allowances would permit payment to be made in accordance thereto, in the absence of specific Diet appropriations for that purpose.

However, as is elaborated in the following paragraph (d), the Japanese Government now is of the opinion that the Cabinet Decision of 29 March 1947 has acquired the force and effect of a statute through a subsequent statutory ratification. Discharges of government employees which occur while statutory separation allowance standards are in effect create an obligation upon the Japanese Government which can be enforced through court decisions.

d. As a momentary statement of Cabinet policy, a Cabinet Decision may be changed or revoked at any time by a later decision, without the enactment of new legislation either in the form of a statute or an ordinance.

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

(Do not remove from attached sheets)

File No.: **Subject:**

Note No.:	**From:**	**To:**	**Date:**

2
(Contd)

It is the opinion of the Japanese Government, as expressed by officials of the Attorney General's Office and the Ministry of Finance, that the provisions of the Cabinet Decision of 29 March 1947 have acquired the status of law by reason of a subsequent statute of ratification. The ratifying statute referred to is No. 121 of 1947 which took effect on 1 January 1948. It provided:

> "The appointment, dismissal, promotion, retirement, reinstatement, discipline and other matters regarding personnel salaries, allowances and other forms of compensation, as well as matters pertaining to dress shall, until provisions of the National Public Servant's Law are made applicable to Government employment, continue to be conducted as has been practice heretofore. However, when special dispositions are made by the Public Service Commission in accordance with Article 16 of the National Public Service Law or of Statutes, these shall prevail."

As interpreted by Japanese Government officials, the expression, "as has been the practice heretofore" includes the provisions of the Cabinet Decision of 29 March 1947. It serves to incorporate those provisions by reference, and thus to confer upon what had until that time been a simple statement of policy, the status and effect of law. Legal Section questioned this interpretation by urging that the vague expression "practices heretofore" is hardly adequate to identify with sufficient precision the provisions of Cabinet Decision of 29 March 1947, and that also by strict legal construction, these provisions would not be included in this reference since they had lapsed. (I.e., the change of budgetary practices following the New Constitution may have rendered obsolete the Government policy expressed in the Cabinet Decision of 29 March which anticipated a continuation of the former practice of direct disbursement. The elimination of the disbursement practice might be said to nullify the Cabinet Decision on which it was based.) The merit of both objections is acknowledged by Japanese Government officials, but they still are of the opinion that in view of the circumstances under which Statute 121 was enacted and of the general haste and confusion of legislation following the enactment of the New Constitution, there is a sufficiently precise ratification of the Cabinet Decision of 29 March 1947. The legal interpretation of the Japanese Government is recognized by Legal Section as being tenable. Further discussion of the issues holds no prospect of effecting a change in the Japanese point of view.

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

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File No.: Subject:

Note No.:	From:	To:	Date:

2. (Contd)

As consequence of the Japanese interpretation, the standards for separation allowances provided in this Cabinet Decision have obtained a statutory ratification and therefore cannot be altered by a new Cabinet Decision or even an ordinance. In the opinion of Government officials, attempts of the Cabinet to do so would most certainly be contested by court action since government employees are convinced of the existence of a government obligation to pay separation allowances at the standard set by the Decision of 29 March 1947.

e. A change of separation allwance standards by a decision of the National Personnel Authority appears to be a possibility according to the terms of Law 121 of 1947. However, the constitutionality of such a provision is extremely doubtful. One of the basic principles of Constitutional Law is that authority given by the Constitution to a certain organ or instrumentality cannot be transferred or surrendered. A limited delegation is possible but only on such terms and conditions as will ensure that the desires and policies of the superior instrumentality are complied with. The language used in Law No. 121 affords a vast and limitless delegation of legislative authority to the National Personnel Authority, which is in direct contradiction to the provision of Article 41 of the Constitution. For that reason Legal Section recommends that no attempt be made to alter the existing standards of separation allowances by this dubious means.

f. It is the interpretation of the Japanese Government that a statutory support is now afforded to the standards of the Cabinet Decision of 29 March 1947. The only method of revising a statute is through the enactment of a subsequent statute. The National Public Service Mutual Aid Law already enacted, appears to have substituted new standards and upon its enforcement, the standards of the Cabinet Decision of 29 March 1947 will end. The same result of course could be obtained through the enactment and enforcement of a new statute which specifically repealed the standards provided in the Cabinet Decision.

acc

- -A.C.C.- - - - - - - - - - - - - - - -

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

(Do not remove from attached sheets)

File No.:

Subject: Allowances on Separation from public service- Govt of Japan

Mr. B. Hoover 26-8925

Note No.:	From: Govt Sec	To: Legal Sec, GHQ, SCAP	Date: 18 February 1949

1

1. In connection with the study of staff reduction, this office has found it necessary to investigate the subject of allowances paid to employees upon separation from the public service. We are of the opinion that the allowances in general are excessive and to some degree rest upon dubious legal bases. Because of the legal problems involved, the advice of the Legal Section is requested.

2. It appears that the legal bases for separation allowances are found in three laws and a Cabinet decision. Very briefly, the essential provisions are as follows:

a. The Pension Law (Law No. 48 of 1923) provides for a Separation Allowance of one month's base pay for each year of service for "officials".

b. The National Public Service Mutual Aid Association Law (Law No. 69 of 1948) provides Separation Allowances ranging from ten days' base pay for those employed six months to 485 days' base pay for those employed for 19.5 years. Workers employed for twenty years are eligible for retirement and receive a pension equivalent to one-third of their base pay. At the present time, the separation allowance provisions of the law are applicable only to employees of the Enterprise Associations. Employees of the Ministerial Associations are not covered but it is expected that they will be covered in the near future.

c. Law No. 167 of 1947 provides that in the event of separation, public employees shall be granted at least the minimum allowances to which they would be entitled if they were subject to the Labor Standard Law and the Unemployment Compensation Law. The pertinent provisions of these laws provide that the worker shall receive 30 days notice or 30 days' separation pay and shall be entitled to receive unemployment compensation for not to exceed 180 days during the period when actually unemployed. Unemployment compensation is paid on a sliding scale, the maximum amount payable being 68% of average salary and not to exceed ¥ 5100 per month.

d. The Cabinet decision of March 29, 1947 and the implementing directives of the Ministry of Finance provide that employees who are separated because of general administrative readjustment shall receive one-half month's base pay for each year of service plus a percentage of this amount depending upon the quality of their service. The percentage is 80% in the case of excellent

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

(Do not remove from attached sheets)

File No.: Subject:

Note No.: From: To: Date:

service, 70% in the case of normal service and 60% in the case of inferior service.

3. In view of the foregoing, it seems essential to effect an immediate reform of the existing system of separation allowances. Policy is to place these allowances upon a reasonable basis in so far as the amounts payable are concerned, while, at the same time safeguarding the vested rights of employees and providing them with an allowance which will enable them to readjust themselves. It appears that this policy can be accomplished by retaining the separation allowances payable under the three laws cited in the foregoing paragraph and abolishing the allowances payable under the Cabinet decision. Apparently the problem thus becomes one of discovering the most appropriate means of abolishing the Cabinet decision.

4. Your advice is sought with respect to the present legal status of the Cabinet decision. Answers to the following questions as well as to any other legal questions which you may find to be involved will be appreciated:

a. Is the Cabinet decision in accord with the Constitution of Japan, specifically Article 85 thereof?

b. Does the Cabinet decision at present have the status of a law?

c. Does the Cabinet decision create vested rights?

d. Can the Cabinet decision be abolished by Cabinet action without recourse to legislation?

e. Can the National Personnel Authority revoke or modify the Cabinet decision under authority of Law No. 120 of 1947, Article 61?

f. Can the Cabinet decision be revoked or modified by any other method short of legislation?

5. Early action on the revision of separation allowances is essential. Consequently, your opinion on these questions and others which you consider relevant is desired at the earliest possible date.

- C. W. - - - - - - - - - -

File
3-23-49

CIVIL SERVICE DIVISION
Government Section

23 March 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Separation Allowance - Kodan Employees

In a conference on 22 March 1949 with Mr. Suzuki of the Allowance Bureau, Ministry of Finance, he was questioned as to the status of a proposed separation allowance for Kodan employees. Mr. Suzuki stated that the matter was requiring much more time than he anticipated, that he had met on many occasions with officials of the Kodans since October 1948, and that he had drafted a Cabinet Order providing for three months separation pay as had been agreed upon by this office and by the Finance Division of ESS.

He stated that he had met much opposition in regard to the matter but that he had finally been able to secure the concurrence of Mr. Imai, his chief, in regard to the matter and that he expected to secure the concurrence of the Accounting Bureau and the Secretariat of the Ministry of Finance so that the proposed Cabinet Order could be submitted to the Cabinet during the current week.

JESSE B. BETTIS
Compensation Specialist

JBB:jd

CIVIL SERVICE DIVISION
Government Section

19 March 1949

MEMORANDUM FOR: Mr. MacDonald Salter, Chief, Classification and Compensation Branch

SUBJECT : Telephone Conversation with Mr. Mazo, Labor Division, ESS

Mr. Mazo telephoned in connection with the new problem that may be called to the attention of the Civil Service Division. Various employees of the Japanese government have been contacting Mr. Mazo in order to obtain opinions from him concerning personnel matters. This contact with Mr. Mazo is a consequence of the fact that at one time prior to the formation of the Civil Service Division, he had been delegated the responsibility for giving advice to the Japanese government on personnel matters.

The specific item that he wished to call to the attention of this Division concerned the laying off of employees in the National Property Bureau of the Ministry of Finance. This particular Bureau is concerned with the maintenance of machinery and other equipment intended as reparations property. It appears that the employees about to be laid off wish to obtain special separation allowances over and above those currently provided for the termination of services.

These employees implied that some coercion had been used in their recruitment for their present assignments. Mr. Mazo stated that the majority of these employees had been army personnel assigned to the guarding of the property which later was intended for reparations purposes. When the Occupation began, the Japanese government was instructed to place guards over all such property. Immediately, the Japanese government ordered these individuals, who now were civilians, to continue guarding and maintaining such machinery and equipment. As a consequence, this group of employees feels that pressure had been used in keeping them on these assignments and that an unusual hazard has been directly imposed upon their potential economic security.

Mr. Mazo stated that he referred these employees to the National Personnel Authority, and that at some time this problem may be referred to this Division. He further stated that, although urged to express an opinion, he informed this group that he was in no position to express an opinion, that such opinion would not have any official status or value, and that were he to form an opinion, it would have to be delivered to the section or SCAP agency most directly concerned with this specific problem. He furthermore stated that he in no wise gave any expression

of opinion concerning the merits of their arguments. He continued by stating that his telephone call was made because he feared that the customary practice of the Japanese inaccurately quoting representatives of other SCAP organizational units might again be exercised at the time when this matter should be called to the attention of the Civil Service Division.

Walter P. Domanowski

WALTER P. DOMANOWSKI
Classification Specialist

WPD:jb

CIVIL SERVICE DIVISION
Government Section

28 February 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Separation Pay

I received today two telephone calls from staff members of ESS Public Finance concerning our action on the establishment of the policy covering separation pay.

This morning Mr. Jeffers called stating that he had received the budgets for the Kodans in which funds are recommended for so-called voluntary separation allowance and death benefits (to be paid under the provisions of Imperial Ordinance No. 192, April 1946, still in effect by provisions of Law No. 121 of 1947) and involuntary separation allowance. The budget estimates for the former include 2 per cent of the payroll and for the latter an average of 3 months separation allowance per employee. The Petroleum Distribution Kodan and the Coal Distribution Kodan are two that are to be immediately liquidated. Action on these particular budgets is urgent and a separation policy is needed by which to review these budgets for these items.

This afternoon I received a call from Mr. Hutchinson stating that among other budgets he had received that for the railways in which there is anticipated a reduction of 110,000 employees for the year 1949. Separation allowance for these employees has been based on an estimate of 60 per cent of their annual salary. Mr. Hutchinson feels that the Finance Division will object to this item as being too large. Again he needs a separation allowance policy.

I was informed also that the budget for the Japanese agencies must be submitted by March 8, 1949. ESS Finance expects to complete their review and submit to Gen. Marquat and the Dodge Mission a document by the 13th or 14th. These persons will then review the material in order to have it typed and ready for memorandum submittal to the Japanese by March 21. It is expected that the document will go to the Diet by the 26th in order to meet the technical requirement of passage of the budget bill by April 1.

In view of this situation it is urgent that a separation policy be rapidly formulated. Both the above gentlemen were informed that we were working on this problem but had need for referral of certain matters to the Legal Section and were still awaiting their reply. A conference on this matter regardless of whether our position is established or not was suggested by Mr. Hutchinson. Separation policy is one of the 13 major policy decisions required in the review of their budget this year.

MacDONALD SALTER
Chief, Classification
& Compensation Branch

MS:jd

~~28 Feb '49~~
~~11 Mar 49~~
~~7 Mar 49~~
~~15 Mar 49~~
~~21 Mar 49~~

~~26 Mar 49~~

4 Apr 49

Allowances on Separation from public service- Govt of Japan

Mr. B. Hoover
26-8925

Separation Pay

Govt Sec | Legal Sec, GHQ, SCAP | 18 February 1949

1 1. In connection with the study of staff reduction, this office has found it necessary to investigate the subject of allowances paid to employees upon separation from the public service. We are of the opinion that the allowances in general are excessive and to some degree rest upon dubious legal bases. Because of the legal problems involved, the advice of the Legal Section is requested.

2. It appears that the legal bases for separation allowances are found in three laws and a Cabinet decision. Very briefly, the essential provisions are as follows:

a. The Pension Law (Law No. 48 of 1923) provides for a Separation Allowance of one month's base pay for each year of service for "officials".

b. The National Public Service Mutual Aid Association Law (Law No. 69 of 1948) provides Separation Allowances ranging from ten days' base pay for those employed six months to 485 days' base pay for those employed for 19.5 years. Workers employed for twenty years are eligible for retirement and receive a pension equivalent to one-third of their base pay. At the present time, the separation allowance provisions of the law are applicable only to employees of the Enterprise Associations. Employees of the Ministerial Associations are not covered but it is expected that they will be covered in the near future.

c. Law No. 167 of 1947 provides that in the event of separation, public employees shall be granted at least the minimum allowances to which they would be entitled if they were subject to the Labor Standard Law and the Unemployment Compensation Law. The pertinent provisions of these laws provide that the worker shall receive 30 days notice or 30 days' separation pay and shall be entitled to receive unemployment compensation for not to exceed 180 days during the period when actually unemployed. Unemployment compensation is paid on a sliding scale, the maximum amount payable being 68% of average salary and not to exceed ¥ 5100 per month.

d. The Cabinet decision of March 29, 1947 and the implementing directives of the Ministry of Finance provide that employees who are separated because of general administrative readjustment shall receive one-half month's base pay for each year of service plus a percentage of this amount depending upon the quality of their service. The percentage is 80% in the case of excellent

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3/28/49 " " not received

service, 70% in the case of normal service and 60% in the case of inferior service.

3. In view of the foregoing, it seems essential to effect an immediate reform of the existing system of separation allowances. Policy is to place these allowances upon a reasonable basis in so far as the amounts payable are concerned, while, at the same time safeguarding the vested rights of employees and providing them with an allowance which will enable them to readjust themselves. It appears that this policy can be accomplished by retaining the separation allowances payable under the three laws cited in the foregoing paragraph and abolishing the allowances payable under the Cabinet decision. Apparently the problem thus becomes one of discovering the most appropriate means of abolishing the Cabinet decision.

4. Your advice is sought with respect to the present legal status of the Cabinet decision. Answers to the following questions as well as to any other legal questions which you may find to be involved will be appreciated:

a. Is the Cabinet decision in accord with the Constitution of Japan, specifically Article 85 thereof?

b. Does the Cabinet decision at present have the status of a law?

c. Does the Cabinet decision create vested rights?

d. Can the Cabinet decision be abolished by Cabinet action without recourse to legislation?

e. Can the National Personnel Authority revoke or modify the Cabinet decision under authority of Law No. 120 of 1947, Article 61?

f. Can the Cabinet decision be revoked or modified by any other method short of legislation?

5. Early action on the revision of separation allowances is essential. Consequently, your opinion on these questions and others which you consider relevant is desired at the earliest possible date.

- C. W. - - - - - - - - - - -

CIVIL SERVICE DIVISION
Government Section

18 February 1949

MEMORANDUM FOR : The Record.

SUBJECT : Separation Allowances - Government of Japan

This subject was discussed today with Judge Oppler, Captain Novotny, Mr. MacCoy and Mr. Shirven. Judge Oppler requests a check sheet posing our questions for further consideration. Mr. Shirven is to prepare such a check sheet today.

BLAINE HOOVER
Chief
Civil Service Division

BH:mw

18 726 49

CIVIL SERVICE DIVISION
Government Section

February 15, 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Interim Report on Separation Allowances

1. The legal basis for Separation Allowances is found in three laws and a Cabinet decision, all of which have been summarized by Mr. MacCoy in previous memoranda. Very briefly, the essential provisions are as follows:

a. The Pension Law (Law No. 48 of 1923) provides for a Separation Allowance of one month's base pay for each year of service for "officials".

b. The National Public Service Mutual Aid Association Law (Law No. 69 of 1948) provides Separation Allowances ranging from ten days' base pay for those employed six months to 485 days' base pay for those employed for 19.5 years. Workers employed for twenty years are eligible for retirement and receive a pension equivalent to one-third of their base pay.

c. Law No. 167 of 1947 provides that in the event of separation, public employees shall be granted at least the minimum allowances to which they would be entitled if they were subject to the Labor Standard Law and the Unemployment Compensation Law. The pertinent provisions of these laws provide that the worker shall receive 30 days notice or 30 days' separation pay and shall be entitled to receive unemployment compensation for not to exceed 180 days during the period when actually unemployed. Unemployment compensation is paid on a sliding scale, the maximum amount payable being 68% of average salary and not to exceed ¥5100 per month.

d. The Cabinet decision of March 29, 1947 and the implementing directives of the Ministry of Finance provide that employees who are separated because of general administrative readjustment shall receive one-half month's base pay for each year of service plus a percentage of this amount depending upon the quality of their service. The percentage is 80% in the case of <u>excellent</u> service, 70% in the case of <u>normal</u> service and 60% in the case of <u>inferior</u> service.

2/17/49 Discussed with MacCoy, Sactor Shiroma. An NPA, Bureau of Law, decision is due Today.

At the present time, the separation allowance provisions of the law are applicable only to employees of the Enterprise Associations. Employees of the Ministerial Associations are not covered but it is expected that they will be covered in the near future.

2. The legal status of the cabinet decision is not entirely clear. At first glance it appears to be contrary to Article 85 of the Constitution of Japan which provides as follows:

> "Article 85: No money shall be expended nor shall the State obligate itself except as authorized by the Diet."

However, Law No. 72 of 1927 provided that

> "Orders which are in force at the time of the coming into force of the Constitution of Japan and which stipulate matters of a character to be stipulated by law, shall have the same validity as laws until December 31, 1947."

The expiration date of this provision has passed, of course, but the effect of the cabinet decision is considered by the Law Bureau of NPA to have been extended by the Law Concerning the Appointment, Removal, etc. of Government Officials until the application of the provisions of the Public Service Law (Law No. 121 of 1947). If the cabinet decision is considered as law it could probably be abrogated only by action of the Diet unless Article 61 of the Public Service Law, which reads as follows:

> "Article 61. The temporary retirement, reinstatement, retirement, and dismissal of personnel of the service shall be effected by the appointing officer, subject to this Law and rules of the Authority."

can be interpreted to permit abrogation indirectly by means of a rule of the NPA which would provide for the procedures and conditions of separation. This question has been referred to the Law Bureau for an opinion which will be forthcoming shortly.

3. It appears that approximately 1,065,000 officials are covered by the Pension Law and would be eligible to receive pensions or separation allowances under its provisions. Approximately 300,000 of these officials are also members of Enterprise Mutual Aid Associations. Article 94 of the Mutual Aid Association Law provides that

officials who are subject to the Pension Law shall not receive separation allowances or pensions under the Mutual Aid Association Law, but there are certain circumstances under which such allowances may be granted. However, in order to qualify for allowances under this law as well as under the Pension Law, the official would be required to contribute 13.5% of his salary to the Mutual Aid Association. Such instances are said to be very rare.

Approximately 850,000 employees are believed to be eligible for separation allowances under the Mutual Aid Association Law. In addition, there are approximately 300,000 employees in the Ministerial Associations who are not eligible for separation allowances under this law.

It appears that there are approximately 2,200,000 workers who are eligible for separation allowances under the Cabinet decision of March 29, 1947.

4. In order to illustrate the application of the existing laws and regulations, I have prepared six hypothetical cases to illustrate various situations.

Case No. 1

Official of Finance Ministry (Banking Bureau)

Grade 12
14 years of service
Age 38
3 Dependents
Tokyo

Base Pay	¥ 11,664)	
Area Allowance	3,499)	17,243
Family Allowance	2,080)	
Separation Allowance (Pension Law)	163,296	
Separation Allowance (Mutual Aid)	0	
Separation Allowance (Cabinet Decision)	151,690 (Normal Service)	
Unemployment Compensation (Law 167)	11,664 plus 30,600	

Case No. 2

Employee of Finance Ministry (Banking)

Grade 3
2 years of service
Age 42
No dependents
C Area

Base Pay	¥ 3,096)	
Area Allowance	0)	3096
Family Allowance	0)	
Separation Allowance (Pension Law)	0	
Separation Allowance (Mutual Aid)	4,128	
Separation Allowance (Cabinet Decision)	5,263 (Normal Service)	
Unemployment Compensation (Law 167)	3,096 plus 9,720	

Case No. 3

Official of Finance Ministry (Banking)

Grade 7
2 years of service
Age 25
No Dependents
Tokyo

Base Pay	¥ 5,760)	
Area Allowance	1,728)	7488
Family Allowance	0)	
Separation Allowance (Pension Law)	0	
Separation Allowance (Mutual Aid)	0	
Separation Allowance (Cabinet Decision)	9,792 (Normal Service)	
Unemployment Compensation (Law No. 167)	5,760 plus 30,600	

Case No. 4

Employee of Ministry of Communications

Grade 5
4 years of service
Age 22
No Dependents
Tokyo

Base Pay	¥ 3,991)	
Area Allowance	1,197)	5188
Family Allowance	0)	

Case No. 4 (Cont'd.)

Separation Allowance (Pension Law)	0
Separation Allowance (Mutual Aid)	10,643
Separation Allowance (Cabinet Decision)	13,570 (Normal Service)
Unemployment Compensation (Law 167)	3,991 plus 11,160

Case No. 5

Employee of Ministry of Communications

Grade 4
12 years of service
Age 35
3 Dependents
C Area

Base Pay	¥ 3,466)	
Area Allowance	0)	5066
Family Allowance	1,600)	
Separation Allowance (Pension Law)	0	
Separation Allowance (Mutual Aid)	30,039	
Separation Allowance (Cabinet Decision)	33,604 (Normal Service)	
Unemployment Compensation (Law 167)	3,466 plus 10,440	

Case No. 6

Official of Ministry of Communications

Grade 8
10 years of service
Age 33
2 Dependents
Tokyo
Member of Mutual Aid Association and full contributor

Base pay	¥ 6,633)	
Area Allowance	1,990)	10,183
Family Allowance	1,560)	
Separation Allowance (Pension Law)	66,330	
Separation Allowance (Mutual Aid)	44,220	
Separation Allowance (Cabinet Decision)	59,200	
Unemployment Compensation (Law 167)	6,633 plus 30,600	

5. There are obviously many possible courses of action to deal with the situation now existing. It is my belief that the first action should be the repeal of the Cabinet decision of March 29, 1947. This can be done by the Cabinet itself without recourse to legislation, and, in view of the

very doubtful legality of this decision, the wisdom of its repeal seems incontrovertible. If the Cabinet decision is repealed, it may be possible to allow other applicable laws to stand. The best estimate which we have at present concerning the length of service of government employees is that the average is between four and five years. This means that the average official granted separation allowances under the Pension Law would receive four or five months of base pay which would amount on the average to between three and four months of total pay. The average employee granted separation allowances under the Mutual Aid Association Law would receive approximately three months of base pay. Employees not eligible for separation allowances under either the Pension Law or the Mutual Aid Association Law would be granted thirty days total pay under the Labor Standard Law and would be eligible to receive unemployment compensation for six months unless sooner employed. In my opinion, the average separation allowance under the Pension Law and the Mutual Aid Association Law would not be excessive even though it is generous. There would, of course, be a certain number of employees who would receive separation allowances which might seem excessive, but such allowances would be based on contributions over a long period of years.

6. If the applicable laws can be allowed to stand, there will be far less dissatisfaction among public servants and far less public controversy than if it is necessary to revise the laws. However, if the financial burden involved is considered to be too great for the government to bear, there are various alternative possibilities:

(a) Abolish Cabinet Decision
Amend Article 67 of Pension Law (pensions and allowances)
Amend Mutual Aid Law (reduce allowances, eliminate officials)
Amend Law 167 to eliminate 30 day notice.

(b) Abolish Cabinet Decision
Amend Article 67 of Pension Law to reduce allowances
Amend Mutual Aid Law to eliminate officials
Amend Law 167 to compute allowances on basis of base pay

(c) Abolish Cabinet Decision
Amend Pension Law and Mutual Aid Law to reduce allowances (six months total, 1/2 month credit per year service) and require service during period covered by separation allowance.
Amend Law 167 as necessary to permit foregoing.

7. Recommendation

(a.) It is recommended that the Cabinet Decision of March 29, 1947, be repealed by Cabinet Action. The ground for this action should be stated publicly as the illegality of the payments in the light of Article 85 of the Japanese Constitution.

(b.) It is recommended that the Pension Law (Law No. 48 of 1923), the National Public Service Mutual Aid Association Law (Law No. 69 of 1948), and Law No. 167 of 1947 be allowed to remain on the books unchanged. This course will avoid a public controversy from which there would be little to gain even if we emerged completely victorious.

(c.) It is recommended that the entire pension and allowance system be revised and coordinated into a uniform system at a later date. At such time an effort should be made to place the system on a sound actuarial basis and to harmonize it with the general social security system.

Maynard Shirven

MAYNARD SHIRVEN
Examination Specialist

MS:vr

CIVIL SERVICE DIVISION
Government Section

8 February 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Separation Pay

Messrs. Onogi and Nakagawa of the Administrative Management Agency, submitted the attached proposal concerning retirement allowance today.

Part One indicates the present practices which they state are supported by Law No. 121 of 1947 and thus have the status of law.

Part Two is a tentative plan being proposed by the Budget Bureau of the Ministry of Finance. This plan has divided the separation pay into two parts, recognizing the difference between outright payments on the basis of length of service at the time of separation and payment of funds to cover a period of adjustment until reemployment. It is proposed that an unemployment allowance be paid for a period not to exceed six months, equivalent to the base pay of the employee at the time of separation. This is in accord with the maximum provisions indicated in the Unemployment Compensation Law wherein employees receive not to exceed 60 per cent of a maximum pay of ¥5,000 per month for a period of six months or until employed, whichever is the shorter. It is proposed that a separation allowance also be paid in one of two manners:

a. That separation pay be calculated and paid in the form of bonds at the time of separation.

b. That separation pay be calculated and paid in the form of cash on a monthly basis following the unemployment payments.

It is anticipated that income tax will be deducted against all such payments regardless of the purpose and intent behind any of these proposals.

The new proposal in general will result in those employees having a short period of service with the government getting more than under the old system, while those employees having a long period of service with the government will get less than under the old system. The point at which both systems intersect is about 10 years service.

MacDONALD SALTER
Chief, Classification
and Compensation Branch

MS:jd

27 (C) (C) 2/8/49.

Retirement Allowance. Submitted by Shogi Nakagawa

1. Present regulation applying to large-scale decrease in the Government personnel.

Cabinet decision of March 29, 1947. Regulation based on ——.

(a) Basic rates Based on 121 of 1947 is now considered laws

Tenure of office	rate	Tenure of office	rate
1 year	1.5	8 year	8.3
2 "	2.0	9 "	9.4
3 "	3.0	10 "	10.5
4 "	4.0	15 "	16.5
5 "	5.0	20 "	23.0
6 "	6.1	25 "	29.5
7 "	7.2	30 "	35.5

(b) Merit rates

Excellent	0.9
Ordinary	0.85
Not very good	0.8

Retirement allowances are computed by multiplying BASIC MONTHLY PAY by (a) and (b).

(Example) A person of basic monthly pay of 4,550yen with 10years of service with merit grade of "Ordinary".

¥ 4,550 x 10.5 x 0.85=¥ 41,608.75

2. Tentative plan by the Budget Bureau

(a) Service allowance

One-half of the monthly pay (excluding family and locality allowances) multiplied by the number of years in service.

(b) Un-employment allowance

Whole of the monthly pay (excluding family and locality allowances) will be paid every month for six months.

However, if the person in question is re-employed within that

period, the payment will cease antomatically.

(c) Service allowance referred above will be paid in public bond if paid en masse. However in case the person in question cannot find employment after the lapse of six months, he can, as the alternative, receive the service allowance in cash on monthly basis. The amount to be paid every month must not exceed th amount of his monthly salary (excluding family and locality allowances).

(Example). A person of monthly pay of 4,550 yen with 10 years of service

a) Service allowance

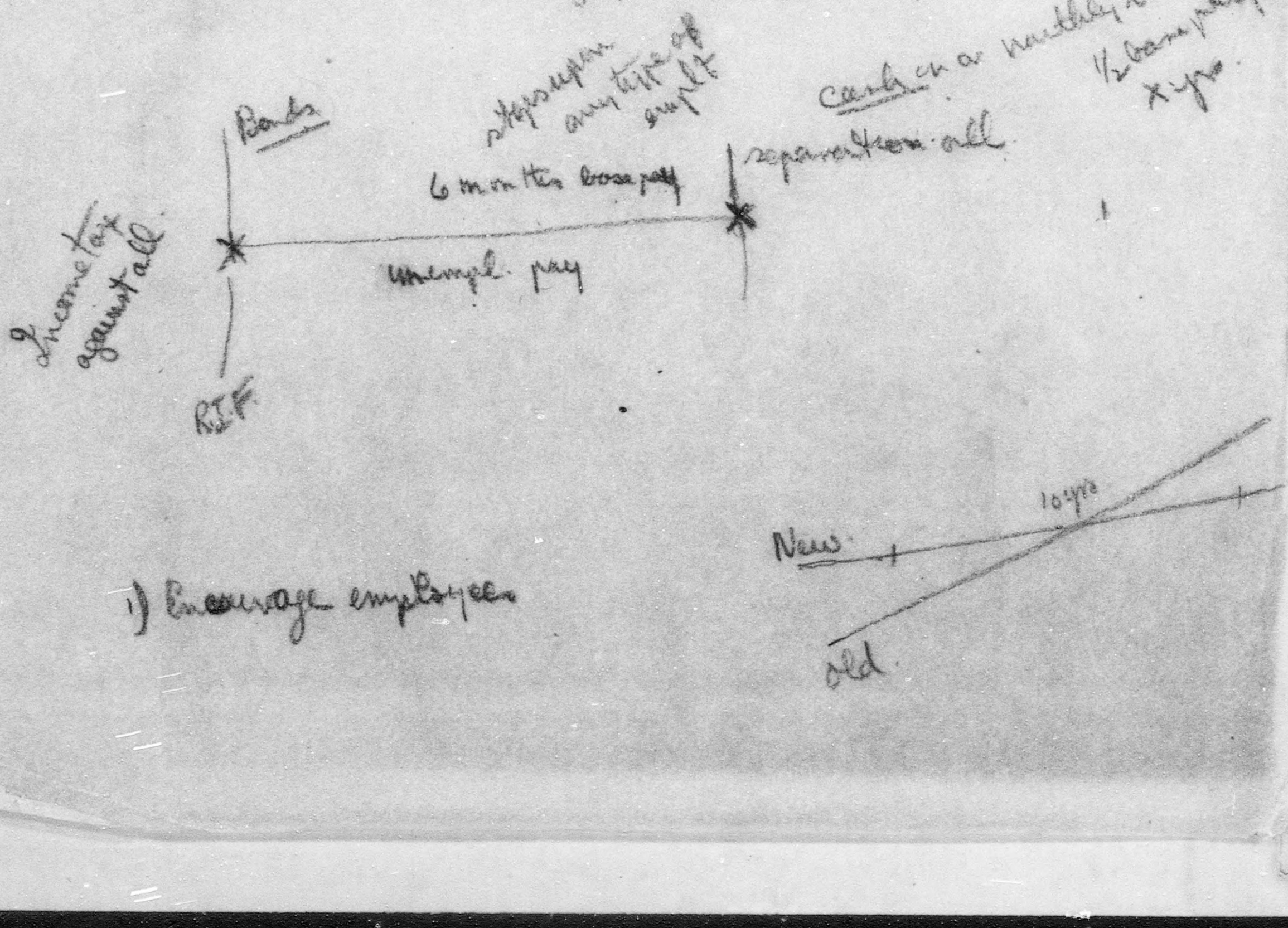
$$\frac{¥\ 4,550}{2} \times 10 = ¥\ 22,750$$

b) ~~Re~~-employment allowance

¥ 4,550 X 6 = ¥ 27,300

c) Total

¥ 22,750 + ¥ 27,300 = ¥ 50,050



1) Encourage employees

CIVIL SERVICE DIVISION
Government Section

8 February 1949

MEMORANDUM FOR: Mr. Maynard Shirven, Acting Chief
Examination Branch

SUBJECT : Separation Pay

In view of the current assignments under the Division work program I am turning over to you material relating to separation pay. Attached hereto are memorandums relating to separation pay for Kodan employees. This matter is under immediate consideration and it was anticipated that a Cabinet Order would be issued covering this situation. I have asked the Administrative Management Agency not to clear any such proposal until they had an opportunity to talk with this office.

The Allowance Bureau of the Ministry of Finance was requested to submit a statement concerning the legal basis for separation pay. A copy of this, submitted on February 7, is attached hereto.

Since this matter is related directly to compensation I would appreciate your keeping me advised on developments.

MacDonald Salter

MacDONALD SALTER
Chief, Classification
and Compensation Branch

MS:jd

Att.

Files
IJ, 1.d.

MINISTRY OF FINANCE
THE JAPANESE GOVERNMENT

February 7, 1949

Explanation on Legal Basis of Separation Allowance

1. Legal basis of separation allowance

The system of separation allowance for government employees as it stands today has its legal basis on the decision of the Cabinet under the regime of the old Constitution when such pay system as this did not necessitate it enacted by law.

However, it has been made plain under the new Constitution that all standards for administration of the civil service must be established by law, and present regulations of separation allowance following "the same example as before" as provided for by the Law No. 121 of 1947 are the same as those established on the basis of Cabinet decision (March 29, 1947).

2. Power of Chief of each Ministry

Chief of each Ministry is in charge of the issuance of separation allowance to its separated employees in accordance with regulations provided on the basis of the Cabinet decision (Allowance Bureau Circular No. 475, dated March 29, 1947 and No. 564 of May 8, 1947), although no provision of such regulations is defined virtually to delegate such authority to him.

3. Separation allowance with regard to reemployment of retired personnel

Separation allowance is granted to a government employee when he is separated from service, whether he may find a place of employment in private enterprise or in any other government position in any later date; provided that in case where an employee finds a place of employment in other government position on the very day or the following day of the separation, no separation

allowance is paid him, but it is provided that the length of his service for that period may be available as basis for the computation of total length of service.

CIVIL SERVICE DIVISION
Government Section

February 3, 1949

MEMORANDUM FOR: Mr. W. Pierce MacCoy, Deputy Chief

SUBJECT : Separation Pay for Kodan Employees.

1. Attached herewith is the draft for a Cabinet Order on separation pay for Kodan employees together with a memorandum for the record on the same subject.

2. A question has been raised by you as to the legal basis for such action by the Cabinet.

3. The information that I have received through ESS, Finance Division, is that Law Number 121 of 1947 is the legal basis for such action. A copy of the pertinent provisions from this law is attached hereto. The interpretation is that the provision concerning the continuing of practices pertaining to allowances, remuneration, etc. "as provided for by old law" includes prior regulations issued concerning separation pay for regular government employees.

4. Kodan employees and recently certain employees of the Osaka Branch Office of the National Property Bureau have demanded separation pay equivalent to one year or more salary. These are exorbitant demands. A precedent such as this of an amount not to exceed three months' pay may be a good provision. In Japanese legal thinking, apparently, there is good legal basis for this proposed Cabinet Order.

MACDONALD SALTER
Chief, Classification and Compensation Branch

MS:vr
Att:

O.K. — Thanks WPM 2/4/49

CIVIL SERVICE DIVISION
Government Section

28 January 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Separation Pay for Kodan Employees

1. Attached herewith is a copy of a draft for Cabinet decision concerning the separation pay for Kodan employees. This has been informally cleared with ESS and this Section.

2. It was absolutely assured by the Office of New Pay Administration that no action was to be taken on this until formal clearance had been received on this document. This assurance was obtained through a conference between Mr. Bettis and Mr. Suzuki of the ONPA.

MacDONALD SALTER
Chief, Classification &
Compensation Branch

MS:jd

Att.

U-C. (not covering govt employees) Temp Laws.
Law 121. Imp Ord

Allowance Bureau
Ministry of Finance

Jan. 27, 1949

Draft of Cabinet Decision relative to Separation Allowance for Involuntarily Retiring Kodan Employee

A President of Kodan who shall have to eliminate employees on account of Kodan dissolution or partial reduction of bussiness pursuant to laws or Government's order shall be authorized to grant to employees concerned separation allowance inclusive of discharge allowance provided for in the current regulation governing discharge allowance system for government employee, an aggregate of which shall not exceed a total of three months pay for persons involved at the time of their retirement from Kodan.

The details of payment of the said allowance shall be determined by the minister of Finance.

LAW NO. 121

With regard to the matters concerning the appointment, removal, promotion of class, suspension of office, reinstatement, disciplinary punishment and status of the government officials, those concerning their salaries, remunerations and other allowances, and those concerning their service, they shall follow the examples as provided for by the old law, before the application of the provisions of the National Public Service Law shall be made to the public office concerned, if not otherwise provided for by law or by regulations of the National Personnel Commission under Article 16 of the National Public Service Law.

The regulations under the provisions of the proviso of the preceding paragraph shall conform to the spirit of the National Public Service Law.

Bettis

CIVIL SERVICE DIVISION
Government Section

28 January 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Separation Pay for Kodan Employees

1. Attached herewith is a copy of a draft of Cabinet decision concerning the separation pay for Kodan employees. This has been informally cleared with ESS and this Section.

2. It was absolutely assured by the Office of New Pay Administration that no action was to be taken on this until formal clearance had been received on this document. This assurance was obtained through a conference between Mr. Bettis and Mr. Suzuki of the ONPA.

MacD

MacDONALD SALTER
Chief, Classification &
Compensation Branch

MS:jd

Att.

GOVERNMENT SECTION
CIVIL SERVICE DIVISION

Mrs. Peterson
P/H

27 January 1949 WPM 1/28/49

MEMORANDUM FOR : Mr. W. Pierce MacCoy
Deputy Chief, Civil Service Division

SUBJECT : Laws Requiring Amendment to Improve Separation Benefit Program.

Apropos of your memorandum of 25 January 1949.

Will you please have the National Personnel Authority immediately draft a proposed law on separation allowances which will contain within itself a complete and adequate regulation on this subject matter and rescind any laws, Cabinet orders or other regulations presently cutting across it.

For purposes of presentation it will be necessary to have:

1. A summary of the present policy

2. A summary in the same form, of the proposed policy

3. A list of advantages gained by the proposed policy.

It will be necessary for me to have this material in hand prior to the assembling of the Diet on 11 February 1949.

Blaine Hoover

BLAINE HOOVER
Chief
Civil Service Division

BH/hm

CIVIL SERVICE DIVISION
Government Section

25 January 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Laws Requiring Amendment to Improve Separation Benefit Program

In response to your memorandum of 20 January 1949 we find only two laws which require amendment in order to permit the establishment of a satisfactory separation benefit program in which uniform treatment can be accorded all employees and officials.

1. The Pension Law (Law No. 48 of 1943).

If it is deemed wise to reduce the lump sum separation benefit payable to persons with less than seventeen years of service to an amount which approximates the official's contributions plus interest plus an adjustment to inflate his contributions to present day values, then Article LXVII must be amended. Approximately 317% more than the above amount is now being granted.

2. The National Public Service Mutual Aid Association Law (Law No. 69 of 1948).

If it is deemed wise to reduce the lump sum separation benefit payable to persons with less than twenty years of service to an amount which approximates the employee's contributions plus interest plus an adjustment to inflate his contributions to present day values, then Article LXXXXI and Annexed Table No. 1 must be amended. Twelve per cent to thirty-eight per cent more than the above amount is now being granted. Moreover, the benefit is now based on the period of employment rather than the period of membership in the Association, the latter being the period during which contributions were made.

3. The Law Concerning Compensation Granted to Public Servant under the Labor Standard Law and the other Laws (Law No. 167 of 1947).

This Law simply provides that government compensation should be raised to that of the Labor Standard Law (Law No. 49 of 1947) and the Unemployment Insurance Law (Law No. 146 of 1947). Such laws do not seem to restrict the government's revision of separation allowances unduly.

4. In addition to laws there are, of course, Cabinet decisions, orders, regulations and notifications which must be revised or abolished in order to accomplish our objective.

W. PIERCE MacCOY
Deputy Chief

GWP:jb

Dr. Peterson

GOVERNMENT SECTION
CIVIL SERVICE DIVISION

20 January 1949

MEMORANDUM FOR : Mr. W. Pierce MacCoy
Deputy Chief, Civil Service Division

SUBJECT : Separation Benefits Resulting from Staff Reduction.

Referring to your memorandum of 14 January 1949.

Incident to staff reduction we face the problem of effecting any necessary revisions of law. Will you therefore please give me citations from the laws referred to in your memorandum which would require elimination or revision in order to set up a financially realistic schedule of separation allowances.

Blaine Hoover

BLAINE HOOVER
Chief
Civil Service Division

BH/hm

Pls. prepare reply for my sig. Thanx
WPM
1/21/49

CIVIL SERVICE DIVISION
Government Section

14 January 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Separation Benefits Resulting from Staff Reduction

1. All government personnel (except certain unpaid and temporary personnel) upon separation due to staff reduction receive a separation allowance in accordance with a Cabinet Decision of 29 March, 1947, Law No. 167 of 1947 and implementing regulations.

a. Normal separation allowance (applicable to personnel who resign in anticipation of staff reduction): Lump sum equal to 50 per cent to 65 per cent of the employee's monthly base pay for each consecutive year of service, not to exceed 40 years. Based on length and quality of service.

b. Allowance if separation due to administrative readjustment: For personnel with normal or better "merit of service", 50 per cent to 80 per cent larger benefit than the normal separation allowance specified above. Based on length and quality of service. In exceptional cases 100 per cent larger benefit than normal separation allowance is granted.

c. Allowance in accordance with a. (but not b.) is reduced to half if total service is less than 10 years.

d. In both a. and b. the minimum allowance is 1½ times the monthly base pay.

e. In case of unemployment, the individual's separation allowance shall not be less than the unemployment benefit for industrial workers (maximum 180 days pay at 68 per cent of average salary, such average not to exceed ¥5100 per month).

f. Exclusive of benefits paid under e., the separation allowance must equal at least 30 days pay or else 30 days notice must be given.

2. Officials ("Kanri") upon separation due to staff reduction receive benefits under the Pension Law (Law No. 48 of 1923).

a. Officials with more than 3 years of service but less than 17, receive a lump sum equal to the current monthly base salary times the number of years of service.

b. Officials with 17 or more years of service are eligible for "ordinary pension": Annual sum equal to about one-third to one-half of annual base salary rate at time of retirement. Based on length of service. Higher rate for foreign duty and for teachers in higher schools, police, fire and prison officials. Police and prison officials eligible after 12 years of service. Smaller benefit for persons under 40 years of age.

c. Officials pay 2 per cent of their base salary to the National Treasury monthly; ~~police, fire and prison officials contribute only 1 per cent.~~ 50

3. Personnel other than officials (excluding certain temporary employees, etc.) are members of Mutual Aid Associations. Those who belong to enterprise associations (Communications Ministry MAA, Monopoly Bureau MAA, Printing Bureau MAA, Mint MAA, Forestry MAA, Government Railway MAA and Public Works MAA) receive benefits under law No. 69 of 1948 upon separation due to staff reduction.

a. Personnel who have been association members longer than 6 months but less than 20 years are paid a lump sum equal to 10 to 485 times their daily base pay. Based on length of membership.

b. Personnel who have been association members 20 years or longer and are at least 50 years of age are eligible for an annual benefit equal to at least one-third annual base pay and higher for longer service (e. g. about 60 per cent annual base pay after 40 years membership).

c. Model regulations for enterprise associations provide for members' contribution of 7 per cent of base pay and 10.5 per cent subsidy by the government. However, the national government bears a larger portion of the cost of benefits based on service prior to July 1, 1948, i. e. makes up certain deficits. Contributions are to support other kinds of benefits in addition to retirement.

GWP
WPM:mvb

W. PIERCE MACCOY
Deputy Chief

LAWS AND REGULATIONS AFFECTING SEPARATION BENEFITS RESULTING FROM STAFF PRODUCTION

	Title	Effective Date	Number
1.	Cabinet decision concerning separation allowance	July 1, 1947	Cabinet decision of 29 March 1947
2.	Ministry of Finance regulations conerning payment of separation allowance (as amended by Allowance Bureau Instruction No. 716 of 1947)	July 1, 1947	Allowance Bureau Instruction No. 475
3.	Regulations for standards to pay separation allowances.	July 1, 1947	Allowance Bureau Instruction No. 564
4.	Law concerning compensation granted to public servant under the Labor Standard Law and other laws.	September 1, 1947 and November 1, 1947	Law No. 167
5.	Issuing regulations of pay under the Law No. 167 (Law concerning compensation granted to public servant under the Labor Standard Law and other laws).	December 27, 1947	Allowance Bureau Instructions No. 1327
6.	Labor Standard Law	1947	Law No. 49
7.	Unemployment Insurance Law	1947	Law No. 146
8.	Ministry of Labor notification concerning the amount of unemployment insurance benefit	November 1, 1947	Ministry of Labor Notification No. 2
9.	The National Public Service Mutual Aid Association Law	June 30, 1948	Law No. 69
10.	The regulation governing enforcement of the National Public Service Mutual Aid Association Law	August 11, 1948	Finance Ministry Ordinance No. 77
11.	Regulations by each Mutual Aid Association are expected to be issued in the immediate future. Model regulations have unofficial approval.	1949	----------

	Title	Effective Date	Number
12.	Pension Law (as amended by Law No. 185 of 1948)	April 14, 1923	Law No. 48
13.	Ordinances and regulations subsidiary to the Pension Law has some effect upon separation benefits (see separate detailed listing)		

Jap boat Ret. in force

GOVERNMENT SECTION
CIVIL SERVICE DIVISION

20 January 1949

MEMORANDUM FOR : Mr. W. Pierce MacCoy
Deputy Chief, Civil Service Division

SUBJECT : Separation Benefits Resulting from Staff Reduction.

Referring to your memorandum of 14 January 1949.

Incident to staff reduction we face the problem of effecting any necessary revisions of law. Will you therefore please give me citations from the laws referred to in your memorandum which would require elimination or revision in order to set up a financially realistic schedule of separation allowances.

BLAINE HOOVER
Chief
Civil Service Division

BH/hm

CIVIL SERVICE DIVISION
Government Section

14 January 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Separation Benefits Resulting from Staff Reduction

1. All government personnel (except certain unpaid and temporary personnel) upon separation due to staff reduction receive a separation allowance in accordance with a Cabinet Decision of 29 March, 1947, Law No. 167 of 1947 and implementing regulations.

a. Normal separation allowance (applicable to personnel who resign in anticipation of staff reduction): Lump sum equal to 50 per cent to 65 per cent of the employee's monthly base pay for each consecutive year of service, not to exceed 40 years. Based on length and quality of service.

b. Allowance if separation due to administrative readjustment: For personnel with normal or better "merit of service", 50 per cent to 80 per cent larger benefit than the normal separation allowance specified above. Based on length and quality of service. In exceptional cases 100 per cent larger benefit than normal separation allowance is granted.

c. Allowance in accordance with a. (but not b.) is reduced to half if total service is less than 10 years.

d. In both a. and b. the minimum allowance is 1½ times the monthly base pay.

e. In case of unemployment, the individual's separation allowance shall not be less than the unemployment benefit for industrial workers (maximum 180 days pay at 68 per cent of average salary, such average not to exceed ¥5100 per month).

f. Exclusive of benefits paid under e., the separation allowance must equal at least 30 days pay or else 30 days notice must be given.

2. Officials ("Kanri") upon separation due to staff reduction receive benefits under the Pension Law (Law No. 48 of 1923).

a. Officials with more than 3 years of service but less than 17, receive a lump sum equal to the current monthly base salary times the number of years of service.

b. Officials with 17 or more years of service are eligible for "ordinary pension": Annual sum equal to about one-third to one-half of annual base salary rate at time of retirement. Based on length of service. Higher rate for foreign duty and for teachers in higher schools, police, fire and prison officials. Police and prison officials eligible after 12 years of service. Smaller benefit for persons under 40 years of age.

c. Officials pay 2 per cent of their base salary to the National Treasury monthly; police, fire and prison officials contribute only 1 per cent.

3. Personnel other than officials (excluding certain temporary employees, etc.) are members of Mutual Aid Associations. Those who belong to enterprise associations (Communications Ministry MAA, Monopoly Bureau MAA, Printing Bureau MAA, Mint MAA, Forestry MAA, Government Railway MAA and Public Works MAA) receive benefits under law No. 69 of 1948 upon separation due to staff reduction.

a. Personnel who have been association members longer than 6 months but less than 20 years are paid a lump sum equal to 10 to 485 times their daily base pay. Based on length of membership.

b. Personnel who have been association members 20 years or longer and are at least 50 years of age are eligible for an annual benefit equal to at least one-third annual base pay and higher for longer service (e. g. about 60 per cent annual base pay after 40 years membership).

c. Model regulations for enterprise associations provide for members' contribution of 7 per cent of base pay and 10.5 per cent subsidy by the government. However, the national government bears a larger portion of the cost of benefits based on service prior to July 1, 1948, i. e. makes up certain deficits. Contributions are to support other kinds of benefits in addition to retirement.

W. Pierce MacCoy

W. PIERCE MACCOY
Deputy Chief

GWP
WPM:mvb

LAWS AND REGULATIONS AFFECTING SEPARATION BENEFITS RESULTING FROM STAFF PRODUCTION

	Title	Effective Date	Number
1.	Cabinet decision concerning separation allowance	July 1, 1947	Cabinet decision of 29 March 1947
2.	Ministry of Finance regulations concerning payment of separation allowance (as amended by Allowance Bureau Instruction No. 716 of 1947)	July 1, 1947	Allowance Bureau Instruction No. 475
3.	Regulations for standards to pay separation allowances.	July 1, 1947	Allowance Bureau Instruction No. 564
4.	Law concerning compensation granted to public servant under the Labor Standard Law and other laws.	September 1, 1947 and November 1, 1947	Law No. 167
5.	Issuing regulations of pay under the Law No. 167 (Law concerning compensation granted to public servant under the Labor Standard Law and other laws).	December 27, 1947	Allowance Bureau Instructions No. 1327
6.	Labor Standard Law	1947	Law No. 49
7.	Unemployment Insurance Law	1947	Law No. 146
8.	Ministry of Labor notification concerning the amount of unemployment insurance benefit	November 1, 1947	Ministry of Labor Notification No. 2
9.	The National Public Service Mutual Aid Association Law	June 30, 1948	Law No. 69
10.	The regulation governing enforcement of the National Public Service Mutual Aid Association Law	August 11, 1948	Finance Ministry Ordinance No. 77
11.	Regulations by each Mutual Aid Association are expected to be issued in the immediate future. Model regulations have unofficial approval.	1949	----------

Title	Effective Date	Number
12. Pension Law (as amended by Law No. 185 of 1948)	April 14, 1923	Law No. 48
13. Ordinances and regulations subsidiary to the Pension Law has some effect upon separation benefits (see separate detailed listing)		

~~Send copies for WTPm~~
~~1-6-49~~

GOVERNMENT SECTION
CIVIL SERVICE DIVISION

3 January 1949

MEMORANDUM FOR : Mr. W. Pierce MacCoy
Deputy Chief, Civil Service Division

SUBJECT : Separation Allowances and Staff Reduction.

Memorandum of 27 December 1948 noted.

Please check with competent Japanese legal authorities including the National Personnel Authority and inform me:

1. Whether separation allowances of government employees are presently controlled by any law.

2. Whether memorandum of 27 December 1948 is complete file of control documents.

3. What action is necessary legally to set up new schedule of separation allowances.

Blaine Hoover

BLAINE HOOVER
Chief
Civil Service Division

BH/hm

URGENT

1/6/49 - Requested Mr Sato (Atty Gen) to furnish CSD with a list of all laws, Cab. Orders or any other legal instrument on the subject

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

27 December 1948

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Separation allowances and staff reduction

The following comments are in response to your memorandum of 22 December 1948, addressed to Mr. MacCoy:

1. Attached herewith is a summary of existing laws, regulations and decisions on the subject of separation allowance. Copies of such documents and excerpts thereof are also attached. Attention is drawn to the fact that the benefits outlined in these materials are in addition to any benefits granted under pension and mutual aid association laws.

2. Although neither representatives of the Finance Ministry nor of the National Personnel Authority have been able to furnish examples of costs of separating groups of employees in accordance with present separation allowance regulations. They report that the costs of separation would be greater than the salaries for the seperated employees in the fiscal year during which such separation takes place, has naturally been a strong deterrant to any large scale reduction in force. Mr. Keitoku of the Allowance Bureau reported that past plans for reductions have normally called for separation of the oldest personnel, inevitably resulting in the highest possible costs to the government in both separation allowances and pension or retirement benefits. He added that such plans had never really materialized even though officially directed.

// Rotten personnel adm. or Two counts. WKn

3. The following measures are recommended:

a. Pay separation allowances in the form of extended salary (or the equivalent) rather than in lump sum.

b. Base the separation allowance on the employee's total compensation instead of base pay.

c. Lower the ceiling on separation allowances. (The normal lump sum benefit may now exceed half of the monthly base pay for forty months)

d. Examine the methods of determining order of lay-off of personnel in conjunction with the study of separation allowance, because of their financial

interrelationship.

c. Give further study to the relationship among pension, mutual aid association and separation allowance benefits with the objective of reducing excessive overlapping of the expenditure of government money for the same purpose and under similar circumstances.

MACDONALD SALTER
Chief, Classification Compensation Branch.

GORDON W. PETERSON

GWP:mvb

I would recommend (a) the establishment of an accrued leave privilege and (b) a separation pay of one month's total compensation. Thus the final pay would include the one months total compensation plus payment for all unused accrued leave figured to last working day. Accrual of leave or terminal leave should not be permitted.

WBR
12/27/48

SUMMARY OF REGULATIONS GOVERNING SEPARATION ALLOWANCE*

Coverage: National government personnel exclusive of certain unpaid, temporary and disciplined personnel. (See Article 1)

Normal Separation Allowance: (Reduced to 80% of the following amounts if quality of service rendered has been only "ordinary"; 60% if "inferior").

a. For service up to five years, 50% of the employee's monthly base pay for each consecutive year of service.
b. For service of 5 to 10 years, 55% of base pay for each consecutive year of service
c. For service of 10 to 15 years, 60% of base pay for each consecutive year of service.
d. For service of 15 to 25 years, 65% of the base pay for each consecutive year of service.
e. For service in excess of 25 years, 50% of the base pay for each consecutive year of service.

(a–d: Maximum of only half this amount granted if total service less than 10 years.)

(e: Maximum of 40 years considered.)

Allowance for separation due to illiness, injury or death incurred in line of duty:

a. If permanent disability necessitates separation: 50% more than the normal separation allowance. (40% if record of service is "inferior".)
b. For other disability which causes separation: 40% more than the normal separation allowance (30% if record of service is "inferior".)
c. For death: 50% more than normal separation allowance to bereaved family. (Half this amount to these who conduct funeral rite, if the employee leaves no family; 40% of it if the employee's record of service was "ordinary" or "inferior".)

Allowance for separation due to abolition of position or administrative readjustments:

a. In case of abolition of agency or ordinary readjustment: 80% more than the normal separation allowance (70% if record of service was "ordinary"; 60% if "inferior")
b. In case of agency or personnel reorganization; waged separations: 60% more than the normal separation allowance (50% if record of service was "ordinary"; 40% if "inferior".)
c. In both a and b. cases minimum allowance is 1½ times monthly base salary.
d. In exceptional cases the Government may grant 100% more than the normal separation allowance instead of the 40% to 80% shown above.

* Ministry of Finance Regulations concerning payment of separation allowance (Allowance Bureau instructions 475 and 716).

Effect of Law No. 167 of 1947 and regulations thereunder:

a. Government employees who would receive a smaller separation allowance (according to the standards summarized on the preceding page) than he would receive as unemployment insurance if government employees were eligible for such benefits, he shall be paid the difference as an additional separation allowance. In such cases, he is eligible for 180 days of pay (at reduced level, equal to unemployment benefit) or such part of 180 days as he continues to be unemployed. The maximum benefit under unemployment insurance is 68 percent of the average salary (such salary not to exceed ¥ 5100 per month).

Regardless of the amount of separation allowance calculated on the basis of standards summarized on the preceding page, government employees must be given at least 30 days notice of separation or 30 days pay or a combination of notice and pay equal to at least 30 days.

Effect of Imperial Ordinance 192:

2. The family of any government official receives a special allowance equal to four times their monthly base salary when the official dies, regardless of the cause of death.

Allowance Bureau
Ministry of Finance

30 March 1948

Cabinet Decision of 29 March, 1947 concerning
Separation Allowance

Government service officials and other employees (to be referred to hereinafter as government workers) shall be granted the separation allowance under the revised pay system for government workers (i.e. the system was revised in July, 1946 and it has been called commonly "July Revision.") as in the following, when they are relieved from their duty or die on and after 1 July, 1946.

(1) Those who are separated from their service shall be granted separation allowance within a limit of 65 percent of their monthly base pay for each one year of service.

(2) Those who are separated from their service being unable to work on account of serious injury or illness or die in the service may be granted separation allowance within a limit of the total of the separation allowance as provided in the preceding item and 50 percent of it.

(3) Those who are separated from their service or die on account of serious injury or illness caused on performance of their duty, and those separated due to abolition of their agency or administrative readjustment may be granted separation allowance within a limit of the total of the amount as provided in Item 1 and 100 percent of it.

Note:

The following Cabinet Decisions are hereby abolished.

(1) Cabinet Decision of 30 November, 1918 concerning Bonus granted to Higher Officials (Kōtōkwan).

(2) Cabinet Decision, May 1905 concerning Regulations of Special Grant and Special Allowances granted to Railway Workers.

(3) Cabinet Decision of 16 November, 1943 concerning Bonus granted to Higher Officials.

Ministry of Finance

Regulations concerning payment of separation allowance (Allowance Bureau Instruction No. 475 dated 29 March. 1947 as revised by the Allowance Bureau Instruction No. 716 of 27 June, 1947).

Article 1.

Separation allowance as decided by the Cabinet at its meeting on 29 March, 1947 shall be granted to government service officials and those treated as such, workers in the temporary employment as specified by the Cabinet Order No. 56, 1948, Junior clerks, auxiliary workers and craft workers (to be referred to hereinafter as "government workers"), when they are separated from their service or die. Provided, however, that it shall not be granted to government workers who come under any of the following categories:

(1) That they are paid no salary or wages.

(2) that they are temporarily employed for part-time service or that they are temporarily employed as unclassified officials junior clerks, auxiliary workers, and craft workers.

(3) that they are declared punishment heavier than confinement under the criminal code.

(4) that they are relieved from their post receiving disciplinary punishment.

Separation allowance shall not be granted to government workers in case they happen to serve continuously despite of having their status changed or service transferred (inclusive of the case they are reappointed to other post on the very day or the following day of their separation.) Provided,

however, that the said allowance shall be granted them at the time when government service officials, those treated as such, or workers temporarily employed for full-time service are reappointed as workers temporarily employed for part-time service, junior clerks, auxiliary workers or craft workers after their separation.

Article 2.

Those separated after their service of more than 10 years shall be granted separation allowance the amount of which shall be the total of amounts calculated as in the following items:

(1) for the services up to five years, 50 percent of their monthly base pay for each consecutive year of service.

(2) for the services of 5 to 10 years, 55 percent of their monthly base pay for each consecutive year of service.

(3) for the services of 10 to 15 years, 60 percent of their monthly base pay for each consecutive year of service.

(4) for the services of 15 to 25 years, 65 percent of their monthly base pay for each consecutive year of service.

(5) for the services in excess of 25 years, 50 percent of their monthly base pay for each consecutive year of service.

Article 3.

Those who are separated being unable to continue their service on account of injury or illness caused by performance of duty or die in the service shall be granted the separation allowance the amount of which shall be the total of amount as calculated under competent item of the preceding article and 50 percent at maximum of it.

Article 4.

Those who are separated on account of abolition of their post or office or of administrative readjustment shall be granted the separation allowance the amount of which shall be the total of amount as calculated under competent item of Article 2 and 100 percent of it.

Article 5.

The amount of separation allowance granted to those separated or die on account of reasons as described in the preceding two articles shall at least be one and a half month of their monthly base pay in spite of the length of their services.

Article 6.

Those separated after their service of less than 10 years (exclusive of those coming under Arts. 3 and 4) shall be granted 50 percent at maximum of the amount as calculated under Article 2, Items 1 and 2.

Article 7.

All the matters necessary to issue the separation allowance under the preceding Articles 2 to 4 inclusive and coverage of administrative readjustment as described in Article 4 shall be determined by Minister concerned upon consultation with Minister of Finance.

Article 8.

The length of service shall be computed as in the following.

(1) The length of service shall be computed in the term of month and the period less than one year shall be cut off.

(2) The length of service continuously rendered by workers (exclusive of those coming under Art. 1, Para. 1, Items 1 and 2) shall all be summed up. Provided, however, that the length of service rendered as government service officials, those treated as such,

or workers temporarily employed for full-time service shall be excluded in the present calculation from the length of service worked as junior clerks, auxiliary workers and craft workers.

(3) The length of service under temporary suspension or the period during which government workers are in the employment of a foreign government with admission of the authority shall be reduced by 50 percent. Provided, however, that the period for having been called to the Army or Navy shall not be applied hereto.

(4) The length of service in excess of 40 years shall be computed as 40 years.

(5) The period for having been professional officers, civilians in the military service, or military collegiates shall be omitted.

Article 9

All other matters to which Articles 2 to 6 inclusive and the preceding Article may not be applied, shall be determined by Minister concerned upon consultation with Minister of Finance.

Article 10.

Salaries which serve as the basis to calculte separation allowance shall be a monthly amount of base pay.

Separation allowance granted in case of separation or death caused after the period as provided in Article 8, Item 3 comes into being shall be calculated on the basis of base pay at the time of commencement of that period.

Article 11.

In the course of calculation amounts less than one yen shall be increased up to one yen.

Article 12.

Separation allowance granted at the death of government workers shall be delivered to their bereaved family. The bereaved family as described in the preceding paragraph shall indicate (1) a spouse (inclusive of those regarded as being in a matrimonial relation though not officially registered) and (2) any one of direct relatives who maintain their living within a family of the workers, and (3) younger brother or sister formally regarded as dependent under the Regulation as to the Issuance of Temporary Family Allowances, Article 3.

The order by which members of the bereaved family are delivered the separation allowance shall be as established in the preceding paragraph and in case there are two or more members standing in the same order, they are equally divided the amount of separation allowance to be paid.

If there can be none of the bereaved family members as described in Paragraph 2 of this article, those who practice funeral rite shall be granted 50 percent of the separation allowance granted to bereaved family members as in Paragraph 1 of this article.

Supplementary Provision

The present Regulation shall be enforced as from 1 July, 1948.

If among the service years summed up under Article 8 is included the period for which any beneficient grant similar in nature to the separation allowance has been given for separation, transfer to other agency, etc., the period computed by dividing the amount just granted by 50 percent of base pay at the time said payment was made shall be omitted from the total service years. As to those to whom the Regulation concerning Special Grant and Special Allowance for Separation granted to Railway Workers was applied, the period basic in calculation of said grant or allowance shall be regarded as the period just to be omitted.

Rates of the separation allowance granted to those coming under the preceding paragraph may be replaced by the rates applicable to service years from which the period concerned is omitted on the assumption that the period is not omitted.

Supplementary Provision

The present Regulations as revised shall become applicable on and after 31 May, 1948.

Regulations for Standards to pay Separation Allowances
(Allowance Bureau Instruction No. 564, dated May 8, 1947)

1. The amount of separation allowance to be paid under Articles 2, 4 and 6 of the Regulations for Payment of Separation Allowances to government workers who are retired from service or die will be paid according to the merit of their services as classified in the annexed table.

2. The coverage of administrative readjustment described in the Article 4 of the Regulations will be in the following categories:

(a) General administrative readjustment;

(b) Separation as may be requested due to having surplus personnel caused by reorganization of office or revision of the fixed number of personnel; and

(c) Separation as may be requested due to having surplus personnel caused by repatriation.

When steps are taken to provide retiring persons with necessary means to find employment in other place for the terms of separation, even though falling under one of the above cases, it is permittable to reduce the extra amount of the Article 4 to an appropriate level according to the actual circumstances.

3. In case the separation under the Articles 3 and 4 is caused by injury or illness sustained on account of the intentional act of one's own or his serious error, the extra amount of the said two articles will not be issued whereas the provisions of Article 2 and Article 6 are applied thereto.

Annexed Table

Classification		Merit of service		
		Excellent	Normal	Bad
Separation Under Art. 2		Basic rate 10	80% of BR 8	60% of BR 6
Art. 3 Separation with difficulty to perform service for injury or illness	With injury or illness to the degree to unable to have service for life-time	50% increase over BR 15	50% increase over BR 15	40% increase over BR 14
	With injury or illness to the next degree which makes separation against will of one's own	40% increase over BR 14	40% increase over BR 14	30% increase over BR 13
Death in line of duty		50% increase over BR 15		
Art. 4 Abolition of office or administrative readjustment	Abolition of Office or general administrative readjustment	80% of increase over BR 18	70% increase over BR 17	60% increase over BR 16
	Separation as requested due to reorganization of office or surplus personnel caused by repatriation	60% increase over BR 16	50% increase over BR 15	40% increase over BR 14
Separation under Art. 6		50% of BR	40% of BR	

Note: Arabic figures indicate the ratios of respective cases to the amount (Basic Rate) calculated in the Article 2 of the Regulations which represents 10.

Law concerning Compensation granted to Public Servant under the Labor Standard Law and the Other Laws (Law No. 167, 1947)

The Government shall issue to government service officials and the other officials and employees in the Government (to be referred to hereinafter government workers) or their bereaved family or those who maintain their living upon the income of workers at the time of death the same rates of compensation, if the present rates are below the level, as the minimum standard established under the Labor Standard Law (or Seaman's Law for workers who are in maritime service) and Unemployment Insurance Law.

Details concerning the necessary adjustment between the increased rates of compensation as stated in the preceding paragraph and the present compensations, and the issuing regulations of this compensation established in the same paragraph shall be determined by the Minister of Finance.

Supplementary Provision

Premium pay for overtime and holiday and midnight service to be granted under the Labor Standard Law, Art. 37 (or seaman's Law Art. 67) shall be retroactive to 1 July, 1947, other compensations to be granted under the other provisions of Labor Standard Law shall be to 1 September, 1947 and benefits corresponding to those under the Unemployment Insurance Law shall be to 1 November.

Excerpt from

Issuing Regulation of Pay under the Law No. 167 (Law concerning compensations granted to Public Servant under the Labor Standard Law and the other Laws) - Allowance Bureau Instruction No. 1,327 dated 27 December, 1947)

Chapter III. Separation Allowance

(Separation Allowance)

Article 14.

In case that the amount of separation allowance granted to government workers who separate from their service of more than 6 month period is short of the amount obtained by multiplying a daily amount issued of the unemployment insurance as computed in the Unemployment Insurance Law, Article 17, Paragraphs 1 to 3 by the number of days on which they are unemployed in the course of one year from the day following their separation (these days may amount to 180 days at maximum), the balance shall be paid to them in the form of separation allowance.

The phrasing ("they are employed" in the preceding paragraph shall indicate such status of workers that they after separation are unable to obtain new employment despite having a will to work and capacity to get around.

Article 15.

Only for the cases that the amount of separation allowance which government workers are to receive, coming under the provisions of the Labor Standard Law, Article 20, is less than 30 days of the average wage as defined in the said article, the balance shall be given in the form of the allowance.

Excerpt from Unemployment Insurance Law - Law No. 146
of 1947

(Amount of benefit)

Article 17. The unemployment insurance benefit shall be calculated on the basis of the quotient of the total amount of wages, divided by the number of all days during the last two months as are calculated into the insured period, prior to the claimant's separation from employment (in the case of being separated on the last day of the month, that month shall be used in the calculation together with the next prior month of a minimum of 11 days of covered employment). However, in case the wage paid in the last completed month is higher than that of the previous month on account of a wage raise according to laws, ordinances, orders, etc, or labor contracts or rules of employment, unemployment insurance benefits shall be calculated on the basis of the quotient of the total amount of the wage paid in the last completed month divided by the number of all days during that period.

In case the amount determined by the preceding method does not equal the amount calculated on the basis of the following method, the unemployment insurance benefit shall be paid as follows, irrespective of the provisions of the preceding paragraph:

1. In case the wages are computed by labor days or labor hours or defined by piece-rate or other contract price, 70 per cent of the quotient obtained by dividing the total sum of wages by the number of the labor days during that period;
2. In case a part of the wages is defined by the month, week, or any other fixed period, aggregate of the quotient obtained by dividing the total sum of these by the number of all days during that period and sum of those computed by the foregoing item.

The unemployment insurance benefits shall be the fixed amount which shall be stated in relation to wages grouped into wage classes in a Table of Benefit issued by the Labor Minister. However, the maximum amount of wages on which unemployment insurance benefits shall be calculated shall be fixed at 170 yen per diem.

Ministry of Labor Notification No. 2

December 6, 1947

The table of the amount of unemployment insurance benefit provided in the Unemployment Insurance Law Art. 17, Par. 3 shall be decided as follows, and it shall be applied on and after November 1, 1947:

Minister of Labor
YONEKUBO Mitsusuke

Table of Amount of Unemployment Insurance Benefit

Class	Daily Amount of Wage	Daily Amount of Insurance Benefit
1	Less than ¥10	¥8
2	More than ¥10 and less than ¥11	8
3	¥11 ~ ¥12	9
4	12 ~ 14	10
5	14 ~ 17	12
6	17 ~ 21	14
7	21 ~ 25	16
8	25 ~ 29	18
9	29 ~ 33	20
10	33 ~ 37	22
11	37 ~ 40	23
12	40 ~ 42	24
13	42 ~ 45	26
14	45 ~ 48	28
15	48 ~ 52	30
16	52 ~ 55	32
17	55 ~ 58	34
18	58 ~ 62	36
19	62 ~ 65	38
20	65 ~ 68	40
21	68 ~ 72	42
22	72 ~ 75	44
23	75 ~ 78	46
24	78 ~ 80	48
25	80 ~ 85	49
26	85 ~ 90	50
27	90 ~ 96	52
28	96 ~ 104	54
29	104 ~ 112	56
30	112 ~ 121	58
31	121 ~ 130	60
32	130 ~ 140	62
33	140 ~ 151	64
34	151 ~ 164	66
35	164 ~ 170	68

EXCERPT FROM THE LABOR STANDARD LAW
LAW NO. 49 of 1947

(Dismissal Notice)

Article 20. When the employer wishes to cancel the labor contract he must give at least 30 days advance notice. The employer who does not give 30 days' notice in advance shall pay money equivalent to 30 days average wages. This does not apply when the continuance of the enterprise is made impossible by reason of some natural calamity or other inevitable cause, or when the employer dismisses the worker by reason for which the worker is responsible.

The number of days of notice under the preceding paragraph may be reduced in case the employer pays the average wages for the number of the reduced days.

In case of the proviso to paragraph 1 of the preceding Article, the paragraph 2 of the said Article shall apply.

Article 21. The preceding Article shall not apply to those workers who come under any item of the following:

1. Workers who are employed daily.
2. Workers who are employed for a period not longer than two months.
3. Workers who are employed in a seasonal work for a period not longer than four months.
4. Workers in probation

The preceding paragraph shall not apply when the worker who comes under item 1 is employed for more than a month consecutively, or when the worker who comes under item 2, or 3, is employed for more than the period fixed by each item, or when the worker who comes under item 4 is employed for more than 14 days.

EXCERPT FROM ORDINANCE CONCERNING SALARIES
GOVERNMENT SERVICE OFFICIALS (IMPERIAL ORDINANCE
NO. 192, 1946)

Article 8.

When officials die, the Death Allowance shall be granted to one of their family members, the amount of which corresponds to 4 times their basic salary received for the last time in service.

"Family members" in the preceding paragraph shall include spouse, children, parents, grandchildren, grandparents, and brothers and sisters who are formally listed in the census register of the deceased. Those who come to become any of such family members as prescribed in the Law No. 4, 1940 within the period of 2 years from the death shall be regarded the same as above.

The order of family members to receive the Death Allowance shall follow the same as stated in the preceding paragraph, and as to those in the same standing the priority shall be given to the older who is followed by the younger.

In case where there is no family member existing, those who hold a funeral for the deceased may be granted one half of the amount determined in the first paragraph.

SPECIAL = RUSH

MR PETERSON
&
MR SALTER

Government Section
Civil Service Division

22 December 1948

MEMROANDUM FOR: Mr. W. Pierce MacCoy
Deputy Chief, Civil Service Division

WPM
12/22/48

SUBJECT: Terminal Pay and Staff Reduction

Will you please initiate work on the following project immediately and give me a report thereon by noon, 23 December 1948. I desire:

1. A summary of the laws, Cabinet Orders, and regulations now in force relating to "terminal pay".

2. A summation of the effects of present "terminal pay" policy on personnel administration. Include any significant statistics.

3. A recommendation, realistic with respect to the present legal situation, for affecting staff reduction.

Blaine Hoover

BH:mta

BLAINE HOOVER
Chief
Civil Service Division

CIVIL SERVICE DIVISION
Government Section

24 November 1948

MEMORANDUM FOR: Mr. W. Pierce MacCoy, Deputy Chief, Civil Service Division

SUBJECT : Kodan Employees

1. In a discussion with Mr. Rose of the Anti-Trust Division, ESS, a request was presented by this division for a conference with Civil Service Division on the application of the two-year limitation for Kodan employees.

2. Kodans apparently were created despite the opposition of this ESS division but with the definite program in mind of rapidly eliminating such government activities as soon as the wholesale field of commercial activities could be created and established. As various industries are reorganized, blocks of Kodan employees will be released, in most instances directly back to the industry that they were controlling. For example, the Petroleum Distribution Kodan will have groups of employees who will one day be employees of that Kodan and the next day become employees of the Shell Corporation. In most instances the function performed by the government will be eliminated at the time the employee is transferred to industry. There is a slight difference, however, between the Distribution Kodans and the two Rehabilitation Kodans. A liberal application of the two-year restriction for the former might not be advisable for the latter.

3. A short discussion was had on two other points: One the affect of placing Kodans in the regular service as a result of the amendments to the NPSL and, second, as to the efficacy of a separation allowance.

4. With respect to the former, it was indicated that Kodan employees would be subject to all the provisions of the NPSL the moment the amendments were put into affect by the Diet. This included not only the two-year provision but also compensation matters. At the moment the Office of New Pay Administration, being the administrative agency on compensation matters, would be responsible for the classification of Kodan positions in accordance with their present regulations. ESB therefore would have to work this matter out directly with the Office of New Pay Administration. As to the continuance of an allowance over and above their base pay which now ranges from 10 to 50%, the Anti-Trust Division indicated that they are not particularly in sympathy with such an allowance. It was suggested that if the new 6307 rate were applied, the basis for the above percentage increase would be substantially eliminated since it was partially predicated upon an attempt to adjust government salaries

to industry which is exactly what the 6307 rate does. However, it is possible that a 10% allowance might be made comparable to that paid to occupation forces personnel as a recognition of special skills.

5. With respect to separation pay, the Anti-Trust Division was not in sympathy with such pay. The provision of a bonus of 10 to 50% included the concept that this partially made up for the situation wherein these employees were temporary employees. Furthermore, in most instances, these employees of the Kodans, as such Kodans are eliminated, will be transferred directly over to private employment and there is no particular need for them to receive a subsistence separation allowance to help them cover the time of adjustment between government employment and private employment.

MS

MACDONALD SALTER
Chief, Classification-Compensation Branch.

MS:mvb

CIVIL SERVICE DIVISION
Government Section

16 November 1948

MEMORANDUM FOR: The Record

SUBJECT : Separation Allowance, Kodan Employees

1. Conference was held with Mr. Suzuki of the Allowance Bureau, Finance Ministry, on 16 November, regarding the separation allowance for kodan employees.

2. Mr. Suzuki stated that in a meeting with the Vice-Ministers on 15 November 1948, he outlined the plan suggested by this office as to amounts of allowances to be granted kodan employees on their separation from government employment.

3. The Vice-Ministers concurred in the recommendation but Mr. Suzuki stated that his chief, Mr. Imai of the Allowance Bureau was still contending for a higher separation allowance in line with the request by the unions.

4. The plan as recommended by this office and concurred in by Mr. Suzuki is to be presented to the Vice-Ministers Conference on Thursday of this week and it is anticipated that a final decision will be reached in regard to the matter.

JESSE BETTIS
Compensation Specialist.

JB:mvb

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

2 November 1948

MEMORANDUM FOR: The Record

SUBJECT : Separation Allowance - Kodan Employees

1. Conferences were held on 21 and 28 October with Mr. Suzuki of the Allowance Bureau, Ministry of Finance, in regard to a proposed separation allowance for Kodan employees who are to be separated during the next few months due to dissolution of several Kodans in accordance with instructions of E.S.S., Foreign Trade Commission, dated 9 August, 1948.

2. Proposed retiring allowances, appendix B, provides for payment of from 13.5 to 15.5 months pay at time of separation depending on the length of service which in any case does not exceed two years. Proposed payment would include base pay and area, special and family allowances.

3. Regulations governing the retiring or separation allowance provide that one and one-half months pay will be paid to government employees retiring with less than two years service.

4. In December 1945 as a result of administrative adjustment many employees were dismissed and at that time special treatment was extended to the employees affected and an allowance of four months pay in addition to the usual one and one-half months' pay. This resulted in the payment of $5\frac{1}{2}$ months pay which included allowances.

5. Due to the fact that Kodan employees are receiving a special allowance at this time of approximately 30 per cent of their salaries because of the temporary nature of their employment, it is not believed that additional special treatment should be extended at the time of separation.

6. For this reason and also that it would establish somewhat of a precedent the request is not concurred in.

7. It is recommended that if any allowance is granted in addition to that authorized by regulations, it should not exceed four months additional pay.

J. B. Bettis
Compensation Specialist

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CIVIL SERVICE DIVISION
Government Section

29 October 1948

MEMORANDUM FOR: Mr. MacDonald Salter, Chief, Classification and Compensation Branch

SUBJECT : Conference Concerning Procurators' Salaries and Kodan Discharges with Messrs. Imayi and Watanabe on 29 October.

1. Mr. Imayi stated that the procurators' salaries were established on a higher level than that for administrative officials. Such a schedule was passed by the Diet and fixed as law. In the Procurator General's Office a person who is a procurator may be assigned to work as an administrative official dealing with management problems which are not basically legal. Such a person is paid according to the general salary schedule. Regular administrators and procurators dealing with legal phases of work are paid according to the higher salary schedule for procurators. Similar differentiation is made where assistant procurators are concerned. Mr. Imayi stated that he has insisted upon this point as a fixed principle.

Watanabe was in 1½ & was advised we were not in favor

2. However, according to Mr. Imayi, some member of the Legal Section of GHQ is strongly of the opinion that any person possessing qualifications as a procurator and passing the qualifications examinations should be paid as a procurator. Consequently a strong attempt is being made to stipulate this into effect through a Cabinet Order. The Ministry of Finance, especially its Allowance and Budget Bureaus, are strongly against this proposal, as well as the Procurator General. If this Cabinet Order goes through it will destroy the present principle of the pay system as now practiced in the Procurator General's Offices. Consequently the Procurator General has taken a very strong position against it. However, there is considerable pressure for an early passage of this Cabinet Order.

3. The second subject brought out by Mr. Imayi concerned the matter of severance pay to various members of Kodan. According to an order from GHQ, it is necessary to discharge employees in certain segments of various Kodans. According to Mr. Imayi, a plan concerning this severance allowance has been submitted to Mr. Bettis. If the problem concerning the discharge allowance question can not be solved, the solution to the problem of conforming to the GHQ order can not be readily effectuated.

4. The matter of pay severance raises various questions, according to Mr. Imayi, from the point of view of a reasonable pay system. More time is needed to survey this question. However, GHQ is placing pressure for an early conformity to its order. The tentative plan presented involves paying

severance allowances which are midway between that now granted by private industry and that presently given by the Japanese government. At the same time Mr. Imayi states that he is considerably disturbed over the rumor that exists to the effect that subversive elements in the Kodan, or concerned with it, are planning to capitalize upon this situation to fulfill whatever purposes they have in mind.

5. Mr. Imayi would like assistance on this problem.

Walter P. Domanowski

WALTER DOMANOWSKI
Compensation Specialist

WD:jd