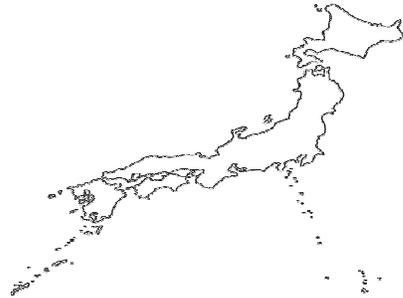
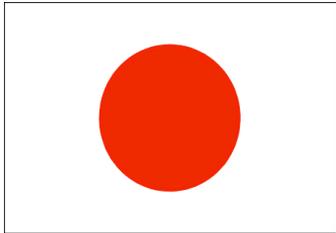


JAPAN
(NIHON-KOKU/NIPPON-KOKU)



BACKGROUND AND LEGAL SYSTEM

LEGAL SYSTEM	Civil law with English-American influence.
POLITICAL SYSTEM	Constitutional monarchy with parliamentary government.
HEAD OF STATE	Emperor, determined by family succession laws. The Emperor serves for his lifetime.
HEAD OF GOVERNMENT	Prime Minister, designated by both houses of the Diet.
SUBNATIONAL ENTITIES	47 prefectures.
SUBLOCAL ENTITIES	None.
TRANSLITERATION SYSTEM	Romanization.
LANGUAGES	Japanese (<i>Nihongo</i>).

CONSTITUTION

OFFICIAL NAME *Nihonkōku Kenpō* or *Dai Nihon Teikōku Kenpō*.

ENACTMENT The current Japanese Constitution was enacted on November 3, 1946. The original constitution, the Meiji Constitution [*Dai Nihon Teikōku Kenpō*] (1889), was replaced pursuant to Japan's surrender in World War II.

CITATION FORMAT JAPAN CONST. art. <article>, para. <paragraph>.

JAPAN CONST. [Kenpo] art. 1 para. 1.
Kenpo, art. 1, para. 1.
Meiji Kenpo, art. 1, para. 1.

Examples

Note: Citation to the constitution or administrative codes can be in English with the article number if citing to an English translation of the source.

STATUTES

GOVERNMENT
STRUCTURE

The 1947 constitution declared that Japan would retain its emperor, but the emperor would only have powers delegated by the constitution and no governmental powers. The constitution also created the National Diet to replace the former Imperial Diet. The National Diet is composed of two houses, the House of Representatives and the House of Councillors, and is the sole law making entity of the state. Under the parliamentary Cabinet system adopted by the Constitution, the prime minister is chosen from among the Diet members by a resolution of the Diet. In addition, a majority of the ministers of state are required to be chosen from among the Diet members. Furthermore, the Cabinet is held collectively responsible to the Diet in the exercise of executive power. If the House of Representatives passes a vote of nonconfidence, the Cabinet is required to resign en bloc or the House of Representatives is dissolved in order that an appeal may be made directly to the country through an election.

LEGISLATIVE
PROCESS

A bill can be submitted by either the Cabinet, or a member of the Diet. The Cabinet can submit the bill to either the House of Representatives or the House of Councillors, where the bill will be referred to a committee. To pass a major bill, the bill is explained and subjected to questions by Diet members before being referred to a committee. In committee deliberations, the committee members question the government officials involved in drawing up the legislation, experts are called to testify, issues are debated amendments are proposed, and a vote on the bill is taken. In the plenary session, the committee chairman presents the bill and gives a report on the results. Once the bill is passed by one house, having been amended or not, the bill is sent to the other house for approval. A bill only becomes law if it is approved by both houses. Most bills are proposed in the House of representatives, thus the House of Councillors usually decides the fate of a bill.

REPORTERS

Hōrei zensho.

Kanpō.

Genkō hōki sōran.

Nihon genkō hōki.

Roppō zensho.

Hōrei dēta teikyō shisutemu (on the web).

various tsūtatsushū.

CITATION FORMAT

<transcribed Japanese title in italics><translated title in parenthesis in roman (on first occurrence only)>,<article>,<paragraph><item>,<legislative number>,<year>,<convenient translation (if any)>.

Examples

Shōken torihikihō (Securities and exchange law) art. 1 (Law No. 25, 1948), in 6 EHS No. 6600.

Gaishi ni kansuru hōritsu (Law concerning foreign investment) art. 10 (Law No. 163, 1950), in 5 EHS No. 5410.

NOTE ON JAPANESE
STATUTORY AND
CODE CITATIONS

Code and statutory subdivisions may be translated as follows:

jō article 1
kō paragraph (2)
gō item (iii)

In Japan, the first paragraph of a multi-paragraph article is usually left unnumbered.

In some cases, Japanese statutes are amended by adding a paragraph between existing paragraphs in a statute. This is shown by a hyphen.

COMMERCIAL CODE art. 222, art. 222-2, art. 222-3, art. 223.

ADMINISTRATIVE REGULATIONS

ADMINISTRATIVE
SOURCES

The National Diet the sole law making entity of the state. For rules and regulations (*kisoku*), cabinet orders (*seirei*), Prime Minister's Office orders (*furei*), ministry ordinances (*shōrei*), instructions (*kunrei*), notifications (*kokuji*), circulars (*tsūtatsu*): Cite from an authoritative source such as *Hōrei zensho*, *Kanpō*, *Genkō hōki sōran*, *Nihon genkō hōki*, *Roppō zensho*, *Hōrei dēta teikyō shisutemu* (on the web), and various *tsūtatsushū*. Append translation if desired.

REPORTER

Hōrei zensho.

Kanpō.

Genkō hōki sōran.

Nihon genkō hōki.

Roppō zensho.

Hōrei dēta teikyō shisutemu (on the web).

various *tsūtatsushū*.

CITATION FORMAT <transcribed Japanese title in italics><translated title in parenthesis in roman (on first occurrence only)>, <article>, <paragraph><item>, <legislative number>, <year>, <convenient translation (if any)>.

Examples *Shōken torihikihō* (Securities and exchange law) art. 1 (Law No. 25, 1948), in 6 EHS No. 6600.

Gaishi ni kansuru hōritsu (Law concerning foreign investment) art. 10 (Law No. 163, 1950), in 5 EHS No. 5410.

CODES

Minji shoshōhō
(CODE OF CIVIL
PROCEDURE) Cited as Minsohō.

Keihō
(PENAL CODE) Cited as Keihō.

Shōhō
(COMMERCIAL CODE) Cited as Shōhō.

Keiji soshōhō
(CODE OF CRIMINAL
PROCEDURE) Cited as Keishōhō.

CITATION FORMAT <code name>, art. <article> (<paragraph>).

Example Minsohō, art. 30(1).

CASE LAW

**JUDICIAL
OVERVIEW**

Japan has a four-tier judiciary system. The first tier is composed of 438 summary courts (*kan'i saibansho*). These courts handle claims that are 900,000 yen or less, and minor criminal offenses. The second tier of courts is that of the 50 district courts (*katei saibansho*). The district courts serve as the principle courts of first instance and appellate courts to the summary courts, and the district courts' standard of review is *de novo*. Along side the district courts, on the second tier, are the family courts (*katei saibansho*). These courts handle succession, domestic relations, and juvenile offenses. On the third tier are the 8 high courts (*kōtō saibansho*). These courts are courts of appeals for the district courts and the second appeals court for the summary courts (in criminal matters only). The last tier of the judicial system is the 15 member Supreme Court of Japan (*Saikō saibansho*). The Supreme Court functions as the constitutional court and also the court of last resort.

**REPORTER
(SUPREME COURT)**

For the high court (*Saikō saibansho*), district courts (*Chihō saibansho*), family courts (*Katei saibansho*), and summary courts (*Kan'i saibansho*) cite to any reporter listed in the REPORTERS (HIGH COURTS, DISTRICT COURTS, FAMILY COURTS, SUMMARY COURTS) or topical reporters or periodicals.

Saikō Saibansho minjin hanreishū (1947 – Present) (Minshū).

Saikō Saibansho keiji hanreishū (1947 – Present) (Keishū).

Saikō Saibansho saibanshū minji (1947 – Present) (saibanshū minji).

Saikō Saibansho saibanshū keiji (1947 – Present) (saibanshū keiji).

Saibansho jihō (1948 – Present) (Saibansho jihō).

Saikō Saibansho minji hanrei tokuhō (1947 – 1950) (Saikei Hantoku).

Saikō Saibansho keiji hanketsu tokuhō (1947 -1950) (Saikei Hantoku).

REPORTERS
(HIGH COURT,
DISTRICT COURTS,
FAMILY COURTS,
SUMMARY
COURTS)

Daiisshin keiji saiban reishū (1958) (Isshin keishū).
Kakyū saibansho kenji saiban reishū (1959 – 1968) (Kakeishū).
Kakyū saibansho minji saiban reishū (1950 – 1984) (kaminshū).
Kakūsai shuyō hanketsu jōhō (2001 – date) (Kakyūsai jōhō).
Katei saiban geppō (1949 – date) (Kasai geppō).
Keiji saiban geppō (1969 – 1986) (Keisai geppō).
Kōtō saibansho keiji hanketsu tokuhō (1950 – 1956) (Kōkei hantoku).
Kōtō saibansho keiji hanreishū (1947 – date) (Kōkeishū).
Kōtō saibansho keiji saiban sokuhōshū (1981 – date) (Kōkei saisokushū).
Kōtō saibansho minji hanreishū (1947 – date) (Kōmnshū).
Tōkyo Kōtō saibansho hanketsu jihō (keiji) (1953 – date) (Tōkō jihō keiji).
Tōkyo Kōtō saibansho hanketsu jihō (minji) (1953 – date) (Tōkō jihō minji).
Tōkyo Kōtō saibansho keiji hanketsu jihō (1951 – 1953) (Tōkōkei jihō).
Chiteki zaisanken kankei minji gyōsei saiban reishū (1991 -1998) (Chiteki saishū).
Chiteki (mutai) zaisanken saiban reishū (1969 – 1998) (Chiteki saishū).
Chiteki zaisanken saiban reishū (1999 – date) (Chiteki saishū).
Gyōsei jiken saiban reishū (1950 – 1997) (Gyōsai reishū).
Gyōsei saiban geppō (1948 – 1950) (Gyōsei geppō).

REPORTERS
(TOPICAL)

Mutai zaisanken kankei minji gyōsei saiban reishū (1969 – 1990) (Mutai reishū).

Rōdō kankei saiban reishū (1950 – 1997) (Rōminshū).

CITATION FORMAT <Plaintiff (family name only)> v. <Defendant (family name only)>, <volume><reporter><page> (<court><exact date>).

Example

Judgment of Nov. 24, 1924, in 17(2) Hanrei taiki 94 (Gr. Ct. Cass.).

NOTE ON JAPANESE
CASE LAW
CITATION FORMAT

If an agency or an institution is a party to the case, the Japanese title should be translated into English in parenthesis following the Japanese word. *Kabushiki Kaisha* or *Kabushiki-Kaisha* can be abbreviated as “K.” Names of business companies need not be translated.

The name of the court should always be indicated in a full case citation, and particular departments and branches of the court may be shown in citation where they are important.

Citation to publications with the full case (as in *Hanrei jihō*) should be cited. Publications in which summary cases are printed (such as *Hanrei taiki*) can be cited, but the citation should use “in.”

Unreported cases may be cited with the indication that they are unreported, the court, docket number, and complete date.

UNREPORTED CASES FORMAT Suzuki v. Wantanabe, unreported case (Tokyo Dist. Ct., No. 27 (wa) 1960 June 26, 1962).

SOURCES

The CIA Factbook,
<http://www.cia.gov/cia/publications/factbook/geos/ja.html>

The House of Councillors: The National Diet of Japan,
http://www.sangiin.go.jp/eng/guide/f_c_2.htm

Japan

Stanford Guide to Japan Information Resources,
http://jguide.stanford.edu/site/law_regulation_19.html

Japan Law,
<http://www.japanlaw.co.jp/index.html>

Form of Citation of Japanese Legal Materials, 42 Wash. L. Rev.

SPECIAL THANKS

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