

The legislative study on the acts of Architecture

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1. Introduction

Over 210 individual acts and regulations on building led by the “Building Act” have been revised for a long time, and the legal system on building has been more complicated thanks to the relation with acts and the newly introduced acts. This study examines to figure out various problems of such system including chaos of legal hierarchy, effectiveness of articles and economy of regulations, and to find out systematic reform in the legal system on building.

2. Present legal system and its problems

The legal system must correspond to principle of valid system, principle of accuracy and legal conformity, principle of justice of stage, principle of validity and principle of economy. The “Building Act” has the following problems in terms of coherency and rationality and perspective of adaptability according to chance of environment. Legal system on building is lacking in coherency in the relation between acts and no accurate scope is made. Thanks to the lack of connectivity between individual acts, it has reverse affect to building construction for its duplicated administration procedure, or it has contradictory between superior and inferior acts. Moreover, there are systematic problems that are hard to reflect the building related demands by social condition and change of paradigm into the act.

3. Overseas cases of legal system reform

Though legal system of each country is different according to political, economic and social condition, it is under constant reform to be reasonable and coherent.

In the US, the federal government approves Model Codes made by private specialist institutions as a basic standard of building, and each state or city government adopts a suitable code among them. Such method is advantageous to structure state, city administrative codes on building according to classification system, and to apply it as a drawer for technical and safety related codes. Thus, it is easy and flexible to introduce or dispose acts on building. And, it secures specialty and enables to change or revise the performance and safety standard of building according to changing environmental and social requirements on building.

The UK carries on systematic reform of accumulated acts for the 10~20 years into a new “Consolidated Act” periodically, thus it enables to maintain stableness. In the process of such reform, the system merges local acts and makes it single into central. And, by divided operation between the “Building Regulations 2010 and the ”Building (Approved Inspectors etc.) Regulations 2010)” it simplified complicated standards and improved the understanding of legal system.

In case of Japan, as Japan keeps close relation with acts on building, both countries has similar problems and present status in terms of legal system on building. Recently, the Japanese government constructed “A study association of legal system on building” to reform legal system at a large scale. And by employing performance regulation into “The Building Standard Act”, it secures compatibility with international standards and by implementing appointed licensing institution system and building inspector system it secures specialty. Therefore, it is highly appreciated in that it separates performance standard, the most complicated part in the legal system and the licensing process.

4. Legal system reform and legislation cases

If a single legal system has to regulate various areas due to the change of

legal environment, it cannot accurately determine the legislation objective as the pursuing target can be contradictory. In this case, separating a act can be effective. For the separation it is general to enact one act for an independent regulation object, and to enact “Framework Act” to set the relation between areas ideological frame and acts to keep relevancy between divided acts. Among domestic acts, education, environmental, firefighting and cultural asset protection acts have been reformed in such method. In this regard, it is recommendable to reform legal system based on the newly legislated “Basic Building Act.”

5. A systematic reform plan of building acts

□ Reform method of Framework Act of Building

To find out systematic problems of building act and to find out solutions, it set basic direction for systematic reform and then suggested specific reform method. First, redefinition of concepts of ‘building’ and ‘built environment’ as basic subject and scope regulated in building act is required. In particular, the concepts of ‘building’ and ‘built environment’ are important to declare the turning point of building policy. Second, more specified and accurate value and contents of ‘publicity’ in the “Basic direction of building policy” must be defined. Third, “Framework Act of Building” applies lifecycle concept in “building”, but it is not specific. And Building Act limits in the process of construction. The reform based on compatibility must be made. Fourth, as individual policy in Framework Act of Building focuses on building cultural aspect, it must be categorized and constructed systematically to improve practicality with other acts.

□ A plan of systematic reform of Building Act

For the reform of Building Act, it must consider separating act, review of regulation, and regulation transfer based on performance. Accordingly, the following plan was suggested. First, administration process and building standard must be separated. Considering systemicity, practicality and adaptability, it is desirable to reduce regulation scope of a single act by dividing the administration process and building standard. Second, the contents must be reshaped according to the hierarchy of Building Act and other acts. The regulation in the inferior acts and specific

clauses of Building Act must be reviewed to develop compatibility and connectivity. Based on the review, wide reform work must be managed if there is any contradictory clause or lack of base in the superior act. Third, the contents of act by clauses must be reformed. By reinforcing administrative regulation of Building Act, and by reviewing suitability of building standard, contents reform must be implemented. For this, it is recommended to set up a special organization to promote specialty and continuity.

□ Revision and enactment of related acts

Other than Framework Act on Building and Building Act, it prepared revision and enactment of “Framework Act on the Construction Industry”, “Construction Technology Management Act”, and “Certified Architects Act.” As the concern for publicity on building is raised, “Framework Act on the Construction Industry” includes the scope of construction. Therefore, it needs to be complemented to secure publicity of building defined in Framework Act on the Construction Industry. Secondly, the relation between

“Construction Technology Management Act” and “Certified Architects Act” must be reviewed which are subject of construction activity and limiting industrial area. The relations on construction n supervision, field examination of building, inspection and confirmation, and construction project management are unclear. It must be reformed in developing understanding and accuracy. Third, a review on the relation and systemicity between existing acts and new acts on the green building, high-rise building and building maintenance according to policy and legislative requirement must be made.

Key words: legal system on architecture, acts of architecture, systemicity