

Revised Labor Contract Law –Important changes

The revised Labor Contract Law went into effect as of August 10, 2012. The revisions concerning limited-term employment contracts set three rules as listed below.

A limited-term employment contract means that a contract is limited to a year, six months or however long. Despite various categories of work, such as part-time, temporary, contractual and others, those who work on a limited-term contract are subjected to this new rule.

Three rules of the revised law

I. Converting to a permanent employment contract

When the limited-term contract is renewed several times and the total employment period exceeds five years, workers can request a change of their contract to unlimited-term.

II. Legalizing the principle of law on contract termination

The Supreme Court decision on “The principle of law on contract termination” became a law, which does not approve of contract termination by an employer on some occasions.

III. Ban on irrational labor conditions

Companies take advantage of workers on a limited-term contract and tend to impose irrational labor conditions.

A limited-term contract is applied to a wide range of workers such as part-timers and temps, for instance, who are not “Seishain” permanent employees. Estimated 12 million people are said to work on a limited-term contract in Japan.

About 30% of those have worked more than five years by renewing their short-term contract. Many are concerned about when their contract will be terminated. It is also necessary to make it more difficult for employers to impose unreasonable labor conditions on limited-term employees.

The revised Labor Contract Law is to respond to such issues and to help create a society where people can work without any concerns about their employment.

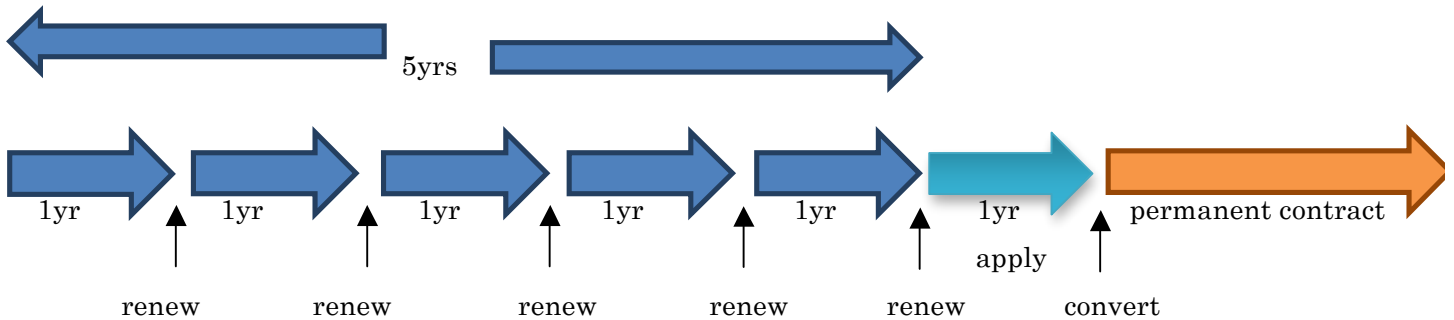
(For “Haken Shain” dispatch workers, a labor contract concluded with their temp agency is subjected under the revised law.)

I. Converting to a permanent employment contract (Article 18)

A contract can be turned into a permanent one after a limited-term contract is renewed to exceed five years. ※The law only applies to the limited-term contract that began on April 1, 2013. Those that began prior to March 31, 2013, are not subjected to it.

You can apply for a permanent employment contract if your contract is....

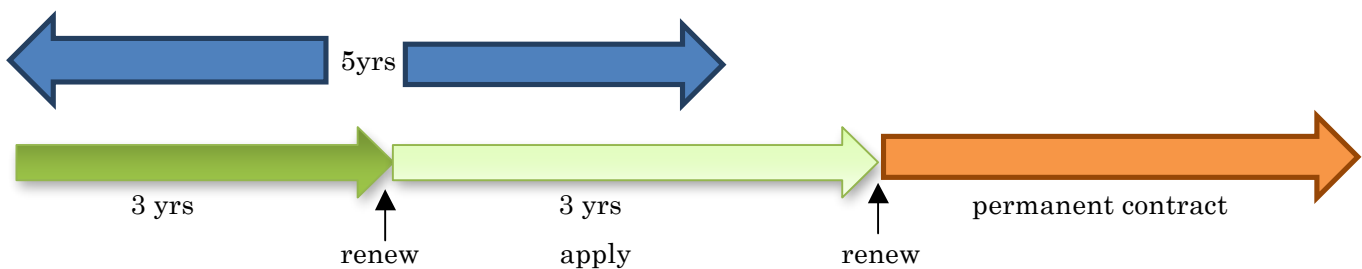
【Example: a year contract】



Those who did not apply during the fifth year can apply the next year.



【Example 2: a three-year contract】



① How to apply

When the contract, which was concluded on April 1, 2013, exceeds five years, an employee can apply for a permanent one anytime during the contract.

② Converting

When an employee applies for a permanent contract, it is considered that an employer approved of the application, and the permanent contract takes into effect at that moment. The permanent contract takes effect the day after the limited-term contract ends.

When an employee applies for a permanent status, it is granted. If an employer tries to terminate a contract at the time the short-term contract is being converted to a permanent one, the employer must have an objectively rational reason for such a dismissal. Unless the employer can prove the dismissal is legitimate by showing a rational reason, the dismissal is regarded as abuse of power.

③ Permanent employment contract

Without any specific laws, labor conditions (concerning duties, place of work, wage, work hours, etc) of the permanent contract should be the same as those set for the limited-term contract. Changes are possibly made by setting special rules.

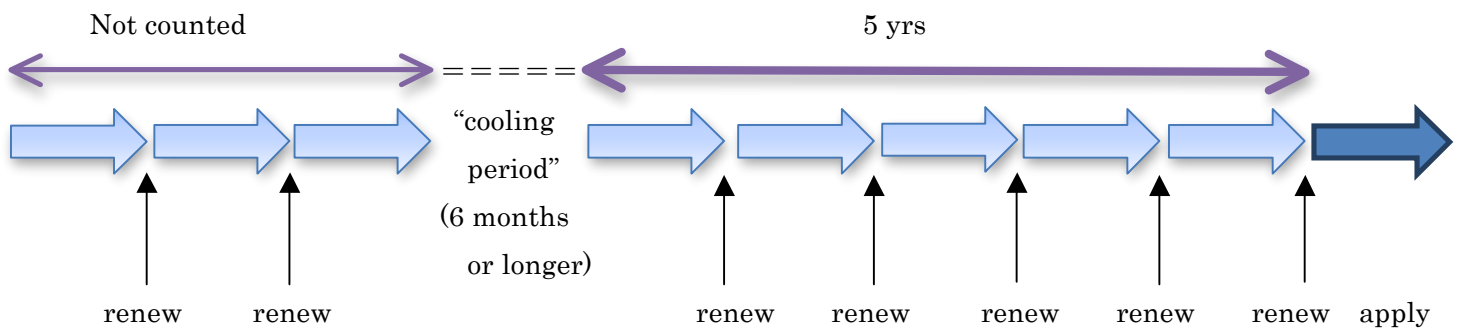
“Special rules” are labor agreements, work rules, and individual labor contracts. (Workers and companies must agree on changes in labor conditions when converting the contract into a permanent one.)

It is not preferred in order for a smooth conversion of contract to reduce labor conditions even though the duties remain unchanged at the time the contract is converted to a permanent one.

④ **Contract renewal**

An employer cannot set the condition of a contract renewal so a worker abandons the right to apply for a permanent contract. (Legally, if this intention was indicated, it would be annulled.)

How to calculate the total contract period (What is a “cooling period”?)



⑤ **“Cooling period”**

When there is a “cooling period” of six months or longer between the two limited-term contracts, the employment period before this non-active period does not count into the five years needed to apply for a permanent contract.

If the contract is shorter than a year, the cooling period needs to be more than half the employment period to be factored into the calculation of the total employment period needed to apply for a permanent contract. (The Labor Ministry sets details.)

II. Legalizing “the principle of law on terminating contract” (Article 19)

If an employer refuses to renew a limited-term contract, employment ends as the contract term ends. This is called terminating a contract (“Yatoidome”). A Supreme Court precedent set a rule that contract termination can be annulled to protect workers in some cases. The latest revision of the law stipulates this in the text of the Labor Contract Law without any changes in the principle or the area of its application.

<p>Limited-term contract</p>	<p>Limited-term contract ① and ② are subjected to the revised law. ① Limited-term contract that has been renewed in the past, and its termination can be considered equivalent to dismissal of non-limited term contract ★The July 22, 1974, verdict (of Toshiba Yanagimachi Plant Case) by the Supreme</p>
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	<p>Court set this requirement</p> <p>② There must be a rational reason (※) for the worker to expect that the limited-term contract will be renewed at the end of the term.</p> <p>★The December 4, 1986, verdict (of Hitachi Medico Case) by the Supreme Court set this requirement</p> <p>※1. Whether or not there is a rational reason, all conditions are taken into consideration from the beginning of the first limited-term contract to the employment termination.</p> <p>※2. Even if the employer claims a limit to how many times/years a contract can be renewed at the end of the contract, this by itself cannot be a rational reason to terminate a limited-term contract.</p>
Requirement and effect	When the contract termination in the two cases mentioned above lacks rational reasons and are not socially acceptable, it cannot be approved. And the contract will be renewed with the same condition as the previous contract.
Necessary procedure	<p>For the text of the law to apply, the worker must apply for a renewal of a limited-term contract. (Even after the contract ends, it is subjected under the law if a worker applies for it without delay.)</p> <p>A worker simply saying, “I refuse,” to the employer wishing to terminate contract or convey his/her disagreement in any other way is considered effective.</p>

III. Ban on irrational labor conditions (Article 20)

This is a rule that bans setting irrational differences in labor conditions between a worker on a limited-term contract and a worker on a permanent contract working under the same employer.

Labor conditions	<p>It applies to all labor conditions.</p> <p>Not only wages or work hours narrowly defining “labor condition,” but disaster compensation, civil service code, educational training, additional obligation, benefits and others, concerning treatment of workers.</p>
Decisions	<p>Labor conditions are screened to see if they are irrationally different, if;</p> <p>① duties differ (what’s involved in the work and degree of responsibility for the duties)</p> <p>② content of duties and realm of post changes</p> <p>③ and other situations</p> <p>Especially when a company sets up different commute allowance, use of cafeterias, safety management and such, it is considered not rational unless a special reason is offered.</p>