

The Regulation of Fixed-term Employment in Japan

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I. General overview of the fixed-term employment

- Non-regular (atypical) employees – typically employed under fixed-term contracts
- Atypical employees – 34% in 2009
- Fixed-term employees – 14~22%
- Majority (55%) of fixed-term employees are part-time employees as well
- Nearly two-thirds (64%) are women
- Nearly half (45%) are those aged 40-54

I. General overview of the fixed-term employment (continued)

- Main purposes to use fixed-term employees – to deal with mid- to long-term fluctuation of business and/or to save labor costs
- Instable employment – contract for shorter term is often repeated
- In general paid lower wages than regular, indefinite-term employees

II. Development of regulations on fixed-term employment contract

- Largely *unregulated* except for;
 1. Limitation of maximum period for each contract, and;
 2. Restriction on refusal to renew the contract in certain cases

III. Current situations of regulations on fixed-term employment contract

1. Conclusion of fixed-term contract

- **No** specific reason is required for conclusion or renewal
- *Exception*; a fixed-term contract for trial employment is in most cases regarded as an open-ended contract
- Clear statement of conditions concerning the term

III. 2. (1) Length of term, total duration and the number of renewal

- **Length of term – up to 3 years in principle**
 - *But*, employees can terminate at any time after one year has passed
 - Knowledgeable, skilled or experienced employees or employees aged 60 or above – up to 5 years
- **Total period of employment and the maximum number of renewal**
 - ***Not*** regulated

III. 2. (2) The case law limitation on refusal to renew a contract

- **Application of the doctrine of “abuse of the right to dismiss” *by analogy*** – where
 1. the contract is virtually indistinguishable from open-ended contracts, or;
 2. there is an expectation that the employment relationship will continue

III. 2. (2) The case law limitation on refusal to renew a contract (continued)

- Result of application *by analogy*
 - an objectively reasonable and socially acceptable reason required to refuse the renewal
- But; the extent of the protection is limited
- Problem; lack of predictability

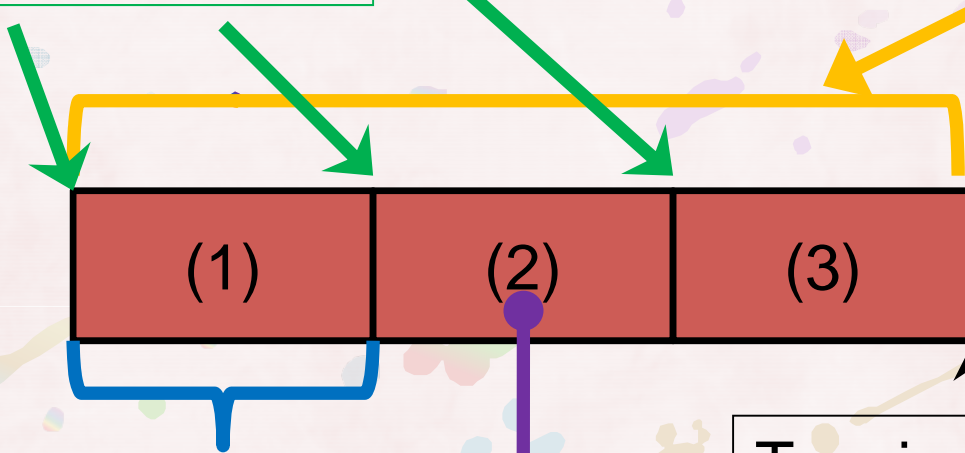
III. 3 &4 Equal treatment and transition to open-ended employment

- **No** statute specifically requires equal treatment between fixed-term employees and indefinite-term employees
- **No** statute requires employers to help or promote transition to open-ended employment

IV. 1. Summary of the regulations

Entrance (or renewal) –
No reason required

No maximum limit on total period, the number of renewal



3-year-limit

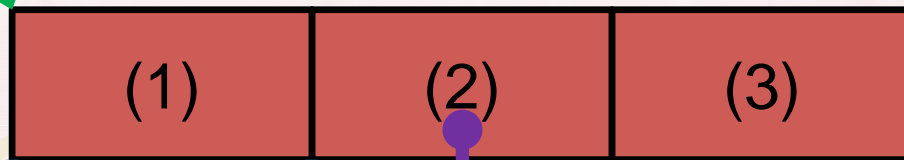
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Termination – **May** be required a just cause (but no transition into indefinite contract)

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IV. 2. Evaluation and future prospects

- Limited regulations on fixed-term employment
- Allowing enough flexibility to employer – only at the expense of protections for fixed-term employees?
- The Study Group on Fixed-term Employment is now considering the appropriate direction of regulations

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Thank You!