

XIII Technical Intern Training Programs

Technical Intern Training Program is an initiative that transfers technical skills, technology, and knowledge to technical intern trainees from developing countries so that they will be able to contribute to economic development in their respective countries.

However, the Technical Intern Training Program has been criticized for providing a system for what is essentially human trafficking, as it has experienced numerous problems with misuse as a means for: hiring cheap labor, non-payment of overtime work, deducting wages under various pretexts, forcing interns to place wages into savings, forcing interns who assert their rights to return to their home countries against their will, or detaining trainees until they pay “security deposits” or “penalties for breach,” etc.

“Technical Intern Training” was added as resident status under the Immigration Control and Refugee Recognition Act in July 2010, while other changes made labor laws totally applicable to technical interns; however, cases of misuse continue unabated.

Thus, the Technical Intern Training Act came into effect on November 1, 2017 in order to properly implement technical training and protect technical interns. The new Technical Intern Training Program for foreign nationals, which was established pursuant to the Technical Intern Training Act, requires (1) formulation of a technical intern training plan for each trainee and acquisition of approval from the Organization for Technical Intern Training and (2) acquisition of permission to serve as a supervising organization from the competent minister in advance in the case of receiving technical interns as a supervising organization.

XIII 外国人技能実習制度

外国人技能実習制度は、日本の産業・職業上の技術・技能・知識の修得を支援し、帰国後に日本で修得した技術等を活かし、それぞれ母国の産業発展に寄与してもらうことを目的とした制度です。

しかし、現実には技能実習生を低賃金で働かせたり、残業代をきちんと支払わなかったり、賃金からさまざまな名目で控除したり、強制貯金をさせたり、権利主張した技能実習生をその意に反して強制帰国させたり、保証金や違約金を定めて拘束したりするなど、トラブルが多発し、人身売買ではないかとの指摘を受けています。

2010年7月からは、入管法の在留資格に「技能実習」が創設され、労働法も全面適用されるよう改正が行われましたが、不正行為事例が後を絶ちません。

そこで技能実習の適正な実施及び技能実習生の保護を図るため、「技能実習法」が2017年11月1日から施行されました。「技能実習法」に基づく新しい外国人技能実習制度では、①技能実習生ごとに技能実習計画を作成し、外国人技能実習機構の認定を受けること、②監理団体型で技能実習生を受け入れるためには、あらかじめ主務大臣から監理団体の許可を受けることが必要になったほか、③技能実習生に対する人権侵害行為を禁止し、違反に対する罰則が定められました。また、④新たに第3号技能実習を創設し、優良な実習実施者・監理団体に限定して第3号技能実習生の受入れを可能とする等、技能実習制度の拡充が図られました。

Furthermore, it prohibits (3) infringement on human rights of interns, and penalties for violations have been established. (4) In addition, the Technical Intern Training Program was expanded and Technical Intern Training 3 was newly added, enabling only excellent implementing organizations /supervising organizations to receive Technical Intern Training 3 trainees.

1 Technical Intern Training

Depending on the type of accepting organization, “Technical Intern Training” can be categorized as follows:

- (a) Individual enterprise type : Japanese companies accepting and providing training for employees of their overseas affiliated companies, joint venture companies or partner companies.
- (b) Supervising organization type : non-profit organizations, such as chambers of commerce and industry and cooperative business associations, accepting and providing training for foreign nationals.

Further, there are three categories each in the individual enterprise type and supervising organization type.

(1) Technical Intern Training 1 provides technical training so that the trainees acquire necessary skills and abilities during the first year after entering Japan. Activities allowed include “acquisition of knowledge through lectures” and “acquisition of skills under an employment contract (e.g. OJT).” Trainees move onto activities to acquire skills after they sit through lectures for a certain period of time. This status is applicable to all occupations.

In principle, at least 1/6 (generally 2 months) of the time for activities under the status of “Technical Training Intern 1” must be allotted for lectures (including study tour) on the following:

1 技能実習について

技能実習は、受入れ形態により、企業単独型（イ型 海外の現地法人、合弁会社、取引先企業の社員を受け入れて行う活動）と団体監理型（ロ型 商工会・事業協同組合等の営利を目的としない団体の責任及び監理の下で行う活動）とに分けられます。

技能実習は、企業単独型（イ型）と団体管理型（ロ型）の受入れ方式ごとに、1号、2号、3号に区分されます。

第1号技能実習は、入国後1年目の技能等を修得する活動です。「講習による知識の習得」と「雇用契約に基づく技能等習得」（OJTなど）からなり、一定期間の講習を受けて技能習得等の活動に移る仕組みとなっています。職種による限定はありません。

「講習」は、原則として1号の活動予定時間の6分の1（通常2か月）以上を充てることとされており、座学（見学を含む）により実施しなければなりません。その内容は、以下のとおりとなっています。

- ① Japanese language
- ② knowledge of general life in Japan
- ③ Information required for legal protection of technical intern trainees
- ④ knowledge necessary to acquire skills smoothly in japan

(2) Technical Intern Training 2 includes activities for those who have acquired skills by engaging in activities specified by Technical Intern Training 1 in order to acquire further skills (training for 2nd-year/3rd-year trainees). To step up from Technical Intern Training 1 to Technical Intern Training 2, a trainee must pass skills tests such as the Basic Level of the Trade Skills Test. Technical Intern Training 2 is given only to trainees for 158 operations in 86 job categories (as of April 2022).

(3) Technical Intern Training 3 includes activities for those who have improved skills by engaging in activities specified in Technical Intern Training 2 to improve their skills (training for 4th-year/5th-year trainees). Technical Intern Training 3 can be given only by excellent implementing organizations /supervising organizations. To step up from Technical Intern Training 2 to Technical Intern Training 3, a trainee must pass a skill test such as the Level 3 of the Trade Skills Test.

After completing Technical Intern Training 2, trainees must return to their home countries and stay there for at least 1 month. The job categories for which Technical Intern Training 3 is given are the same as those for Technical Intern Training 2.

Technical intern trainees are “employees” as defined by the Labor Standards Act except during the period of lectures,

- ① 日本語
- ② 日本での生活一般に関する知識
- ③ 技能実習生の法的保護に必要な情報
- ④ 日本での円滑な技能の修得に資する知識

第2号技能実習は、第1号技能実習の活動に従事して技能等を修得した者が、当該技能等に習熟するための活動です（2・3年目の技能実習）。第1号技能実習から第2号技能実習に移行するためには、実習生が技能検定基礎級等に合格する必要があります。第2号技能実習に移行が可能な職種・作業は、86職種158作業（2022年4月現在）に限定されます。

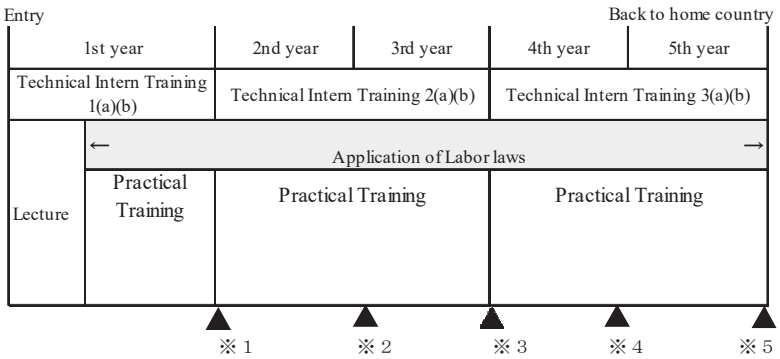
第3号技能実習は、第2号技能実習の活動に従事して技能等に習熟した者が、当該技能等に熟達するための活動です（4・5年目の技能実習）。第3号技能実習を実施できるのは、優良な実習実施者、監理団体に限られます。第2号技能実習から第3号技能実習に移行するためには、実習生が技能検定3級等に合格することが必要です。

第2号技能実習の修了後、実習生は1か月以上の帰国をしなければなりません。第3号技能実習に移行が可能な職種は第2号の対象職種と同一です。

技能実習生は、講習期間を除いて労働基準法上の「労働者」と位置づけられ、労働関係法規が適用されます。したがって最低賃金未

and therefore,all labor laws are applicable. It is a violation of law to hire them for less than minimum wage or under poor working conditions. Such practices will be penalized on grounds of violations of the Technical Intern Training Act, the Immigration Control and Refugee Recognition Act and labor laws.

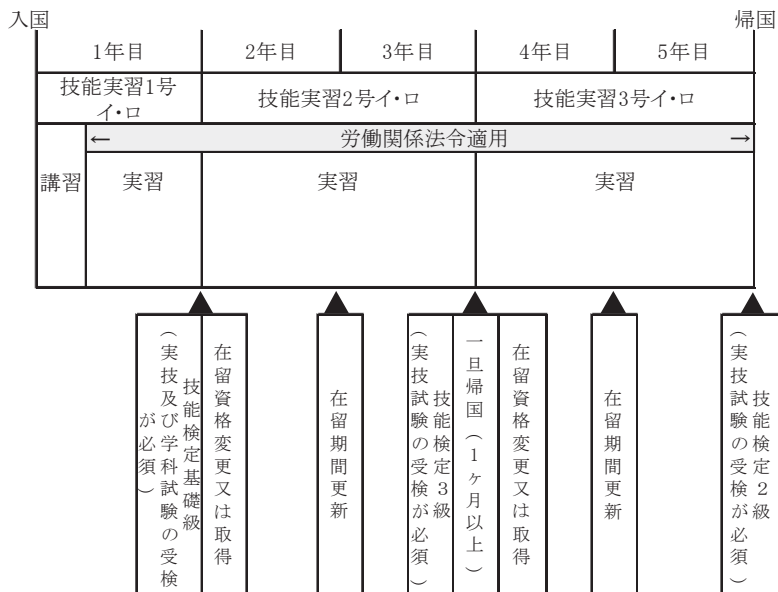
<Flow of the Technical Intern Training Program>



- ※1 Basic Level of the Trade Skill Test(compulsory theory and practical exam)
Change or acquisition of status residence
- ※2 Renew the period of stay
- ※3 3rd level of the Trade Skill Test(compulsory practical exam)
Back to home country temporarily (more than 1 month)
Change or acquisition of status residence
- ※4 Renew the period of stay
- ※5 2nd level of the Trade Skill Test(compulsory practical exam)

満の低賃金で働かせたり、劣悪な労働環境下においたりすることは法令違反となり、技能実習法令、入管法令及び労働関係法令のそれぞれからのペナルティがあります。

<技能実習制度の流れ>



2 Legal Protection for Technical Intern Trainees

To protect technical intern trainees, the Technical Intern Training Act and labor laws stipulate the following:

(1) Prohibition of forcing technical Intern training on trainees

Supervising organizations or implementing organizations are not allowed to force trainees to participate in the training against their will by means of violence, threat or confinement.

(2) Prohibition of receiving of unjust money and other property

Supervising organizations or implementing organizations are not allowed to set a penalty for failing to perform a term or condition of the technical intern training contracts signed by technical intern trainees, their spouses, linear kin or relatives living together; to have them sign an agreement that indicates the intension to request the payment of compensation for damages; or to collect or manage money or other property of technical intern trainees in the name of guarantee deposits or in any other form.

Supervising organizations or implementing organizations are not allowed to have technical intern trainees sign an additional agreement as a part of the technical intern training contract that requires the trainees to put aside some money as savings or permits the supervision organizations, training providers or the like to manage their savings.

(3) Prohibition of safekeeping or the like of passports /residence cards

Supervision organizations or implementing organizations are not

2 技能実習生の法的保護等のための措置

技能実習生の保護を図るため、技能実習法令及び労働関係法令で、次のような措置が定められています。

(1) 技能実習の強制の禁止

監理団体や実習実施者等が、暴行、脅迫、監禁等により、技能実習生の意思に反して技能実習を強制することは禁止されています。

(2) 不当な金品等の徴収の禁止

監理団体や実習実施者等が、技能実習生又はその配偶者、直系若しくは同居の親族等との間で、技能実習に係る契約の不履行について違約金を定め、又は損害賠償額を予定する契約をすること、技能実習生から保証金等を徴収することその他名目のいかんを問わず、金銭その他の財産を管理することは禁止されています。

また、監理団体や実習実施者等が、技能実習生に対して、技能実習に係る契約に付随して貯蓄の契約をさせ、又は貯蓄金を管理する契約をしてはなりません。

(3) 旅券・在留カードの保管等の禁止

監理団体や実習実施者等が、技能実習生の旅券又は在留カードを保管したり、外出等の私生活の自由を不当に制限することは禁止されています。

allowed to safekeep passports or residence cards of technical intern trainees or to unfairly restrict their freedom, for example, by restricting them from going out.

(4) Reporting to the competent minister

If there is a fact indicating that supervising organizations or implementing organizations have violated the Technical Intern Training Act, a technical trainee may report the fact to the competent minister. Supervision organizations, implementing organizations and the like are not allowed to suspend the technical training or treat the technical interns in a disadvantageous manner for reasons that they made a complaint to the competent minister.

(5) Workers' accident compensation insurance

Implementing organizations must comply with the Workers' Accident Compensation Insurance Act and complete procedures to provide insurance to trainees prior to having them start activities to acquire skills.

(6) Responses to improper conduct

Organization for Technical Intern Training is allowed to request implementing organizations or supervising organizations to submit reports or to conduct onsite inspections. The competent minister (Minister of Justice, Minister of Health, Labour and Welfare) have the rights to obtain reports from implementing organizations or supervising organizations, to summon them and to conduct onsite investigations regarding duties related to certification of technical intern training or approval of supervising organizations.

If a implementing organization or supervising organization violated the Technical Intern Training Act, the Immigration Control

(4) 主務大臣に対する申告

監理団体や実習実施者等が技能実習法令に違反する事実がある場合は、技能実習生はその事実を主務大臣に申告することができます。技能実習生が申告したことを理由として、監理団体や実習実施者等が技能実習の中止その他の不利益な取扱いをすることは禁止されています。

(5) 労災関係の確保

技能実習生が技能等修得活動を開始する前に、実習実施機関等は、労働者災害補償保険法に係る保険関係の成立の届出等の措置を講じていなければなりません。

(6) 不正行為への対応

外国人技能実習機構は、実習実施者や監理団体等に対し、報告を求めたり、実地検査をすることが認められています。また、主務大臣（法務大臣・厚生労働大臣）には、技能実習の認定に関する業務や監理団体の許可に関する業務について、実習実施者や監理団体等に対し、報告の徴収、出頭命令、立入調査等を行う権限が認められています。

実習実施者や監理団体が、技能実習法、出入国又は労働に関する法令に違反している場合や、実習実施者が認定を受けた計画に従っ

and Refugee Recognition Act, and labor laws ,or if a implementing organization is not providing training in accordance with the approved plans, the competent minister may issue improvement order or revoke the approval of training plans or permission given to the supervising organization. When approval or permission is revoked, the name of the company will be publicly announced, and new technical intern training plans will not be approved nor will the company be permitted to be a supervising organization for 5 years from the date of revocation.

For other regulations and requirements, please inquire at
Organization for Technical Intern Training

て技能実習を行わせていない場合等は、主務大臣による改善命令や実習計画の認定・監理団体の許可の取消しの対象となります。認定・許可の取消しを受けた場合は、事業者名等が公表され、取消しの日から5年間は新たな技能実習計画の認定・監理団体の許可が受けられなくなります。

その他にも様々な規定があります。詳しくは外国人技能実習機構にお問い合わせください。