

Japan's Foreign Labor Policy (summary)

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The “Act for Partial Revision of the Immigration Control and Refugee Recognition Act and the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees” was passed and enacted on June 14, 2024, and promulgated on June 21 of the same month (enforcement is scheduled within three years from the date of promulgation in principle, and preparations are underway for the system to go into effect on April 1, 2027).

This paper examines Japan's foreign labor policy against the backdrop of this legal reform.

First, regarding the relationship between policy on immigration law and policy on labor law regarding foreign workers, immigration law policy is responsible for realizing the principle of choice, such as proper acceptance of foreigners, while labor law policy is responsible for realizing the principle of integration, such as equal treatment of foreign nationals in the domestic labor market. This paper presents the viewpoint that the two policies intersect and sometimes conflict with each other, and in such cases, it is necessary to harmonize the two policies.

Regarding the issue of the application of labor laws to labor contracts for foreign workers, the prevailing theory of labor jurisprudence takes the view that the Labor Standards Act, which establishes minimum standards for working conditions, is an overriding mandatory law and is applied without resorting to the choice of law rules. On the other hand, the prevailing theory of private international law holds that some articles of the Labor Standards Act are applied by the choice-of-law rules. The issue of the application of the law to foreign workers in Japan is a research topic that is expected to be advanced by both jurisprudences.

Next, the traditional foreign labor policy was based on the policy of not accepting foreigners for unskilled labor in principle. As an exception, the Technical Intern Training Program was established in 1993 to make international contributions through skill transfer, and the “Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Abbr: Technical Intern Training Act)” was enacted in 2016 to ensure the appropriateness of this system and to protect technical intern trainees. However, as the population decline becomes more serious, the Specified Skilled Worker System, which accepts foreign nationals who can make an immediate

contribution in specific industrial fields suffering from labor shortage, was established in 2018 with the amendment of the “Immigration Control and Refugee Recognition Act” (Abbr: Immigration Control Act). This paper overviews the process and characteristics of the establishment of the Employment for Skill Development Program through the abolition of the Technical Intern Training Program and the revision of the Specified Skilled Worker System, which led to the revision of the Technical Intern Training Act and the Immigration Control Act in 2024.

Finally, regarding future foreign labor policy issues, this paper pointed out that (1) it is necessary to ensure consistency between immigration laws as public law regulations and private law norms, and (2) it is necessary to further examine the extraterritorial application of labor market laws and the measures for international cooperation regarding international labor migration.