

Tightening of Penalties for "Aiding and Abetting Illegal Employment" Under the Revised Immigration Control Act, and Response Measures for Foreign Worker Acceptance Companies

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One Asia Lawyers Group

Asia-Global Mobility Practice Team

1. Introduction

Pursuant to the “Act to Amend the Immigration Control and Refugee Recognition Act and the Act on the Proper Implementation of Technical Intern Training for Foreign Nationals and the Protection of Technical Intern Trainees” (Act No. 60 of 2024, enacted in June 2024; the Immigration Control and Refugee Recognition Act is hereinafter referred to as the “Immigration Control Act,” and its enforcement regulations as the “Immigration Control Act Regulations”), the penalties for the crime of aiding and abetting illegal employment will be substantially increased effective April 1, 2027. We discussed the Training and Employment system – a new framework for accepting foreign workers that will take effect around the same time – in our newsletter dated July 15 of this year¹, but companies and related organizations are now required to maintain even stricter employment management and compliance, in addition to their response to that new system.

This newsletter therefore explains the content of the amendment, points requiring attention in practice, and the key steps companies should take to strengthen their internal systems.

2. Overview of the Amendment

(1) Content of the Amendment

The crime of aiding and abetting illegal employment (Article 73-2 of the Immigration Control Act) covers:

- ① causing a foreign national to engage in illegal employment activity in connection with business operations;
- ② placing a foreign national under one’s control in order to cause them to engage in illegal employment activity; or
- ③ arranging, as a business (i.e., with the intention of repeated and continuous conduct), for a foreign national to engage in the conduct described in ① or ② above.

As of April 2027, the statutory penalties for the above acts will be increased as follows.

- Before the amendment (current law): imprisonment for not more than 3 years or a fine of not more than JPY 3 million, or both

¹ One Asia Lawyers, "Japan: The Implementation of the Training and Employment System – Impact and Response Strategies for Foreign Worker Acceptance Practices," <https://oneasia.legal/en/7297>

- After the amendment (from April 2027): imprisonment for not more than **5 years** or a fine of not more than **JPY 5 million**, or both

※ As before the amendment, imprisonment and a fine may be imposed concurrently. In addition, under the dual liability provisions, a fine may be imposed not only on the individual (such as the company president or the responsible officer) but also on the company itself.

(2) Background and Purpose of the Amendment

In recent years, demand for foreign workers has continued to rise amid Japan's serious domestic labor shortage. At the same time, problems such as illegal employment beyond the scope of the residence status system and unfair labor exploitation by malicious brokers persist, making it necessary to develop countermeasures that keep pace with the increase in foreign worker employment.

This increase in penalties is intended to strengthen deterrence against employers and brokers who create or facilitate illegal working environments, and to establish a sound and transparent employment market in which foreign nationals can work with peace of mind.

(3) Linkage with the Implementation of the Training and Employment System

On April 1, 2027, the Training and Employment system – a new residence status that developmentally dissolves the former Technical Intern Training Program – will also take effect. These two legislative amendments are closely linked.

a. Hedging the Risks Arising from the Relaxation of Restrictions on Job Transfers

Under the former Technical Intern Training Program, job transfers at the worker's own request were, in principle, not permitted. Under the Training and Employment system, however, such transfers are permitted once certain requirements are met (such as 1 to 2 years of employment at the same organization and passing Japanese language and skills tests). In other words, as the movement of foreign workers becomes more active, the need to deter illegal acceptance by employers correspondingly increases.

b. Eliminating Malicious Brokers

While the flexibility of job transfers increases, there is strong concern that intermediaries (so-called "transfer brokers") may improperly poach foreign workers or place them into illegal working environments². The tightening of penalties for aiding and abetting illegal employment is therefore intended to deter improper, under-the-table movement of workers and to protect a sound job-transfer environment.

3. Types of Conduct Subject to Penalties as "Aiding and Abetting Illegal Employment"

² Expert Panel on the Future of the Technical Intern Training Program and the Specified Skilled Worker System, "Final Report" (November 30, 2023), <https://www.moj.go.jp/isa/content/001407013.pdf>

The crime of aiding and abetting illegal employment applies even where a company claims it “did not know” or “did not check,” so long as negligence is found. Even where a worker was introduced through a staffing agency, failing to conduct one’s own verification and, as a result, employing an illegal worker can constitute aiding and abetting illegal employment. Utmost care is therefore required.

The following three types of conduct require particular attention at host companies.

(1) Employing Persons Unlawfully Staying in Japan

This covers cases of employing or causing to work a foreign national who does not hold lawful residence status, such as an illegal entrant or overstayer. This also includes continuing to employ a foreign national who has forgotten to renew their period of stay and has overstayed, or who told the company they were “in the process of renewal” but whose status had in fact already expired and similar cases.

(2) Employing Persons Without the Required Permission

For foreign nationals holding a residence status other than one based on personal status, such as “Permanent Resident” or “Long-Term Resident,” the scope of activities permitted in Japan is fixed for each residence status (Appended Table I of the Immigration Control Act; examples include “Engineer/Specialist in Humanities/International Services,” “Specified Skilled Worker,” “Student,” and “Temporary Visitor”). Accordingly, even where a foreign national is lawfully residing in Japan, causing that person to work where employment is not permitted constitutes aiding and abetting illegal employment.

Specific examples include causing a foreign national on “Temporary Visitor” status (a residence status for tourism and similar purposes), or a student who has not obtained permission to engage in activities outside their authorized status (i.e., part-time work, under Article 19, paragraph 2 of the Immigration Control Act), to work, among other acts.

(3) Employment Outside the Scope of Permission

As noted above, foreign nationals falling under Appended Table I of the Immigration Control Act are, in principle, not permitted to engage in activities outside the scope defined for their status. Even where a foreign national holds a work-related residence status, causing that person to perform duties outside that scope constitutes aiding and abetting illegal employment.

For example, this includes causing a foreign national holding “Training and Employment (Food and Beverage Manufacturing field)” status to perform duties outside that job category – such as customer service, delivery, or construction site work – merely because of a labor shortage.

In addition, causing a student or similar worker who holds permission to engage in activities outside their status to work beyond the statutory limit of 28 hours per week (Article 19, paragraph 5 of the Immigration Control Act Regulations) also constitutes aiding and abetting illegal employment. Particular care is needed regarding cases where a worker also has a job at another

company (double-working), and the combined hours exceed 28 hours per week even though the company was unaware of the other job.

4. Points for Reviewing the Compliance System, and Response Measures

The following are the points that companies should review regarding their internal systems, and the corresponding response measures, in preparation for the April 2027 enforcement of the amended Immigration Control Act.

Review Item	Specific Response Measures
i. Systematizing Verification of Residence Cards	① Thorough verification of residence cards at the time of hiring and at the time of renewal/change of period of stay • Visual inspection of the original card • Verify validity using the information below³ “Residence Card Number Revocation Information Inquiry” website: search for revocation information by card number “Residence Card Reader Application”: read the information on the IC chip to check for forgery or alteration ② Establishing an ongoing management system Creating a management ledger, setting automatic alerts starting 3 months before card expiration, etc.
ii. Periodic Audits of Actual Work Duties On-Site	• At hiring: clearly define the intended duties in advance before hiring • After hiring: conduct periodic on-site interviews and internal audits of actual work conditions (Confirm whether on-site staff have had the worker assist, even temporarily, with duties outside the scope of their residence status, based on the site’s own judgment)
iii. Stricter Management of Part-Time Working Hours (Students, etc.)	• Periodically collect written self-declarations regarding employment at other companies • Build a system linked to the shift management system that ensures the 28-hour weekly limit is never exceeded

³ Immigration Services Agency of Japan, "Residence Card Reader Application / Revocation Information Inquiry Support Page," <https://www.moj.go.jp/isa/applications/procedures/rcc-support.html?lang=en>

**iv. Investigating
and Verifying
Business Partners
and Intermediaries**

- Supervisory Support Organizations (Training and Employment), Registered Support Organizations (Specified Skilled Worker), staffing agencies, etc.
→ Rigorously investigate and verify whether they hold the appropriate licenses/permits and whether they have previously been subject to administrative sanctions or recommendations

5. Summary

If a company is penalized for aiding and abetting illegal employment, deficiencies in its management system will be severely scrutinized. Beyond a substantial fine, such a conviction constitutes a disqualifying event under the licensing requirements for worker dispatching businesses and fee-charging employment placement businesses, as well as for the licensing of Supervisory Support Organizations and the registration of Registered Support Organizations. As a result, revocation of such licenses or a business suspension order may leave the company with no choice but to **halt its future acceptance of foreign workers**, risking substantial damage, and the company may also face serious **reputational risk** from having its name publicly disclosed, among other consequences.

In preparation for the enforcement of the amendment in April 2027, companies are advised to conduct a company-wide review of whether there are any gaps in their management systems. As practical judgment calls – such as legal review of employment contracts and internal management rules – may arise, please feel free to consult with us as needed.

Reference: Immigration Services Agency of Japan, “To Employers of Foreign Nationals: Please Cooperate in Preventing Illegal Employment.” (May,2021)

<https://www.moj.go.jp/isa/content/001349112.pdf>

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