

# 研修後の勤務に関する 拘束条項付研修契約の取扱基準 Guidelines for Training Contract

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財団法人海外技術者研修協会は、開発途上国の経済発展並びに相互理解及び友好関係の増進に寄与することを目的として研修生受入事業を行っています。ところが、研修生派遣に当たり、研修生帰国後の勤務を厳しい契約をもって拘束するときは、とかく不当な労働条件を強制するのではないかとの批判や不満を生じるおそれがあり、当協会事業の性格上好ましくない結果を招くことが懸念されます。

当協会は、研修生の定着は研修生の自発的意欲を引出す諸種の施策によって図られるべく、**基本的には契約による拘束は無いことが望ましい**と考えますが、こうした理想を一気を実現するには種々の困難が存在しており、むしろ段階的に**究極目標**に近づくことが現実的であると考えます。このため、**当分の間**以下のような基準を設け実施することとしましたので、趣旨ご理解の上ご協力下さいますようお願い申し上げます。

The Association for Overseas Technical Scholarship (AOTS) conducts technical training in Japan for trainees from developing countries with the aim of contributing to the economic development of those countries, and to the increase in mutual understanding and friendly relations between those countries and Japan. Employees seconded to Japan for this training are often required by their employers to make contracts whereby they are bound to serve their employers for a fixed period upon their return home. Unfortunately, the terms of some training contracts are so severe as to give cause for concern because the employees are subject to unreasonable working conditions. This is against the spirit of the AOTS technical training scheme and has led to criticism and complaint.

The AOTS hoping that a trainee's continuous service to an employer can be obtained through goodwill and from various means and incentives within the company would **prefer not to have any training contract** between employee and employer. However, this ideal is still some way from realization, and so, in its wish to progress gradually towards such **an ideal situation**, the AOTS has worked out following guidelines for the training contract. These will apply to Japanese joint-venture companies **for the time being**.

Your understanding of the situation is highly appreciated.

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# 1 研修後の勤務に関する 拘束条項付研修契約の定義 Definition of Training Contract

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研修生と派遣企業との間で、研修のために締結される文書による契約であって、研修生に対し、研修終了後一定期間（以下「拘束期間」という）、当該派遣企業若しくはその指定する企業で勤務することを、又は中途退職の場合は違約金若しくは損害金を支払うべきことを義務づけるものという。（以下「契約」という）

The Training Contract is that **written contract** concluded between the trainee and the employer, in connection with the trainee's secondment to Japan for technical training, which obliges the trainee, upon completion of technical training, to serve the employer or its affiliate for a fixed period (hereafter called the obligatory term of service), nonfulfillment of which may oblige the trainee to pay a penalty or damages to the employer.

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## 2 適用対象企業 Employer to which these guidelines apply

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この基準は、日本の資金による直接投資が行われている海外日系企業であって、日本側出資比率が**25%を超えるもの**（以下「派遣企業」という）に対して適用される。

The Training Contract guidelines apply to Japanese joint-venture companies where **more than 25%** of the capital is shared by Japanese direct investor/s. (Hereafter called the employer)

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## 3 拘束期間の制限 Limit of the obligatory term of service

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拘束期間の許容限度は研修期間に応じ次のとおりとする。

- (i) 研修期間が**6ヵ月未満**のときは、拘束期間は**1ヵ年**以下とする。
- (ii) 研修期間が**6ヵ月以上1ヵ年未満**のときは、拘束期間は**2ヵ年**以下とする。
- (iii) 研修期間が**1ヵ年以上**のときは、拘束期間は**2ヵ年半**以下とする。

The obligatory term of service shall be limited as follows based upon the period of technical training;

- (i) When the period of technical training is **less than six months**, the obligatory term of service shall be **one year or less**.
- (ii) When the period of technical training is **between six months and one year**, the obligatory term of service shall be **two year or less**.
- (iii) When the period of technical training is **one year or more**, the obligatory term of service shall be **two and half years or less**.

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## 4 途中退職の場合の弁償 Compensation in the case of trainee's nonfulfillment of the obligatory term of service

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- i) 実損の有無又はその額にかかわらず、違約金として予め定額を定め、その支払いを義務づけることは認めない。
  - (ii) 研修に伴い派遣企業が負担した費用の弁償については、その額が次の諸費用の合計額の限度内であるときは、これを許容する。ただし研修生が研修後勤務した期間に比例した減額がなされなければならない。
- (a) 支度金等派遣企業が研修生に対し、財団法人海外技術者研修協会から支払うものとは別に支払った費用があるときはその額
  - (b) 研修期間中研修生又は留守家族に対して支払われた賃金又は手当があるときはその額
  - (c) 財団法人海外技術者研修協会に対する賛助金。ただし、派遣企業が負担したことが明らかである場合に限る。
- i) Compensation in the form of penalty, that is, a fixed amount of money determined in advance, irrespective of actual costs which the employer has incurred in the course of technical training, shall not be payable by the trainee.
  - (ii) The employer may have the right to recover from the trainee certain costs which the employer has incurred in the course of technical training. However, the amount of money payable by the trainee shall not exceed the total sum of costs (a), (b), and (c) below.  
When fulfillment of the obligatory term of service is only partial, such term of service shall be counted as reckonable service. In this case, compensation shall be reduced proportionally according to the period of reckonable service.
- (a) Outfit and/or similar allowances if paid by the employer to the trainee above and beyond allowances covered by the AOTS.
  - (b) Salary and/or allowances if paid by the employer to the trainee of the trainee's family during the period of technical training in Japan.
  - (c) Prescribed contribution to training costs if paid by the employer to the AOTS.  
(Evidence of payment is necessary.)

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## 5 研修生に対する説明等 Notification to the trainee of terms of training scheme

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- (i) 派遣企業は研修生に対し、事前に、研修は財団法人海外技術者研修協会の制度により、日本政府（経済産業省）の補助金を受けて行われること、並びに契約内容について、十分説明しなければならない。
- (i) The trainee shall be notified well in advance of the AOTS training scheme which is conducted by the AOTS with financial aid from the Japanese government (METI) and of the terms and conditions of the Training Contract so that the trainee is fully apprised of them.

(ii) 派遣企業は研修生が5-(i)の説明を受けたことを示す当事者双方署名の申告書を財団法人海外技術者研修協会へ提出しなければならない。

(ii) The employer shall submit to the AOTS a document signed by both parties which testifies to the fact that the trainee has been duly furnished with the notification as set out above in 5-(i).

(「研修生個人記録並びに研修契約に関する申告書」ご参照  
See “Enquiry into Trainee’s Personal Record and Training Contract”)

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## 6 審査 Scrutiny of document 5- (ii)

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財団法人海外技術者研修協会は、5-(ii)による申告書の内容がこの基準に抵触するときは、派遣企業に対し、この基準に従うよう勧告する。この勧告が受入れられないときは、当該研修生の研修については、日本政府補助金は適用しない。

The AOTS shall examine the contents of document 5-(ii) and ask the employer to amend any unreasonable terms and conditions. Failure to do so will result in the withdrawal of the Japanese government’s financial aid for the trainee concerned.

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## 7 受入停止 In the case of false information

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財団法人海外技術者研修協会は、研修生受入後契約について調査を行い、5-(ii)による申告書の内容が事実と相違することが判明したときは、協会は当該派遣企業からの研修生は以後1ヵ年間受入れない等必要な措置を講じるものとする。

Confirmation of the terms of the Training Contract as set out in document 5-(ii) shall be made by the AOTS upon the arrival of the trainee in Japan. In the case of false information, the AOTS may take whatever action is necessary, such as suspension of acceptance of trainees from that employer for a period one year, ect.

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## 8 その他の日系企業 Other Japanese joint-venture companies than those set out in 2

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財団法人海外技術者研修協会は、日本側出資比率が**25%以下の日系企業**に対しても、この取扱いの趣旨を周知徹底させると共に、5-(ii)の申告書の提出を求め、その内容がこの基準に著しく反する場合は、当該派遣企業に対し、改善を求めるものとする。

Japanese joint-venture companies with **25% or less** of Japanese capital investment shall also be informed of these guidelines for the Training Contract; and document 5-(ii) shall be submitted by them to the AOTS. Companies may be asked to amend any terms and conditions which are at variance with these guidelines.