



# **A Guide to Migrant Workers' Rights in Japan**

## **For Migrant Support Organisations in Mekong Countries of Origin**

**Mekong Migration Network**

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## 1.Introduction

# How to use this guide

**This guide provides an overview of migrants' rights and entitlements in Japan under the Technical Internship Training Program (TITP) or the Specified Skilled Workers (SSW) scheme. It covers 14 topics based on national labour laws and other related laws, policies, and regulations in Japan. This document is only intended to be an introduction to these topics; for a more in-depth discussion, please refer to MMN's *Handbook for Civil Society Organisations and trade unions in Cambodia, Myanmar and Vietnam for assisting migrants deployed to Japan* .**

**Migrant support organisations in countries of origin can use this guide in the following suggested ways:**

- **To enhance their respective staff members' understanding of the rights of migrant workers in Japan so that they can disseminate accurate information to prospective migrants, and/or provide relevant support for overseas migrants in need of assistance;**
- **To inform discussion on how to assist migrants when they need help;**
- **To train staff members who are unfamiliar with migration to Japan; and**
- **To explore the other useful resources through the links provided in this guide.**

## 2. Employment Contracts

# Migrants should fully understand the contract and other agreements before signing

An employment contract should clearly state the employment terms and conditions of employment, including the period of employment, place of employment, job description, working hours, breaks, overtime work, holidays and vacations, remuneration, terms of contract termination, accommodation, and social protection, among other topics.

A sample TITP Contract can be found here: [https://www.otit.go.jp/youshiki\\_06/](https://www.otit.go.jp/youshiki_06/)

- Migrants should make sure they fully understand the employment contract and any other agreements they are asked to sign. They should request clarification if they are uncertain about anything.
- They should request two copies of all documents, one in Japanese and the other in their own language. This will protect them in case there are discrepancies between the two versions.

## Employment Contracts

# Migrants should be careful of certain clauses in contracts or other agreements!

The following types of clauses should not be included in the contract or other agreements migrants sign, such as those that give employers the right to:

### Unilaterally terminate the contract

specifically because of pregnancy, childbirth and marriage or a request for maternity leave; because they joined a labour union, tried to join one, or participated in its activities; or because of absence due to sickness or injury.

Confiscate migrants' passport or other travel documents.

### Restrict migrants' freedom

in their personal lives, such as the freedom to leave their living quarters.

### 3.Wages

## Migrants are covered by Japan's minimum wage law

There are two sets of minimum wages.

1

Minimum wage in each prefecture

Available in Japanese: <https://bit.ly/3wreEt7>

2

Minimum wage of certain industries in each prefecture

Available in Japanese: <https://bit.ly/48sqvEB>

At a minimum, migrants should be paid at the higher rate.

For example, in case of a migrant who works in the steel industry in Hokkaido prefecture,

the minimum hourly wage is 960 Yen, and

the minimum hourly wage in the steel industry is 1030 Yen,

they should be paid an hourly wage of 1030 Yen or higher!

## Wages

# Migrant should check that there are no unfair wage deductions

- Migrants should always check their wages when they receive them and clarify the purpose of any deductions they are unsure of.
- Some expenses may be deducted if they are stated in the contract and are permitted by law, or the employer has a written agreement with a labour union.
- Migrants should always keep their pay slips which will be useful in pursuing missing wages.

### Examples of some common salary deductions:

- Social protection programmes (They can make up a fifth of migrants' salary or more)
- Accommodation (should be stated in the contract)
- Taxes

### An example of a salary deduction that are NOT allowed:

- TITP Supervision fee (A fee that a Supervising Organisation collects from an Implementing Organisation)

#### 4. Overtime work

# The hourly wage for overtime work is more than the usual hourly wage

- Migrants should not have to work more than 40 hours a week, 8 hours a day.
- However, in some cases, an employer may request migrants to work overtime. Whether they need to work overtime should be written in the contract. Migrants are entitled to pay higher than the usual hourly rate for overtime work!

**25%**  
or  
**HIGHER**

if working beyond the working hours as stated in the contract

**35%**  
or  
**HIGHER**

if working during a statutory holiday

**25%**  
or  
**HIGHER**

if working between 10 p.m. and 5 a.m.

## Overtime work

# Migrants should keep a record of their work time!

**Migrants should make a habit of taking photos of their time card and/or record the start and end time of their work in a notebook!**

**If they are not paid or underpaid for overtime, these records can provide evidence to support their claims.**

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## 5. Dismissal

# Employers cannot legally dismiss migrants for these specific reasons

**1**

**They are absent from work due to a workplace illness/ injury**

**They also cannot be dismissed within 30 days of in absence**

**2**

**They are pregnant, giving birth, getting married or requesting maternity leave**

**They also cannot be terminated within the first year after giving birth**

**3**

**They are part of a union, tried to join one or took part in its activities**

**4**

**They submitted a labour violations complaint about their employer to the authorities**

## 6. Reproductive and Maternity Rights

# Unfair treatment against pregnancy is illegal

- Reproductive rights are protected under Japanese laws, and migrants should not receive any unfair treatment for pregnancy before and when they migrate.
- In the pre-departure stage, migrants will be requested to do a health checkup. Tests for pregnancy should NOT be part of this process. They should clarify what the contents of the health check are before committing to it.
- If migrants get pregnant in Japan, there are services they can consult to make an informed decision on the next steps. They may also consider seeking help from a migrant support organisation.
- Migrants should not receive unfair treatment due to being pregnant and/or be dismissed from their job before or after childbirth. This is in violation of Japanese law.

### Useful Resources on reproductive rights:

“Nishin in Japan (Pregnant in Japan)”, developed by Kumusta Ka, a CSO in Japan. This website provides a comprehensive Q&A on different matters related to pregnancy, available in multiple languages: <https://bit.ly/49n0dER>

Pamphlet on reproductive and maternity rights, developed by the Japanese government: <https://bit.ly/4b0VePa>

## Reproductive and Maternity Rights

# Reproductive rights and maternity benefits

### Childbirth

Six weeks pre-natal pregnancy leave (14 weeks for twins)

Eight weeks post-natal pregnancy leave (can be shortened to six weeks if the migrant wishes to and the doctor agrees)

### During pregnancy

#### Migrants have a right to:

- Say no to doing overtime work, or holiday or late night shifts
- Request lighter work
- Request time off for health checkups
- Request any necessary arrangements at work to follow the doctor's instructions

### After child birth

#### Migrants have a right to:

- Say no to doing overtime work, or holiday or late night shifts within the first year after childbirth
- Claim two 30-minute childcare sessions at work if the child is less than a year old
- Request time off for health checkups if instructed by doctors
- Take childcare leave if the child is under 1 year old, or under 2 year old for reasons such as the child is not admitted to day care centre. This applies to both men and women migrants.
- Male workers may apply for paternity leave for a total of four weeks within eight weeks of the birth of the child

For a comprehensive list of the rights and entitlements of migrants regarding pregnancy and childbirth, please refer to the Technical Intern Training Handbook, accessible here:

<https://bit.ly/3UQagxJ>

## 7. Labour Unions

# Joining and forming labour unions is a right

- **Migrants have a right to join and/or form labour unions in Japan, and their contract and other agreements they sign with the employer should not have any clauses that prevent them from doing so.**
- **Employers should not dismiss migrants or treat them unfairly at work for the reason that they are part of a union, have tried to join one, or have been part of its activities. This is in violation of Japanese law.**

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## 8. Changing Jobs

# How do migrants change jobs?

- Different statuses of residence come with specific requirements regarding changing jobs. Migrants should be careful what unauthorised actors tell them about changing jobs or their status of residence.
- In Japan, migrant workers may be prosecuted if found working at a job other than the one they are authorised to do under their status of residence.

If TITP workers experience a right violation at work or are forced to work on tasks that are not part of the training plan, they can seek assistance from the Organization for Technical Intern Training (OTIT).

OTIT will arrange for a TITP worker to work for a different employer on a case by case basis.

**Technical Intern Training  
Program**

- Migrants can apply to change employer within the same sector
- However, If they wish to work in a different sector, they have to enroll and pass the relevant skills examination

**Specified Skilled Workers**

## 9. Social Protection

# Migrants are covered by social insurance schemes

Provides old-age employee's pension, disability employee's pension and disability allowance, and survivors' employees' pension. Migrants can begin the application to claim a lump sum of their contributions before they leave Japan.

Workers who work for private businesses employing at least five full-time workers are eligible for Employee's Pension Insurance (excluding private business in agriculture, forestry, fisheries, hospitality, and cleaning sectors)

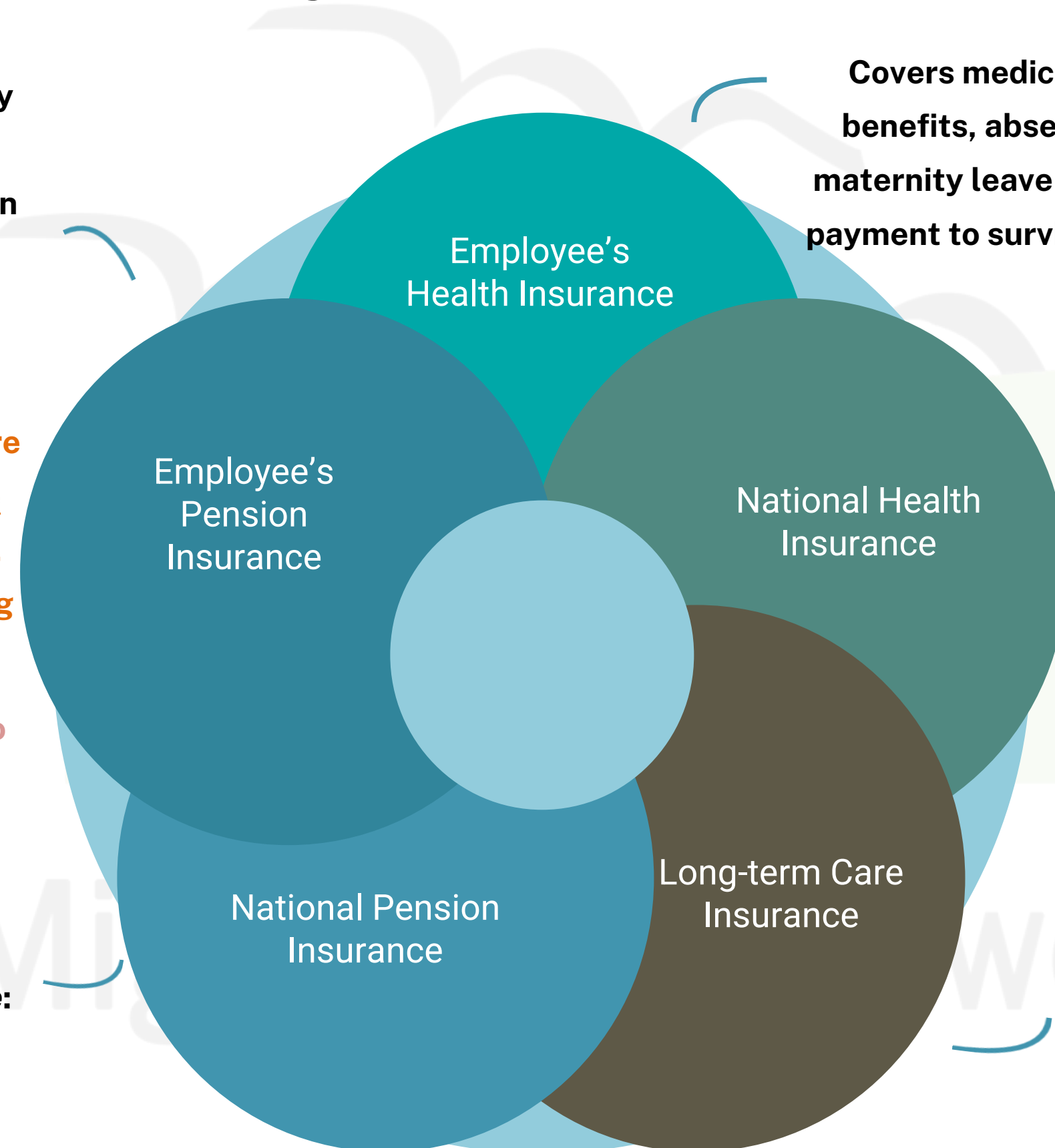
National Pension Scheme is for those who do not qualify for the Employee Pension Insurance, such as those who recently arrived in Japan and are attending post-arrival training.

More information on the pension insurance:

<https://bit.ly/3uAFWwH>

Multilingual pension consultation service:

<https://bit.ly/49KHGSJ>



Covers medical treatment, childbirth benefits, absence from work benefits, maternity leave benefits, and a lump-sum payment to survivors in the event of death.

For the first one to two months when TITP workers attend post-arrival training in Japan, they will be enrolled in National Health Insurance before switching to the Employee's Health Insurance as they begin work.

Provides long-term care to those who have become bedridden, have dementia, or have become frail due to specific-age-related diseases. Only for migrants aged 40-64 (Category II) or aged 65 or above.

## Social Protection

# Migrants are covered by labour insurance schemes

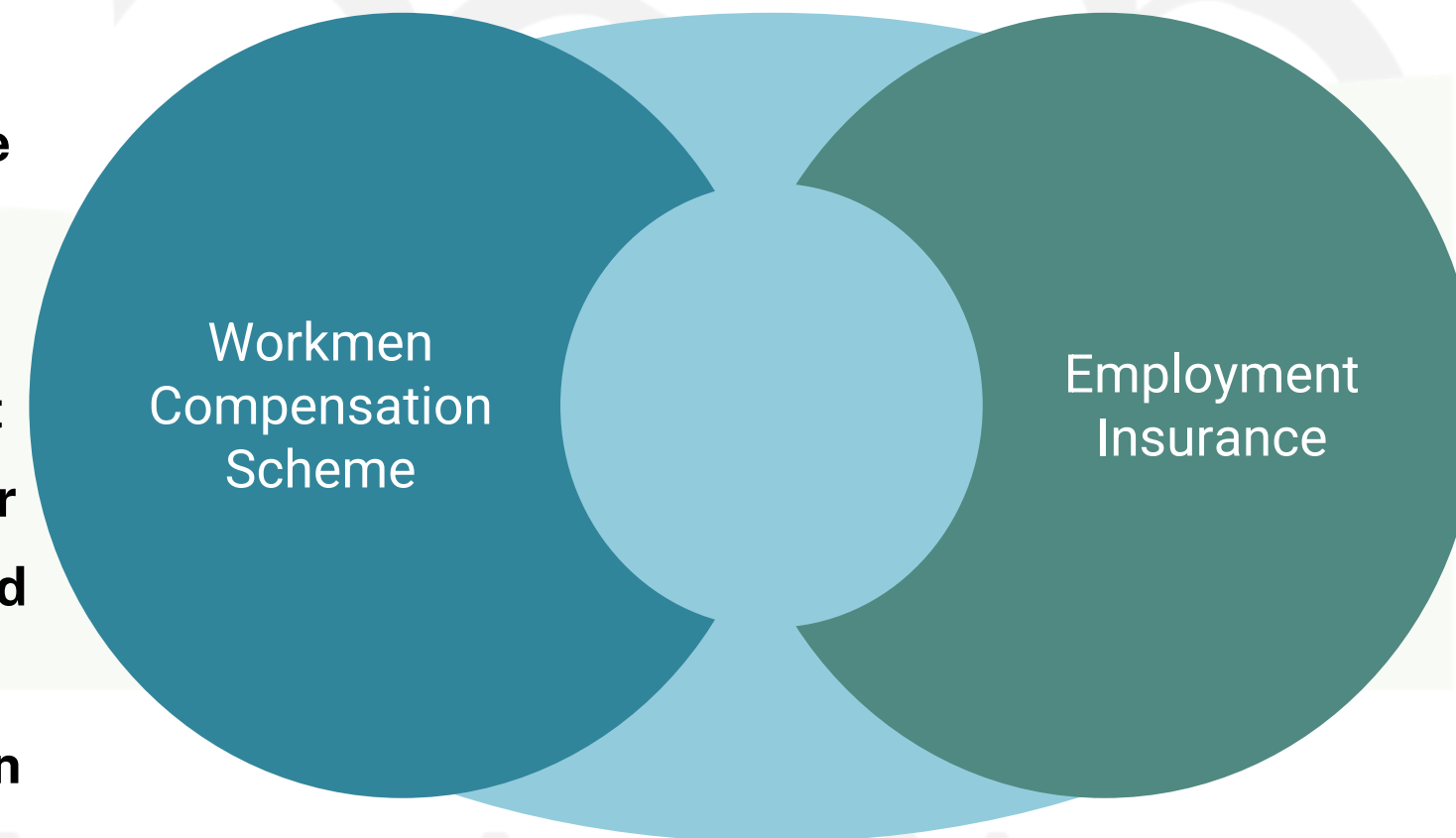
The scheme provides benefits in the event of injury or death at work or while commuting to work.

Employers should enroll migrants in the scheme and contribute fully to it. The scheme is compulsory for all workers except those employed in agriculture, forestry and the fisheries (TITP workers in these sectors must enrol in private voluntary insurance). However if the employer in the agriculture, forestry, and fishery sectors is a corporation, the corporation needs to enroll migrant workers in the workmen compensation scheme.

For more information: <https://bit.ly/49prVRw>

Available private insurances:

<https://bit.ly/30QQvLS>



A monthly lump sum paid to workers who have lost their jobs and have been seeking new employment because the company they worked for became bankrupt or made them redundant.

All employers need to enroll its workers in the insurance. There are cases where TITP workers may be able to receive the unemployment benefit when they resign of their own will. Migrants should contact migrant support organisations in Japan for more information and assistance.

More information: <https://bit.ly/3uMGXBJ>

## 10. Confiscation of Travel Documents

# Travel documents should remain in migrants' possession

- **Passport and other travel documents should remain in migrants' possession. Migrants should be wary of anyone, including employers and recruitment agencies, who request to keep their travel documents for whatever purposes for an extended period of time. Not having these will restrict their mobility and may bind them to their job and employer.**
- **Migrants should make sure they do not sign any agreement that requires them to hand in any travel documents for safekeeping.**
- **It is illegal for employers to confiscate employees' passports under the TITP Act.**

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## 11. Physical Confinement

# Confining migrants to a workplace or living quarter is illegal

- Migrants should always enjoy the freedom of movement, and their employers should not have a say in where they go and what they do in their own time.
- It is illegal for employers to force them to work against their will by confining them to the workplace and living quarter, even if the living quarter is part of the company complex (such as dormitories).

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## 12. Stakeholders that Provide Support

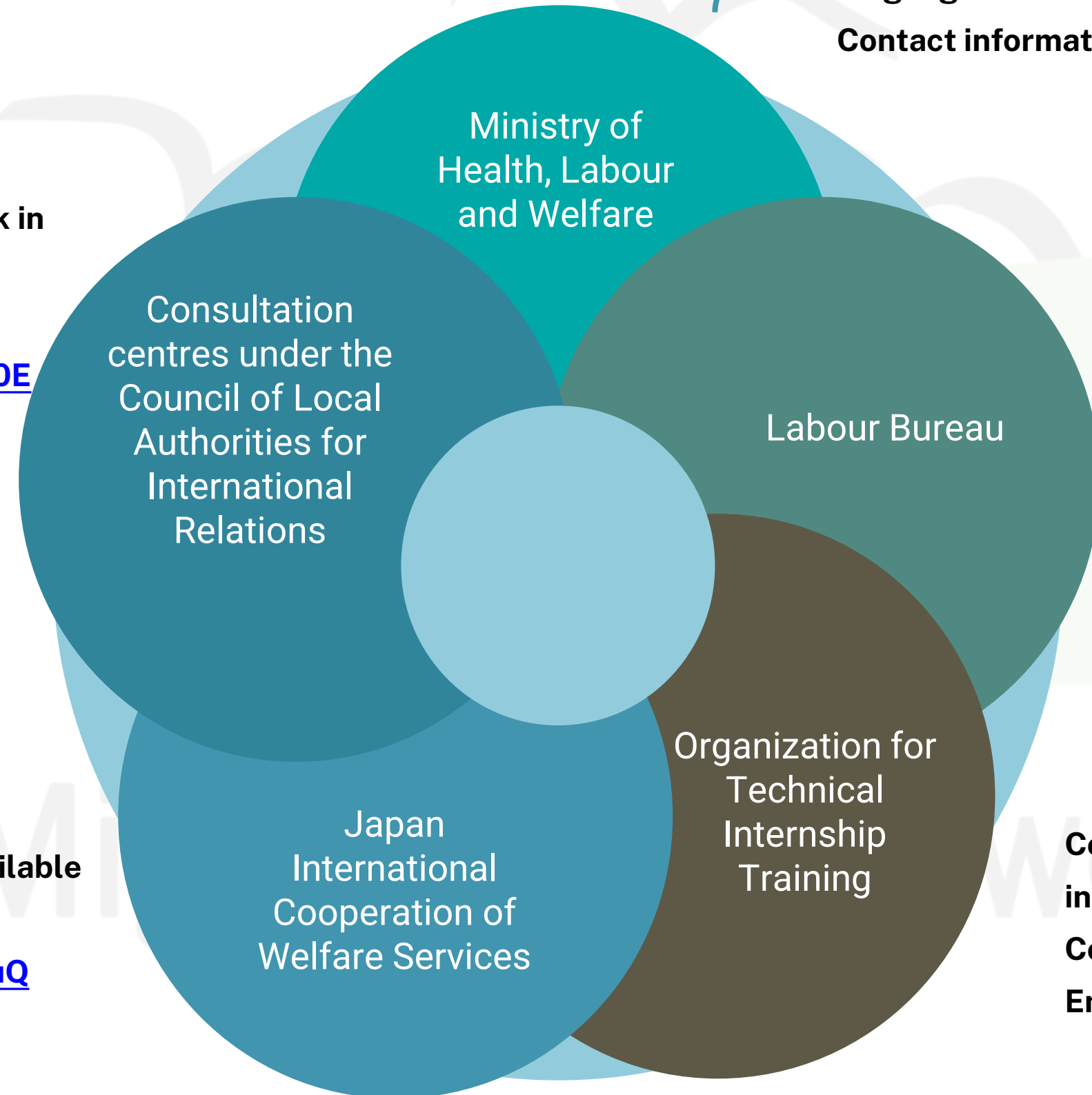
# Migrants can access these government-associated support

Migrants can access the consultation desk in their prefecture, available in different languages.

Contact information: <https://bit.ly/3ULra0E>

Consultation hotline for care workers, available in migrant languages.

Contact information: <https://bit.ly/3I8oouQ>



Ministry of Health, Labour and Welfare

Consultation centres under the Council of Local Authorities for International Relations

Japan International Cooperation of Welfare Services

Organization for Technical Internship Training

Labour Bureau

Two available hotlines, available in migrant languages

Contact information: <https://bit.ly/3I66adz>

Migrants can pay an in-person visit to the Labour Bureau office.

Check whether interpretation services are available here: <https://bit.ly/3I66adz>

Consultation hotline for TITP workers, available in migrant languages.

Contact information: <https://bit.ly/4bKnnXx>

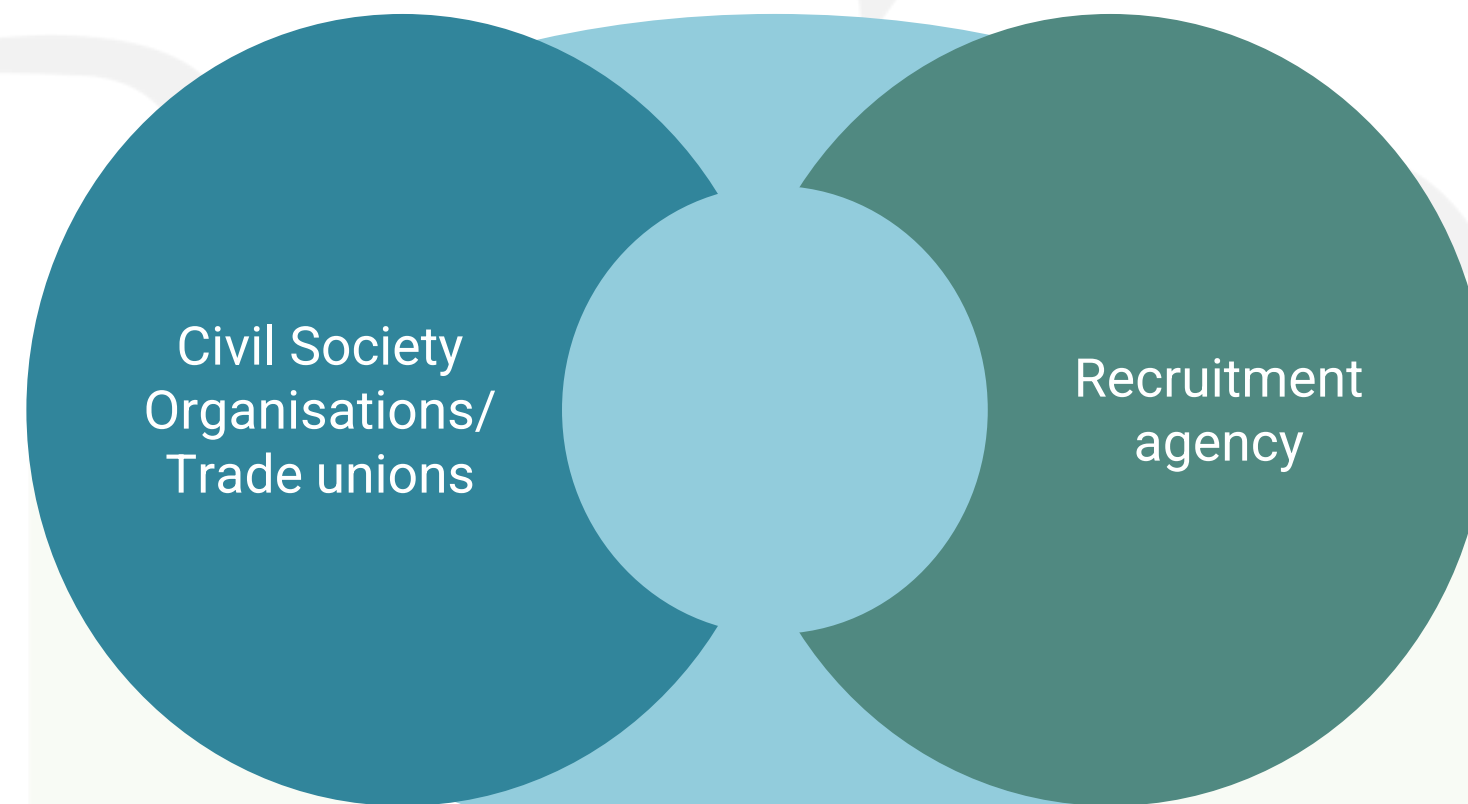
Emergency hotline: <https://bit.ly/49qQZYb>

## Stakeholders that provide support

# Migrants can access non-government associated support

Visit MMN's website for a directory of migrant supporting organisations in Japan:

[https://mekongmigration.org/?page\\_id=22964](https://mekongmigration.org/?page_id=22964)



Recruitment agencies in Cambodia, Myanmar and Vietnam have a legal responsibility to assist overseas migrants. Migrants should have the contact information of the agency staff member(s) stationed in Japan,

**Remember: Japanese law forbids employers from treating migrants unfairly who have filed a complaint against them to Japanese authorities!**

## 13. Procedures of the Criminal Justice System

# What happens if migrants get arrested

### Police Detention:

The police can detain a migrant for up to three days

A migrant has the right to consult a lawyer no matter the reason for arrest. The detained migrant can ask the police officer "Please call the duty lawyer(Toban Bengoshi)."

A migrant will be assigned a lawyer under the "Duty Lawyer System" run by the Bar Association. They can meet a lawyer once free of charge. The lawyer will explain to them rights and the legal process.

A migrant will either be released after three days or be sent to the prosecutor.

### Prosecution process:

The prosecutor can detain a migrant for up to ten days, which can be extended for a further ten days. They will either be released after this period, or a case against them will be filed at court.

If a case is filed at court, they can either hire a lawyer, or request a court appointed lawyer free of charge.

They can contact a migrant supporting organisation nearby to assist them in hiring a lawyer.

When a migrant is being detained, they still need to submit a visa extension application through their lawyer if their leave to remain is about to expire.

## 14. Arrest, Detention and Deportation

# What happens if migrants violate immigration laws

If migrants violate Japan's immigration law, such as overstaying their visa, there are a few possible scenarios that can play out.

### Administrative Removal

A migrant can choose to surrender to the immigration bureau.

Depending on the violation, the migrant may be issued a "Departure Order" if they meet certain conditions (such as having entered Japan through formal channels or having no criminal record).

A migrant will be required to leave Japan within 15 days and will not be allowed to re-enter Japan for a year.

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## Arrest, Detention and Deportation

# What happens if migrants violate immigration laws

### Deportation

If a migrant is arrested by the police, deportation will follow the criminal procedure

If a migrant is given a suspended sentence, they will be transferred to the Immigration Bureau, which will kickstart the deportation process.

A migrant will be detained at the Immigration Detention Centre for up to 30 days, which may be extended for a further 30 days.

A migrant will be issued a “Deportation Order” and will have to buy a ticket back home. They will not be allowed to return to Japan for a set period of time, depending on the severity of the violation.

**An individual subject to immigration detention can apply for “Provisional Release”. Migrant workers are advised to consult with CSOs or a lawyer before making such an application.**

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## 15. Additional Resources

### Other Useful Resources

- **Technical Intern Trainee Handbook:** This handbook provides comprehensive information on the TITP. Website: <https://bit.ly/3UQagxJ>
- **Dear Foreign Skills Interns – Laws Relating to Labor Standards in Japan:** A document produced by the Ministry of Health, Labor and Welfare, introducing Japanese labour Law. Website: <https://bit.ly/3I7SChJ>
- **Working Conditions Handbook for all Foreign Nationals Working in Japan:** A handbook produced by the Ministry of Health, Labor and Welfare, covering labour rights and fair working conditions. Website: <https://bit.ly/3I9iMjX>
- **The Foreign Workers Handbook 2023:** A handbook produced by Tokyo Labor Consultation Center of the Tokyo Metropolitan Government. Website: <https://bit.ly/30TrwyG>
- **Survival Manual: A guide to Foreigners' Rights in Japan:** A manual produced by Solidarity Network of Migrants in Japan, a network of migrant support organisations. Website: <https://bit.ly/3T9BVbZ>