



RECRUITMENT GUIDELINE HANDBOOK

MPOA GUIDELINE FOR RESPONSIBLE RECRUITMENT



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PREAMBLE

The Malaysian Palm Oil Association (MPOA) is committed to the prevention of forced labour in the palm oil industry. In December 2021, MPOA introduced the Responsible Employment Charter to provide clarity and transparency on the recruitment processes of migrant workers.

This guideline will serve as a valuable tool that can help to ensure that the Malaysian palm oil industry is free from forced labour. It sets out clear standards for the recruitment of foreign migrant workers, including aspects on fair wages, safer working conditions, and the prevention of debt bondage.

MPOA encourages all plantation companies in Malaysia to adopt the guideline and incorporate it into their respective recruitment processes. By doing so, we can help to create a more ethical and sustainable palm oil industry.

***This guideline is derived from a compilation of current practices by MPOA members, in consultation with relevant NGO's such as Tenaganita and ILO (in discussion).**

OBJECTIVE

To provide clarity and transparency on the recruitment processes of foreign migrant workers, and to strengthen the industry's practices against forced labour. This guideline can serve as reference to MPOA members on how to operationalise the MPOA Responsible Employment Charter. This guideline provides a structured approach for the recruitment of foreign migrant workers, ensuring clarity, accuracy, and adherence to standard procedures.

PRINCIPLES

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(FROM THE MPOA RESPONSIBLE EMPLOYMENT CHARTER)



General Principle A: *Respect for Laws, Fundamental Principles and Rights at Work*

General Principle B: *Respect for Ethical and Professional Conduct*

Principle 1: Prohibition of Recruitment Fees to Jobseekers

Principle 2: Freedom of Movement including no retention of personal documents

Principle 3: Respect for Transparency of Terms and Conditions of Employment

Principle 4: Respect for Confidentiality and Data Protection

Principle 5: Respect for Access to Remedy

DEFINITION

04

ZERO RECRUITMENT FEES



In the midst of a lack of a definition for Zero Recruitment Fees, MPOA has identified a list of items that will be covered by employers in the recruitment process. These fees have also been identified in each stage of the recruitment process.

FEES COVERED BY THE EMPLOYER THROUGHOUT RECRUITMENT PROCESS



1. International passport and travelling fees.
2. Medical fees (registered/certified practitioners). Medical Payment to be paid directly to the medical centers.
3. Bio-medical (FWCMS) at source country.
4. Pre-departure briefing / training.
5. Internal travel (local transportation, from agent base to point of departure), food & lodging (based on a reasonable and fixed amount to be determined)- during process following selection; and to point of departure/airport.
6. Documentation (photographs, photocopies, printings etc.)
7. Purchase of flight ticket or travel arrangement by employer.
8. Fees or taxes specified by the respective source country government for recruitment purposes. E.g.: PPN 10% (Tax), PPA (School fees/workers familiarisation programme) - Indonesia, E-migrate - India.

MPOA RECRUITMENT GUIDELINE

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STAGE 1 : PRE-RECRUITMENT



1. Identifying Recruitment Need

- The operating unit/ management of company recognizes the requirement for new recruitment and informs the HR department about the need, furnishing relevant information pertaining to the category or workers and labour/land ratio.

2. Confirmation to Initiate Recruitment

- HR validates the recruitment need and gives the green light to commence the recruitment process.

3. Job Advertisement Placement in local portal

- The job vacancies are advertised on the My Future Jobs portal.

4. Application for Quota

- After advertising, the application process for the quota of foreign migrant workers through the Foreign Worker Centralized Management System (FWCMS) is initiated.

5. Quota Approval and Levy Payment:

- Upon the approval of the quota for foreign migrant workers, proceed to make the necessary levy payments.

6. Engagement of Recruitment Agents (local or at source country):

- Collaborate with recruitment agents to carry out the recruitment process effectively.

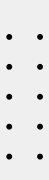
7. Recruitment Advertisement at source country:

- If feasible, an in-house job advertisement is developed to outline the job vacancy. This advertisement is then provided to the recruitment agent for dissemination.
- Employers can also appoint agents to produce advertisements, with specific criteria provided by the employer.
- The translated job advert must be ensured to be comprehensible for foreign migrant workers and translations are carried out by translators.
- Employers must ensure that the advertisements provide accuracy of information, encompassing job responsibilities, benefits, salary, etc.
- Employers must obtain endorsement from their respective headquarters (HQ) to ensure consistency in the information presented.



FEES INVOLVED

Levy
(upon approval of quota)



MPOA RECRUITMENT GUIDELINE

STAGE 2 : SELECTION OF AGENTS



1. Selection of Accredited Foreign or Local Recruiting Agents:

- Recruiting agents will be chosen through a Tender process to ensure a transparent and ethical selection.
- Due Diligence procedures will be conducted to verify the ethical practices and transparency of the recruiting agents. This ensures that foreign migrant workers are recruited without deception.
- Throughout the recruitment process, the appointed agents are prohibited from charging any recruitment related costs to the foreign migrant worker. Assurance is given to the foreign migrant worker that the job application will not be jeopardized if a complaint is made and following investigations are found to be true.

MPOA RECRUITMENT GUIDELINE

STAGE 2 : SELECTION OF AGENTS



2. Requirements for Recruiting Agents:

- Recruiting Agents must adhere to the following criteria:

i. Legal Registration:

- In Malaysia, recruiting agents must be registered with the Ministry of Human Resources (MOHR) and can be selected from the official list of agents available on the JTK Portal:

For Peninsular:

<https://jtksm.mohr.gov.my/ms/perkhidmatan/agensi-pekerjaan-swasta/senarai-agensi-pekerjaan-swasta>

For Sabah:

<https://jtksbh.mohr.gov.my/index.php/ms/perkhidmatan/aps>

For Sarawak:

<https://sites.google.com/mohr.gov.my/senarai-aps/home>

Or any other latest links

- In source countries, recruiting agents can be selected from the list of agents on the Foreign Worker Centralized Management System (FWCMS) portal. Choose from the registered list of agents under the heading **FWCMS Registered Agents**.

ii. Agents' Reputable and Ethical Standing:

- The appointed agents must possess a well-established reputation in the industry with a proven commitment to ethical recruitment practices.
- Employers are encouraged to assess agent reviews, ratings, and references from other employers who have previously used their services.
- The appointed agents must understand and commit to ethical recruitment processes i.e. workers are informed of the full specification of the job listed.
- Appointed agents are listed on the MOHR and FWCMS portals have received recognition from the government.
- Appointed agents have a documented history of successfully facilitating the recruitment of foreign migrant workers.
- Appointed agents have records of upholding transparent practices throughout the recruitment process.
- Appointed agents must be thoroughly familiar about the recruitment laws and processes in both Malaysia and source countries.
- Appointed agents must have a zero recruitment fees policy.

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STAGE 2 : SELECTION OF AGENTS



3. Once selected, recruiting agents are furnished with the Agency Agreement/

Letter of Award which clearly states the Do's and Don'ts of the recruitment process.

* Employers are encouraged to continuously monitor the recruitment processes.

FEES INVOLVED

1. Agency service charge (MRA) / Agency Fee
2. Job Order / Attestation Fees at Embassy (if applicable)

MPOA RECRUITMENT GUIDELINE

STAGE 3 : SELECTION OF CANDIDATES



1. Commencement of Recruitment Advertisements:

- Once selected, authorized agents are permitted to initiate recruitment advertisements in the source country.

2. Establishment of contact channel, in languages understandable or native to the foreign migrant workers (e.g: Toll-Free Call Centres, contact numbers, email, Whatsapp) for information dissemination:

- To raise awareness and provide comprehensive information about the legal recruitment process i.e associated fees, job scope, company policies, worker's rights, work nature, and the employment contract.
- Focus on preventing deception and reducing worker vulnerability.

3. Application Screening and Worker Interviews:

- Conduct a thorough screening of all short-listed applicants.
- The appointed agents need to ensure that the short-listed candidate does not have any debt bondage related to the recruitment.
- During interview in a physical setting, candidate needs to declare there has been no recruitment fees paid to date.
- Arrange interviews for potential workers, involving both the recruitment agent and a company representative.

FEES INVOLVED

1. Medical check-up payments
2. Passport
3. Insurance payments.
4. FWCMS

MPOA RECRUITMENT GUIDELINE

STAGE 3 : SELECTION OF CANDIDATES



4. Interview Session Requirements:

- **Translator Presence:** - During interviews, a translator proficient in the language understood by the foreign migrant worker must be present to facilitate communication.
- **Comprehensive Briefings:** - briefings during interviews should cover the following topics:
 - i. Nature of work and job scope
 - ii. terms of employment
 - iii. Rights and responsibilities
 - iv. Remuneration and provided benefits
 - vi. Company policy
 - vii. Zero recruitment policy

5. Application for VDR (Visa Dengan Rujukan)

- Based on the biodata of applicants provided by the appointed recruiting agent, employers are to apply for VDR through the FWCMS system.
- Employers need to apply and purchase Insurance Guarantee (IG) from chosen Insurance Company.
- Once payment for VDR has been approved, Employers can proceed with payments to the Immigration for other statutory payments such as PLKS, Processing Fee and Visa.
- Once the VDR Application has been approved by the State Immigration Department, Employers need to send a copy of the VDR Approval to the appointed agents for the Application of Visa from Malaysian High Commission/Embassy, depending on source country requirements.

*** Employers are encouraged to continuously monitor the recruitment processes.**

MPOA RECRUITMENT GUIDELINE

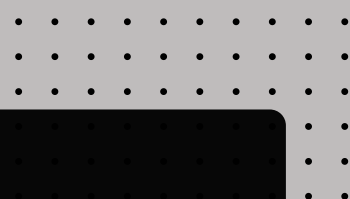


STAGE 4 : PRE-DEPARTURE



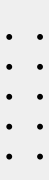
1. Pre-Departure Briefing/Training:

- Conduct a comprehensive pre-departure briefing and training session for foreign migrant workers to prepare them for their employment abroad. This can be conducted by the appointed agents, in the language native or understandable to the foreign migrant worker.
- Pre-departure briefing/training should cover in depth information of:
 - i. Nature of work and job scope
 - ii. Terms of employment
 - iii. Rights and responsibilities
 - iv. Remuneration and provided benefits
 - vi. Company policy & zero recruitment policy
 - vii. Laws & regulations
 - viii. Social aspects



FEES INVOLVED

- | | | |
|--|--|---|
| 1. Internal travel (local transportation, from agent base to point of departure). | 3. Documentation (photographs, photocopies, printings etc.) | 6. Relevant Visa fees |
| 2. Food and lodging during process following selection; and to point of departure/airport (based on a reasonable and fixed amount which will be determined). | 4. Travel expenses to host country e.g. purchase of flight ticket by employer. | 7. Pas Lawatan Kerja Sementara (PLKS) |
| | 5. "School fees" for workers familiarisation programme (Indonesia) | 8. Immigration Service Charge |
| | | 9. Assurance bond (insurance guarantee) |



MPOA RECRUITMENT GUIDELINE



STAGE 4 : PRE-DEPARTURE



2. Distribution of Employment Contracts in native languages:

- Provide employment contracts in the native languages of the workers. Ensure employment contract has been endorsed by the source country authorities.
- These contracts are provided in advance to allow workers sufficient time i.e. at least 3 days before departure to review and understand the contract content.
- Strictly prohibit any substitution or alteration of the contract terms.
- Appointed recruiting agent needs to provide evidence that the foreign migrant worker has understood and accepted the terms and conditions of the contract.

3. Pre-Employment Declaration and Contract Signing by foreign migrant worker:

- Require all foreign migrant workers to complete a pre-employment declaration on zero recruitment fees.
- Ensure that foreign migrant workers sign the employment contract agreement to acknowledge their understanding and acceptance of the terms and conditions. All contracts are signed in the presence of the recruiting agent.



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STAGE 4 : PRE-DEPARTURE



4. Verification by the recruiting agent on compliance to Zero Recruitment Fees:

- Verify that no payment of recruitment fees has been incurred by the foreign migrant worker.
- If any workers are found or reported to have paid recruitment fees, investigation and verification will be conducted by both the appointed recruiting agent and employer, and if found to be true the appointed agent will rectify the matter before departure. Without prejudice to the worker.

5. Preparation of Travel Documents:

- Facilitate the preparation of all necessary travel documents for the workers to ensure they are legally eligible for international travel and employment.

6. Travel Arrangements:

- Employers to organise the travel arrangement e.g air tickets for the workers' travel to their destination of employment, internal travel from agent base to point of departure.

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STAGE 5 : UPON ARRIVAL AT HOST COUNTRY



1. Timely Pick-Up by Operating Unit:

- Ensure that workers who have arrived in the host country are picked up by the operating unit within 6 hours of their arrival.
- Food and beverages to be provided.

2. Verification of Recruitment Process by Employers:

- Conduct further verification through interviews or surveys to confirm that no non-mandated or illegal fees, commissions, or levies have been imposed or collected from the workers by any parties during the recruitment process.
- In the event that such fees are found to be charged to the workers, the employer will require the appointed recruiting agency to reimburse the foreign migrant workers.

MPOA RECRUITMENT GUIDELINE

STAGE 5 : UPON ARRIVAL AT HOST COUNTRY



3. Additional Briefing and Zero Recruitment Cost Declaration:

- Organize an additional briefing session for foreign migrant workers to provide them with essential information.
- Briefing upon arrival should cover information on:
 - i. Estimated journey to Operating Units
 - ii. SOP upon arrival at Operating Units i.e distribution of provisions, allocation of lodging etc.
- During this session, have workers sign the Zero Recruitment Cost Declaration Form (in native language) at Kuala Lumpur International Airport (KLIA) or official entry point. Alternately, the Zero Recruitment Declaration Form can be signed within one week of arrival, provided that this is informed in the briefing session upon arrival.
- Arrange for transportation to the designated Operating Units.

4. Provision of Accommodation and Basic Necessities:

- Ensure that workers are provided with suitable accommodation and basic necessities upon their arrival as per Act 446.
- New workers should receive suitable work related equipment such as personal protective equipment (PPE) in compliance with OSH Act 1994.

FEES INVOLVED

1. Transport of workers from point of entry / KLIA to Estate
2. Meals upon arrival

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STAGE 6 : WITHIN ONE MONTH OF ARRIVAL AT HOST COUNTRY



1. Orientation Program/ Familiarisation and Safety Briefing (encouraged to be conducted within 3 days upon arrival). Amongst topics to be included are as follows:

- i. Terms of Employment
- ii. Company Policy
- iii. Safety and health aspects
- iv. Grievance mechanism
- v. Sustainability Policy
- vi. Payslip details

- This period aims to help workers acclimate to their new environment, avoid culture shock, and become familiar with workplace expectations and cultural norms.

2. FOMEMA Medical Check-Up and Work Permit Validation:

- Ensure that all workers undergo the required FOMEMA medical check-up as per regulations.
- Upon passing FOMEMA checkup, proceed with application for work permits for each worker.

3. Passport Documentation:

- Employers do not retain the passports of foreign migrant workers except for permit renewal purposes.
- A photocopy of each foreign migrant worker's passport is made for record-keeping purposes.

4. Opening of Savings Account:

- Facilitate the opening of savings accounts for workers.

All bank cards/ passbooks will be kept by the foreign migrant worker.

FEES INVOLVED

1. Foreign Workers Medical Examination Monitoring Agency (FOMEMA)
2. SOCSO

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STAGE 7 : DURING EMPLOYMENT OF SERVICE



1. Handling of Passport:

- Passports are kept by foreign migrant workers at all times except for permit renewal period.

2. Non-Withholding of Wages and Penalties:

- Ensure that there is no withholding of wages or imposition of penalties on foreign migrant workers who choose to leave the company, except as specified in their employment contracts.
- Ensure compliance of the terms and conditions of the contract.

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STAGE 7 : DURING EMPLOYMENT OF SERVICE



3. Voluntary Overtime and Work on Day of Rest (WDR):

- All work, including overtime and Work on Day of Rest (WDR), should be carried out on a voluntary basis.
- Calculation for overtime and WDR should align with the rates stipulated in the Malaysian Employment Act 1955.

4. Compliance with Housing Standards:

- Ensure that the living quarters provided for all workers adhere to the standards outlined in the "Workers' Minimum Standards of Housing and Amenities Act 1990." The living conditions should be safe, clean, and in accordance with legal requirements in accordance to Act 446.

5. Access to Grievance Mechanism during employment:

- Establish and maintain a grievance mechanism that allows workers to raise concerns, report issues, and seek resolution in a confidential and accessible manner. This mechanism must include worker representatives.
- Foreign migrant workers must be briefed on the grievance mechanism.

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STAGE 8 : COMPLETION OF EMPLOYMENT OF SERVICE AND/OR REPATRIATION



1. Provision for travel arrangement back to source country:

- Ensure that all foreign migrant workers are provided for their journey to their country of origin destination, as advised by the foreign migrant worker.
- The travel arrangement should be arranged in accordance with the worker's departure date and destination.

2. Transportation to the point of departure:

- Organize transportation from the operating unit to point of departure for the foreign migrant workers.
- Ensure that transportation arrangements are made in a timely and efficient manner to facilitate the workers' departure.

3. Apply for Check Out Memo (COM) in compliance with the immigration law. This must be applied upon receipt of arrangement of transportation for departure i.e. receipt of flight ticket.

FEES INVOLVED

Transportation fare from operating unit to point of entry at source country.

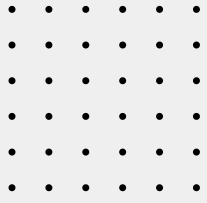
* For recruitment processes in Sabah & Sarawak, please refer further to specific state guidelines*



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APPLIED PRINCIPLES & ACTS

1. International Labour Organisation's ("ILO") forced labour Convention 1930, ILO Migration for Employment Convention (Revised) 1949, ILO instruments on migrant workers (Conventions Nos 97 and 143 and Recommendations Nos 86 and 151).
2. The United Nations Guiding Principles on Business and Human Rights, United Nations Global Compact on human rights, labour, environment and anti-corruption.
3. The principles of Free and Fair labour in Palm Oil Production.
4. Employment Act 1955.
5. Immigration Act 1959/63.
6. Private Employment Agencies (Amendment) Act 2017.
7. Workmen's Compensation Act 1952.
8. Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990.
9. Occupational Safety and Health Act 1994.
10. Industrial Relations Act 1967.
11. Trade Unions Act 1959.
12. Sarawak Labour Ordinance (Sarawak Cap 76).
13. Sabah Labour Ordinance (Sabah Cap 67).
14. Minimum Retirement Age Act 2012.
15. Malayan Agricultural Producers Association (MAPA)/ National Union of Plantation Workers (NUPW) based on the Minimum Wages Order 2022.
16. The Dhaka Principles.
17. UK Modern Slavery Act 2015.
18. ATIPSOM (anti trafficking in persons, smuggling of migrants) ACT 2007.
19. SOCSO Act.



ILO INDICATORS OF FORCED LABOUR

07



1. Abuse of vulnerability
2. Deception
3. Restriction of movement
4. Isolation
5. Physical and sexual violence
6. Intimidation and threats
7. Retention of identity documents
8. Withholding of wages
9. Debt bondage
10. Abusive working and living conditions
11. Excessive overtime



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