

Implementation Guidance Freedom of Association (Peninsular Malaysia)

Freedom of Association and the right to collective bargaining is respected – To the extent permitted by law, all workers regardless of rank or job grade have the right to form and join trade unions of their choice, and to bargain collectively. Where the right to freedom of association and collective bargaining are restricted under law, parallel means of independent and free association and bargaining are made available to all workers.

– TFT Respect of Workers 12 Principles, Principle 12

LEGAL BACKGROUND

Employment laws in Peninsular Malaysia allow all workers, local and foreign, to join a trade union or federation.

This provision is covered by Section 8 of the Employment Act 1955 states that:

“nothing in any contract of service shall in any manner restrict the right of any employee who is a party to such contract – (a) to join a registered trade union; (b) to participate in the activities of a registered trade union, whether as an officer of such union or otherwise; or (c) to associate with any other persons for the purpose of organizing a trade union in accordance with the Trade Unions Act 1959”.

A copy of the Employment Act 1955 is available at:

http://myhos.mohr.gov.my/eAkta/akta_perburuhan/akta_kerja1955.pdf

However, there are certain restrictions for non-citizens in respect to holding positions as member of the executive of a trade union, as prescribed under Section 28(1) of the **Trade Unions Act 1959**,

“A person shall not act as a member of the executive of a trade union or any branch thereof, or of any federation of trade unions, and shall be disqualified for election as such member if, - (a) if he is not a citizen of the Federation;...”

A copy of the Trades Union Act 1959 is available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/10327/99503/F626669980/MYS10327.pdf>

Trade Unions in Malaysia include, among others, the following:-

- National Union of Plantation Workers (NUPW);
- All Malayan Estates Staff Union (AMESU);
- Malaysian Trades Union Congress (MTUC) - Federation of trade unions;
- Malayan Agricultural Producers Association (MAPA)- Employers association

DISCLAIMER: The information in this document is prepared for a brief and general guideline on freedom of association and have been compiled using various sources publicly available. Efforts have been made to ensure that relevant information have been included; however TFT does not claim that the information in this guideline is exhaustive. Further, this document does not purport to contain all the information that the end user or reader including but not limited to employers, buyers, importers, manufacturers, suppliers or distributors (collectively "End User") may desire in understanding regarding the processes, practices or laws in Malaysia in respect of freedom of association or employment. The intent of this document is to provide basic guidelines which may be of some help to the end user. With the help of this document, the end user should ensure that the relevant laws, rules, regulations and guidelines are applicable, suitable, updated and relevant to their company or business as a whole.

TFT, its subsidiaries, related corporation, affiliates, associates, business partners (collectively, "TFT Group") and TFT's directors, shareholders, officers, employees, agents, representatives and advisers ("Representatives") do not:- (i) make any representation, undertaking or warranty, express or implied, nor any of them, to the extent permitted by law, have any responsibility or liabilities whatsoever in respect of the truth, accuracy or completeness of, or omission from, this document or any related documents or information, whether written or oral, supplied at any time or in respect of any statement, disclosure, or opinion expressed or omitted; (ii) owe any duty of care or otherwise owed by TFT Group or its Representatives to the End User in respect of or in connection with this document; (iii) have any obligation to update this document or to correct any inaccuracies, incompleteness or omissions therein; and (iv) accept any responsibility or liability to any reader or third party for any damages, loss, cost or expense, or any loss of profits, business or anticipated savings or for any consequential loss whatsoever, whether directly or indirectly, due to or in connection with any negligence, error, misstatement, misrepresentation or omission by TFT Group or its Representatives.