

# Accommodation – Definition & Legal background

## *Principle:*

***Where accommodation is provided, it is safe, hygienic and conditions are acceptable.***

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## **LEGAL AND POLICY FRAMEWORK/DEFINITION**

Article 25 of the Universal Declaration of Human Rights (UDHR) provides that ‘Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including housing.’

In Malaysia, the Workers’ Minimum Standards of Housing and Amenities Act 1990 (MSHA) and its Regulations provide the specifics of what is required by law for all Malaysian businesses outside city/town councils.

In 2018, the Ministry of Human Resources developed [Guidelines for the Establishment of Minimum Standards for the Accommodation of Foreign Workers](#). Permanent accommodation within city / town councils should comply with these Guidelines which allow for accommodation to be provided in apartments, terrace houses, shop houses, town houses and any other accommodation that has been modified in accordance with the requirements of the local authorities.

In the case where workers are provided temporary accommodation within city/town councils, companies should adhere to the [Temporary Construction Site Workers’ Amenities and Accommodation – Code of Practice](#).

## **COST OF ACCOMMODATION**

Section 13 of the MSHA prohibits rent or charges for any housing, nursery, community hall, sports and other recreational facilities, sanitation, or allotment of land provided for workers under the MSHA.

However, after the establishment of the Minimum Wage Order 2016, employers have been permitted to apply for and obtain permission to make deductions for accommodation provided to workers.

Employers should ensure this possibility to charge for accommodation does not violate other obligations to provide free accommodation to workers, for example as conditions under guidelines or agreements with the countries of origin of foreign workers. Also no deduction may be made without the consent of the worker.

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## **UTILITIES – ELECTRICITY AND WATER**

Section 6 of the MSHA requires that the employer must provide adequate electricity supply. The adequacy of electricity supply shall be as determined by the Director General. There is no impediment to charging workers for electricity under the MSHA. If deductions are to be made for these charges from their wages, the approval of the Director-General must be obtained. Workers must consent to such a deduction in writing.

Section 6 of the MSHA requires that the employer must provide free and adequate piped water drawn from a public main. Regulations 16, 27 and 30 require that the water be potable. The adequacy of water supply shall be as determined by the Director General. There is no provision under the MSHA to limit the quantity of water workers may use or for a quota system, where usage above a certain limit must be borne by workers.

## **NURSERIES**

Section 10 MSHA provides that any plantation with at least 10 dependent children under 4 years of age may be required by the Director General of Labour, to establish a nursery. Once an order is made the nursery should be maintained regardless of a subsequent reduction in the number of dependents. Section 10 also outlines milk and play equipment should be supplied at the expense of employer to the dependents of the workers.

## **SCHOOLS**

The international definition of ‘child labour’ includes work that impedes access to education. Children or young persons who are found to be engaged in the work of their parents and who at the same time are unable to access education, are therefore at risk of being interpreted as being in a situation of child labour. By providing access to government standard education for both children and young persons, employers can minimise the risk of child labour.

## **COMMUNITY CENTRES**

Section 12 of the MSHA requires that where there are at least 100 workers residing at the place of employment, the employer should:

- i. construct and maintain in a satisfactory condition, a community hall capable of accommodating the number of persons specified by the Director General, at the place of employment
- ii. to provide facilities for sports and other recreational activities as may be specified.

## **MEDICAL TREATMENT**

Section 15 of the MSHA requires that a hospital or clinic established by the plantation may be required by the Director General if considered necessary. Additionally, even in cases where no hospital or clinic has been established on site, the employer must provide safe transport and make arrangements to provide safe transport to enable a sick worker or any sick dependent of workers, to receive medical treatment.

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## LAND FOR CULTIVATION BY THE OCCUPANTS OF THE AMENITIES

Section 11 of the MSHA requires that the employer is obliged to set aside land, which has been cleared, for allotment to workers with at least six months of service, for cultivation, grazing or partly cultivation and partly grazing.

The land allotted to workers should be of an area of 250 square metres and situated as near as possible to the houses of the workers. Land for grazing shall, except with the permission in writing of a Medical Officer of Health, be situated at a distance of at least 183 meters from the houses of the workers.

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