



# Definition & legal background – Ethical Recruitment

### *Ethical recruitment practices are in place*

*All recruitment practices are transparent and fair. All workers understand their terms of engagement, what is required of them and have written documentation in an appropriate language. The company has a due diligence system in place to ensure all third parties involved in recruitment (such as labour contractors or recruitment agencies) operate legally and responsibly.*

*- EF Respect of Workers Principles, Principle 5*

### BACKGROUND

Malaysia is a destination country for foreign labour migrants originating from countries such as Bangladesh, Indonesia, India, Myanmar, Nepal, Philippines and Pakistan. Workers are mostly sourced through government-to-government schemes, recruitment agents in Malaysia, or via direct recruitment using recruitment agents in their country of origin or a combination. The official terms and conditions for the recruitment of migrant workers, known as foreign workers are found on the [Immigration Department website](#).

### CONDITIONS FOR RECRUITMENT AGENTS TO OPERATE IN MALAYSIA

Under the [Private Employment Agencies \(Amendment\) Act 2017](#) (PEA Act 2017), companies that wish to recruit foreign workers must apply for a **Licence C** from the Ministry of Human Resources. This Act is applicable throughout Malaysia. As such, employers should only use agents in Malaysia that have the appropriate registration and documentation.

Category of License	Paid-up capital	Money Guarantee	Money Guarantee to establish a new branch
Licence A Job placement for a job seeker within Malaysia	RM50,000	RM5,000	RM5,000
License B Job placement for a job seeker within and outside Malaysia, and foreign domestic servant within Malaysia	RM100,000	RM100,000	RM30,000
Licence C Job placement for a job seeker within and outside Malaysia, and non-citizen employee within Malaysia	RM250,000	RM250,000	RM100,000

Second schedule, Private Employment Agencies (Amendment) Act 2017

**According to Section 8 in PEA Act 2017, it is an offense if the recruitment agencies operate without license. Recruitment agencies are liable to a fine not exceeding RM200k or imprisonment not exceeding 3 years or both.**



## PLACEMENT FEES

Jobseeker within Malaysia	Not more than 25% of the basic wages for the first monthly wages
Jobseeker employed outside Malaysia	Not more than 25% of the basic wages for the first monthly wages
Non citizen employee who is employed within Malaysia	Not more than one month of the basic wages for the first monthly wages

First schedule, Private Employment Agencies (Amendment) Act 2017

For East Malaysia (Sabah and Sarawak), foreign workers are covered under the Sabah Labour Ordinance and Sarawak Labour Ordinance respectively.

## DEFINITION OF A CONTRACTOR FOR LABOR (APPLICABLE ONLY FOR AGRICULTURAL UNDERTAKING)

Companies may also use the services of Contractors. According to [Malaysian Employment Act 1955 Section 33a](#), a contractor for labor is an entity who intends to supply or undertakes to supply any employee . The contractor shall register with the Director General in the prescribed form within fourteen days before supplying the employee.

As stated in the Act in Section 33a, every contractor "*shall keep or maintain one or more registers containing information regarding each employee supplied and shall make such registers available for inspection.*"

**Based on Section 33a in Malaysian Employment Act 1955, the contractor is liable to a fine not exceeding RM10k if the contractor operate without registering with the Director General, fails to keep or maintain any register, or make available any register for inspection as required.**

## OTHER OFFENCE & PENALTY

- Employers are liable to a fine not exceeding RM50k or imprisonment not exceeding one year or both if the employers imposed fee more than the specified in the [first schedule](#).

Employers are encouraged to keep up to date with official government websites to keep abreast of latest policy updates:

- [Malaysian Immigration Department](#)
- [Malaysian Ministry of Home Affairs](#)
- [Malaysian Department of Labour \(Peninsular Malaysia\)](#)
- [Department of Labour \(Sarawak\)](#)
- [Department of Labour \(Sabah\)](#)



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