



Accommodation – Definition & Legal background

The health and safety of the workforce is protected and where provided workers have access to safe, secure and hygienic living conditions.

Workers are protected from exposure to occupational health and safety hazards that pose a risk of injury, illness or death. Provision is made in case of accident and injury. All workers have access to accident insurance. When provided by the employer, living conditions are safe and hygienic and workers' health is protected. Segregated accommodation for families, single women and single men is provided. There is access to potable water and sanitation facilities for all workers.

- EF Respect of Workers Principles, Principle 6

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 2019](#) provide the specifics of what is required by law for all Malaysian businesses outside city/town councils. In 2020, the Act was amended, and the new requirements are enforceable as of September 2020. This document outlines key amendments for employers to take note of.

See list of amendment by section [here](#).

The Ministry of Human Resources also developed an updated [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](#).

EMPLOYER TO APPLY FOR ACCOMMODATION CERTIFICATION AND GIVE NOTICE OF OCCUPATION

Important to note that every employer should apply for each accommodation and centralized accommodation via [Accommodation Certificate Application System](#). To help with the process, [here](#) is the guideline for the application. Employers must inform the Director General if their employee has occupied any employer provided accommodation or by a centralized accommodation provider, within thirty days from the date of occupation.

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, according to Malaysian Employment Act 1955 (Section 24), it is stated that employers have been permitted to apply for and obtain permission to make deductions for accommodation provided to workers.



Employment Act 1955, Section 24

The following deductions shall not be made except at the request in writing of the employee and with the prior permission in writing of the Director General:

e) deductions in respect of the rental for accommodation and the cost of services, food and meals provided by the employer to the employee at the employee's request or under the terms of the employee's contract of service.

Under this section, 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.

ELECTRICITY, WATER AND MAINTANANCE

Section 6 of the MSHA requires that the employer must provide adequate electricity supply to the employees and their dependents. 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 OR provide free and adequate supply of potable piped water drawn from any other source that is filtered and treated. 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.

In the same section, MSHA also requires employers to ensure the accommodation building is in good condition and painted for a satisfactory appearance. It is the employer's responsibility to ensure that there are no alterations or changes made to the accommodation buildings.

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.

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

Under the 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, according to Section 18, 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.

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 meters 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.

APPOINTMENT OF PERSON IN CHARGE OF ACCOMMODATION

Section 24L of the MSHA stated that employers to appoint at least a person in charge (PIC) of accommodation provided. The PIC is responsible for the safety and well being of employees and the management of the accommodations and amenities. The PIC must:

- a) Ensure the employees comply with the disciplinary rules;
- b) Visit and inspect accommodation at least twice a month and keep a record of inspection;
- c) Ensure employees is taken to the nearby clinic or hospital if the employees complain of his health, or appear to be unwell, or suffering from any disease or medical condition and keep a record of complaints.

CORONAVIRUS DISEASE 2019 (COVID-19) GENERAL GUIDELINES FOR THE PALM OIL INDUSTRY

Due to COVID-19 crisis, some measures to prevent the spread of COVID-19 were taken place to protect the health and safety of the workers. [National Security Council Malaysia](#) has provided a [Standard Operating Procedure \(SOP\) for Agri-commodities sector](#). Below are some important general preventive measures that companies can emulate in the workplace and also at the workers accommodation.

- Each worker's body temperature must be checked using non-contact thermometer.
- Workers' attendance must be recorded and kept by the owner/management of the estate/plantation/mill.
- All workers to maintain good personal hygiene and practice physical distancing at least one meter from the other workers.
- All workers should wear face mask.
- Disinfection to be conducted at least twice a week using alcohol based disinfectant cleanser
- Hand sanitizers must be provided at strategic places

Companies that are found to not comply with the SOP could be subjected to compounding of offenses under the [Prevention and Control of Infectious Disease Act 1988 \(Section 25\)](#) and could be charged a fine not exceeding RM1000.



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