



Screening & Due Diligence Process For Recruitment Agents

SCREENING AND DUE DILIGENCE PROCESS FOR RECRUITMENT AGENTS

DISCLAIMER: Save for the section "Legal Compliance" below, which is drawn from the *Private Employment Agencies (Amendment) Act 2017*¹, the guidance provided here is based on best practices and international guidelines (i.e. the ILO Global Business Network on Forced Labour's "Due diligence toolkit for fair recruitment"²).

Screening

While different companies may have different internal procedures and requirements, the screening and due diligence process below set out a general non-exhaustive guideline for companies to consider supplementing their existing internal processes.

Legal Compliance

- Recruitment agents operating in Malaysia must be a registered business entity under Suruhanjaya Syarikat Malaysia (SSM).
- The recruitment agency must register with the Ministry of Human Resources for a License C which is required under the [Private Employment Agencies \(Amendment\) Act 2017](#) before they can carry out any recruiting activity in Malaysia.
- The recruitment agent must obtain appropriate work permits for the particular nature of work required by the company and ensure they do not exceed the quota of migrant workers permitted by the Ministry of Home Affairs.
- The recruitment agent should not have record of legal sanctions in the past 3 years.
- The recruitment agent in Malaysia must ensure they only partner with legally registered recruitment agents in the country of origin of the migrant workers.
- List of registered recruitment agencies in Malaysia can be found [here](#).

Social Policy

- The recruitment agent formally expresses a commitment to uphold the company's social standards, including standards relating to not using child labour, forced labour and bonded labour and any code of ethical conduct.
- The recruitment agent has written policy and commitments/statements that address social standards, including standards relating to not using child labour, forced labour and bonded labour and any code of ethical conduct.

Recruitment Fees & Expenses

- The recruitment agent has a policy stating that workers are not charged recruitment fees.
- The recruitment agent has a procedure for verifying that workers are not charged fees by agents and sub-agents.
- The recruitment agent must provide with a detailed breakdown of fees and costs to the company.

Employment Contracts

- The recruitment agent has a policy to ensure that workers' contracts meet legal and company requirements.

¹ [Private Employment Agencies \(Amendment\) Act 2017](#)

² ILO Global Business Network on Forced Labour (2019) "[Due diligence toolkit for fair recruitment](#)"

Commented [LN1]: 1. Heading? [@New Link](#)
2. I think it might be best to have a disclaimer here to state that this is best practice – and where it is a legal requirement, please cite and make a reference [@New](#)

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- The recruitment agent provides valid employment contracts to the workers clearly indicating the workers' principal employer and details of working and living conditions with sufficient time for workers to understand prior to signature.

Earthworm Foundation Human Rights Based Due Diligence Tool on Ethical Recruitment

Responsible businesses, consumers, international organisations and civil society are calling for ethical recruitment of workers in supply chains to promote worker rights and to eradicate forced labour and human trafficking. In Malaysia, complex government policies on the recruitment of migrant workers, lengthy administrative procedures, and the need for registered agents for hiring in countries of origin has often resulted in employers depending on recruitment agents, brokers and contractors to source migrant workers. While most companies conduct some form of basic due diligence on their recruitment and generally pay legally mandated fees in Malaysia, few look into the human rights impacts of their recruitment processes. Companies also have limited oversight on recruitment process and fees paid by workers they employ.

It is important to note that deception in recruitment, contract substitution and debt bondage are indicators of ethical recruitment/forced labour and debt bondage. This contradicts the No Exploitation commitments made by many major palm oil buyers and producers. Thus, due diligence is required by companies to ensure their operations and supply chains are not at risk of labour exploitation while promoting decent work opportunities.

What is the purpose of this tool?

The primary purpose of implementing this tool is to assist companies to fulfil their corporate responsibilities to respect workers' rights, particularly, their commitment on ethical recruitment practices. By undertaking a human rights due diligence on their recruitment practices, the companies will be able to: -

- i. increase transparency of recruitment practices, processes and costs;
- ii. assess the risks of its recruitment practices, and to prevent any unintended negative consequences to the company, business partners and suppliers as well as the workers;
- iii. understand the strength and gaps of its recruitment practices, and to undertake necessary actions to mitigate risks;
- iv. support information gathering to remedy any negative impacts resulting from any forms of unethical recruitment practices; and
- v. support reporting on recruitment practices to buyers, brands or other interested stakeholders.

Download the tool [here](#) for more details.



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This is a sample of due diligence screening questions that a third-party company or internal auditor may ask the company's recruitment agency.

Agent Evaluation Category	Key Questions
Cost structure of agent or agency	<ul style="list-style-type: none">• What fees are workers charged in the country of origin and in Malaysia?• What is the policy on loans to workers who cannot afford recruitment fees?• Do you offer a zero cost to workers recruitment option where the employer bears the full costs of recruitment?
Standard employment contract	<ul style="list-style-type: none">• What employment contract is used? Is it consistent with employer requirements/standards?
Geographic sourcing area	<ul style="list-style-type: none">• What are the local and regional trends in terms of fees workers are charged?• Are there any specific requirements for workers from certain countries?
Worker selection process	<ul style="list-style-type: none">• Are sub-agents used? And if so, how?• Are potential workers given an accurate representation of the type of job, working and living conditions?• What is the approach to pre-employment orientation?
Worker selection criteria	<ul style="list-style-type: none">• What is the method (if any) for skills and knowledge assessment?• What assurances are there that skill requirements are met?
Passport, travel, and medical examination process	<ul style="list-style-type: none">• Do workers hold their own passport throughout the entire recruitment process?• Is a medical examination conducted? If so, by whom and who bears the cost? Are the results shared with the prospective workers?• How are travel and logistical arrangements made?• How are domestic travel arrangements made? Who bears the cost?
Pre-departure orientation	<ul style="list-style-type: none">• Was an orientation session performed, and by whom?• What topics were covered in the orientation?• How does the orientation align with the factory/mill/estate orientation program?

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