



# Definition & Legal Background - Accommodation

The health and safety of the workforce is protected and where provided workers have access to safe, secure and hygiene 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 for Workers Principle, Principle 6](#)

## LEGAL BACKGROUND

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 [Employees' Minimum Standards of Housing, Accommodation and Amenities Act 1990](#) 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 as follows:

- i. [P.U.\(A\) 247 Nurseries](#)
- ii. [P.U.\(A\) 248 Processing Fees for Application of Certificate for Accommodation](#)
- iii. [P.U.\(A\) 249 Maximum Rental or Charges for Accommodation](#)
- iv. [P.U.\(A\) 250 Accommodation and Centralised Accommodation](#)

Below shows some of the obligations under the Amended [Act \(P.U.\(A\) 250\) Accommodation and Centralised Accommodation](#) and the repercussions that may follow for non-compliance:

1. Employers or centralised accommodation providers shall obtain a Certificate for Accommodation from the Director General (DG) for Labour Department Peninsular Malaysia to accommodate the employees in the premises. An employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding RM50,000 while the centralised accommodation provider who contravenes

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- this section commits an offence and shall on conviction, be liable to fine not exceeding RM50,000 or to imprisonment for a term not exceeding 1 year or to both ([Section 24D](#)).
2. An employer is required to inform the DG of such accommodation occupied by his employee within 30 days from the date an employee occupies the accommodation. Failing to do so is an offence and the employer shall, on conviction, be liable to a fine not exceeding RM10,000 ([Section 24E](#)).
  3. An employer or a centralised accommodation provider has the duty to ensure that every accommodation provided for employees complies with minimum standards ([Section 24F](#)) and that decent and adequate amenities are provided ([Section 24I](#)).
  4. An employer or a centralised accommodation provider shall not use any building as accommodation if the building is unfit for human habitation ([Section 24H\(1\)](#)). Contravention of this provision is an offence which carries a fine not exceeding RM50,000 ([Section 24H\(2\)](#)).
  5. Employers are allowed to collect from an employee rental charges for the accommodation provided by the employer or any centralised accommodation provider ([Section 24G](#)). The maximum rental that may be collected by an employer from an employee shall be RM100 ([Section 2 of P.U. \(A\) 249](#)).
  6. An employer or a centralised accommodation provider shall appoint at least one person in charge of accommodation who will be responsible for the safety and well-being of the employees and the management of the accommodation and amenities ([Section 24L\(1\)](#)).
  7. The employer is not obligated to provide accommodation for the employees' dependants.

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](#).

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### EMPLOYER TO APPLY FOR ACCOMMODATION CERTIFICATION AND GIVE NOTICE OF OCCUPATION

Important to note that every employer should apply for each accommodation and centralised accommodation via [Accommodation Certificate Application System](#). To help with 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 centralised accommodation provider, within 30 days from the date of occupation.

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### COST OF ACCOMMODATION

Section 13 of the Employee's Minimum Standards of Housing, Accommodation and Amenities Act 1990 (MSHA 1990) 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.

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**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 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 migrant workers. No deduction may be made without the consent of the worker, and the relevant authority.

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**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 kept in a good state of repair and painted to present a satisfactory appearance. It is the employer's responsibility to ensure that there are no alterations or changes made to the accommodation buildings.

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**NURSERIES**

Section 10 of the 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.

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**COMMUNITY CENTRES**

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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.

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### 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.

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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 250m<sup>2</sup> 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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### 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 wellbeing of employees and the management of the accommodations and amenities. The duties of PIC of accommodation include the following:

- 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) Record any updates and findings in a file for future references;
  - d) Check for any problems at the accommodation area so it can be rectified and resolved as soon as possible;
  - e) Ensure an employee is taken to a clinic or hospital if the employee complain of his health, or appear to be unwell or suffering from any disease or medical condition; and
  - f) Keep a record of complaints.
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