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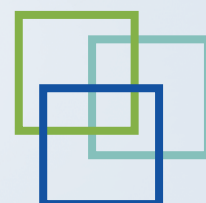
Travel Smart – Work Smart

A guide for migrant workers in Malaysia



Promoting safe migration and protecting migrant workers

ILO Regional Office for Asia and the Pacific



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Notes

Are you working or planning to work in Malaysia?



The information in this booklet can help you feel more secure, work safely and profitably, and avoid exploitation and abuse!

The best person to look after **your** interests is **you!**



So Travel Smart – Work Smart!

Why be concerned?



Every day many people – just like you – enter Malaysia for work. While most encounter no major problems, some are abused by their employers, have their wages withheld or find themselves virtual prisoners with no one to call for help.

There are ways to avoid this, and if you're being abused, there are people who can help you in Malaysia.



You have rights

Regardless of your legal status, you are entitled to the respect and protection of your human rights – to live free from harassment and exploitation.

This guide will inform you about your rights – and your responsibilities – while you are working in Malaysia. The information can help you protect yourself from people who want to take advantage of your situation as a migrant.

Know the following!



You should have a contract. If you are asked to sign a contract after arriving in Malaysia, ask someone you trust for help to review this contract before you sign it. A contract is important because it is a legal document that states the duties and obligations of both your employer and you as a worker. Make sure you understand all the terms in the contract, and keep a copy for yourself. At minimum, the contract should include details of:

- * your name and your identity card number (if issued);
- * work address;
- * your employer;
- * your salary and benefits;
- * work hours (not above 8 hours per day);
- * how overtime payment is calculated;
- * leave entitlements;
- * any deductions that are to be made;
- * your duties; and
- * details about contract termination.



*** Your employer must provide you with accommodation that meets your basic needs.** Ask if you are required to pay the costs back. Calculate how you will make these repayments. If you work in the plantation or mining sector, your employer must comply with the Workers Minimum Standards of Housing and Amenities Act 1990.

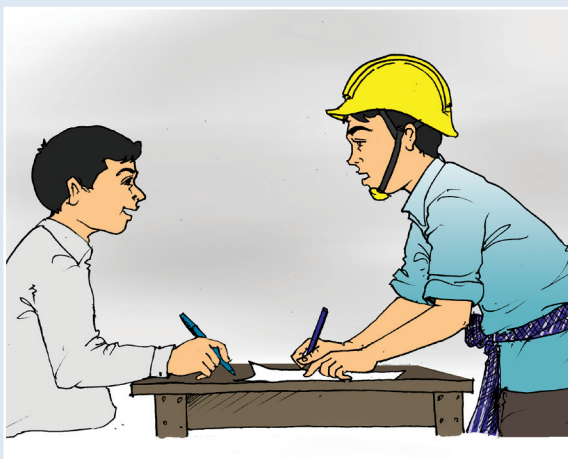
*** Your employer may make deductions from your salary.** These may include foreign worker levy fee, work permit costs, the Hospitalisation and Surgical Scheme for Foreign Workers (SPIKPA) insurance premium, accommodation rental, and electricity and water charges from your accommodation. Get all of this information and any agreements in writing.

*** Tell your family the name, phone number and address of your employer.** Stay in regular contact with your family. Agree that if they do not hear from you within a certain amount of time to seek help. Make sure your family has details and copies of your identification documents (like passport, visa number, and work permit) and your contract.



*** It is very difficult to change your employer and keep your status as a regular migrant. You can only change your employer** if you obtain permission from the Ministry of Home Affairs. You can contact one of the organisations noted at the back of this booklet for help.

*** When your contract is finished, if you get dismissed, or if you don't obtain a clean bill of health or you become pregnant, you might be repatriated to your country.**



Your rights as a migrant worker in Malaysia

As a registered migrant of any age, you have the right to complain and seek protection if any of your rights are violated or you have been abused by your employer. If you feel you have been cheated, wronged or treated in a way that discriminates against you because you are not Malaysian, your rights may have been abused – see the contact details at the back of the book and seek assistance.

Women and men have the right to receive the same wages where the work is the same. Some of your rights are outlined below.

How to defend your rights

-  If your employer breaches the terms and conditions of employment, you can lodge a complaint with the Labour Department for adjudication, and if you are wrongfully dismissed, with the Industrial Relations Department within 60 days.
-  Your employer can only dismiss you for a serious reason such as theft or being absent from work for more than two days and not informing your employer. Before your employer can dismiss you from work, he or she must first give you a warning letter and must hold a domestic enquiry.
-  You can file a complaint for investigation or file a case at the Labour Department if:
 -  Your wages are not paid for more than 2 months.
 -  There are wrongful deductions from your salary.
 -  Your overtime is not paid.
 -  You are not allowed to take rest on your rest day.
 -  Your employer refuses to give annual leave.
 -  Your employer refuses to provide a pay slip with details of your salary, overtime calculation and any deductions.
 -  You do not have an employment contract.
 -  There is an incident of sexual harassment.
-  If your work permit is cancelled by your employer after you file a labour case, you can apply for a Special Pass or Temporary Visa at the Immigration Department which permits you to stay in the country for 30 days, renewable. The fee costs 100 Malaysian Ringgit (MYR). You will need to renew the Special Pass three days before the expiry date.
-  You have the right to join a trade union (although you cannot hold any official position), even if your employment contract says otherwise. It would be good for you to know which trade union represents your work-place/sector of work, although you should make sure that your work permit does not forbid you to join one. You can always contact the trade union for assistance, even if you are not able to join.



You have the right to keep your documents. Keep your passport, visa, work permit and employment documents with you all the time. Your employer must give you your identity card (if issued by immigration). Your identity card is evidence of your regular status in Malaysia. Do not give the originals to your employer or your recruitment agents even if they say they are for safekeeping. Make sure you photocopy all the documents and send the copies to your family back home. Also keep spare copies with you.



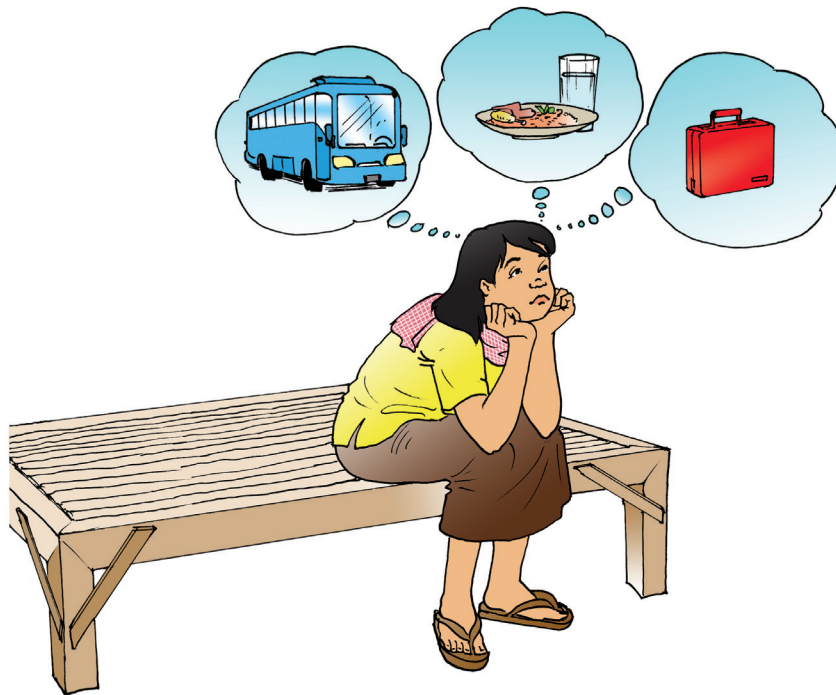
You have the right to working days off. Most workers have the right to 8 working days off each year before two years of service, 12 between two and five years, and 16 after five years of service. There are 11 official Malaysian public holidays.



If you work on public holidays, your employer should pay you three times the normal hourly rate.



If you have to work on a rest day, your employer should pay you two times the normal hourly rate.



- * You have the right to take medical leave.** You should get a medical certificate from the doctor and inform your employer immediately, preferably on the same day.



- * You have the right to receive your income during a period of illness.** Most workers are entitled to a maximum of 14 days of paid sick leave without hospitalisation if they have less than two years of service, and 18 for workers with two to five years of service. Every worker is entitled to 60 sick leave days when hospitalized.



- * You have the right to be paid once a month, not later than the seventh day after the last day of any wage period. You have the right to be paid to a bank account and to be given a pay slip.**



- * You have the right to go out of your workplace during your free time.**

- * You have the right to freedom of movement.** Your employer cannot restrict your movement. Your employer does not have the right to lock your room. You have the right to lock your room from the inside.

- * You have the right to receive notification if your employer wishes to terminate your employment when no specific term of employment is set out in your contract.**





You have the right to get paid for work completed even if you are arrested, if you quit your job or if you are fired. Your employer cannot withhold your wages under any circumstances. If in doubt, contact one of the groups listed in this booklet for more help. Most workers have the right to claim for pay for unused leave days.

If you are a domestic worker, some of the rights explained below may not apply to you. You need to negotiate these with your employer. Although labour laws do not cover you, you are entitled to termination notice, unpaid wages protection, and for the payment of your wage to be made into bank accounts.



You have the right to 1 day off each week. You can refuse to work on your day off. If you agree to work on your day off, you are entitled to get paid two times the hourly rate.



You have the right to rest time of at least 45 minutes per day. This rest time must be offered not more than 5 hours after you started work.



You have the right to refuse to work overtime. The maximum working time is 48 hours per week. If you agree to work more than the normal working hours, your employer is required to pay you overtime (1.5 times your normal wage but total working time should not exceed 12 hours per day).

Your responsibilities as a migrant worker

- * If you experience problems at work, talk to your family, a friend, your employer, or to the recruitment agency first. If the problem is not resolved, you should contact a Malaysian Government authority, an NGO, your embassy or the Malaysian Trade Union Congress (MTUC) for help. Some helpful contacts are included in this booklet.
- * If you want to take leave, make sure you inform your employer beforehand. Extended leave without telling your employer could be grounds for termination of your contract.
- * If you are sick and cannot go to work, inform your employer as soon as possible and get a medical certificate.

Know your status

Am I a regular migrant worker?

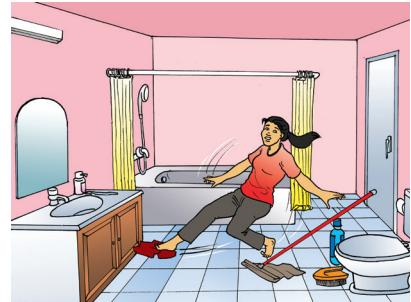
A regular migrant requires a passport, visa and work permit. You can get this through entering Malaysia with a licensed recruitment agency.

As a regular migrant worker:

- * **You have the right to travel anywhere within Malaysia.** It is best to inform your employer if you plan to travel.
- * When your contract is finished, if you get dismissed, or if you don't obtain a clean bill of health, you might be repatriated to your country.



- * **You need to get compulsory health insurance protection** under the Hospitalisation and Surgical Scheme for Foreign Workers (SPIKPA). It should provide for hospitalisation, surgery and the cost of treatment of foreign workers at government and private hospitals, and involves cashless admission only by showing your passport. If you work in a plantation or are a domestic worker, your employer should finance it. If you fail to buy it, you will not be permitted to renew your work permit.



- * **You should be insured by the Insurance Scheme under the Workmen's Compensation Act (1952).** It entitles you to compensation for death and for permanent loss of amenity during and outside working hours. Every worker should receive an insurance card. If you have not received it, request it from your employer. If your employer fails to insure you, he will have to pay a fine.



If you get stopped or arrested by the police

- * If you are stopped by the police, only give your name, identity card number and address.
- * Do not allow the police officer to put his or her hands into your pockets or bags. Voluntarily take out your belongings yourself one by one in his or her presence, stating the name of each item as it is removed. When your pockets/bags are empty, turn them inside out.
- * The police can only arrest you on suspicion of committing a crime, for example theft, murder, selling drugs, or for not being in possession of your passport.
- * Ask why you are being arrested, but do not resist.
- * You have the right to make a telephone call to a relative, a friend, a lawyer, or you may also call a nearby Legal Aid Centre (LAC).
- * If you get arrested for an immigration offence, you may be detained up to 14 days.



If the police want to search you, only a female officer can do a body search on a female. It must be carried out with decency. The officer is not allowed to touch your private parts.

You are under arrest when the police tell you “you are under arrest” or handcuff you, if they do not allow you to leave or want to take you back to the police station. If you are not under arrest, you may walk away or refuse to follow him or her back to the police station or anywhere else.

If you are taken to a magistrate court:

- * Ask for your court case number and a copy of your charge sheet.
- * You have the right to be represented. Ask for a lawyer or assistance from the Legal Aid Centre. Ask for an interpreter.
- * Take time to understand the charges and the punishments/penalties of the charge.
- * Do not plead guilty if you do not understand the charges. If you want to plead guilty, you have the right to mitigate for minimum sentence and NO whipping.

Know your rights after arrest and during detention:

- * You are not obliged to provide a statement to the police.
- * You are only obliged to give your full name, age, address and occupation.
- * Information that you give to the police can be used as evidence in court if you are charged.
- * You have the right to remain silent. You can say “I will answer in court” if you choose to be silent.
- * You will be questioned and asked to give a statement. Note the name and the rank of the police officer questioning you if you decide to give a statement.
- * You have the right to contact a lawyer or Legal Aid Centre.
- * If you are a refugee or asylum seeker, call the UNHCR hotline number (012630 5060).

Special notes for female migrants

- * **You are entitled to the same wage as male migrants** performing the same job.

As a foreign worker, maternity protection does not apply to you. You should negotiate these rights with your employer.



Special notes for young migrants

- * **All children below the age of 18, including migrants, are not allowed to work in Malaysia.** If you are underage and unaccompanied, seek help. Do not falsify your age if you are asked by the authorities.



Ways to keep safe

Be careful:

-  **Of anyone who befriends you with promises of an easy job with good pay** – they could be lying to you.
-  **Of anyone who offers to help you find other work or offers you a better job** – they might be earning a commission to recruit you and this could mean that your best interests are not their top priority.
-  **Of anyone who demands to keep your passport or identification documents** – this leaves you vulnerable because you need these documents in order to move around. Never leave your passport with a broker or an employer – your passport is your personal possession and you have the right to hold it yourself.
-  **Don't trust strangers!** Even friendly ones – male or female. However do try to make some friends in Malaysia and meet other migrants from your country.
-  **Learn your way around.** Find the location of the nearest temple, church or mosque, as well as police stations and hospitals. These places could offer sanctuary if you are in trouble.
-  **Do not trust a broker who tells you he/she can register you with the authorities or get you a work permit!** If you are already legally registered with your Malaysian employer and hold a valid work permit with that employer, it is your employer's responsibility to help you get a renewal.



Getting help

Phoning home: If you are living in Malaysia and want to phone home, first you have to dial an international access code <from Malaysia dial – 00> then your country code <855 for Cambodia> <856 for Lao People's Democratic Republic> <95 for Myanmar> and then your local area code and number.



Everyone is entitled to receive help – regardless of their situation!

If you do not understand anything in this booklet or if you need help but are afraid to approach the authorities, you may contact one of these organizations for help **without fear** of arrest or deportation.

Home country embassy in Malaysia:

Cambodia	Royal Embassy of Cambodia 46 Jalan U Thant, 55000 Kuala Lumpur Tel.: (+60) 3 4257 1150
Lao PDR	Embassy of Lao People's Democratic Republic 7, Jalan Mesra, off Jalan Mesra 55000 Kuala Lumpur Tel.: (+60) 3 2148 7059
Myanmar	Embassy of the Republic of the Union of Myanmar No. 8C, Jalan Ampang Hilir, 55000 Kuala Lumpur Tel.: (+60) 3 4251 6355/ 4251 5595/ 4251 4455 Email: chawsumya@gmail.com
Viet Nam	The Labour Management Section, Embassy of the Socialist Republic of Vietnam Fl 4, West Block, Wisma Selangor Dredging Jalan Ampang, 50450 Kuala Lumpur Tel.: (+60) 3 2161 1762 Fax: (+60) 3 2161 1921 Email: labourkl@yahoo.com Embassy of the Socialist Republic of Vietnam in Malaysia No 4. Persiaran Stonor, Kuala Lumpur 50450 Tel.: (+60) 3 2148 4858 / 2148 4534 / 2148 4036 / 2164 1909 Fax: (+60) 3 2148 3270/2163 6334 Email: vnemb-my@mofa.gov.vn

Government authorities

Organization	Phone number
For immediate help* (Victim of trafficking)	999
Police*	999
SMS Helpline for labour rights	(+60) 1 2223 4357

**This number is available 24 hours per day*

Non-Governmental Organizations (NGOs)

Organization	Contact address
Tenaganita (Main office)	No. 38, Jalan Gasing, 46000 Petaling, Malaysia Tel.: (+60) 3 7770 3691; (+60) 3 7770 3671
Legal Aid Centre Kuala Lumpur (Bar Council)	9th floor, Wiama Kraftangan, No. 9, Jalan Tun Perak, 50050 Kuala Lumpur Tel.: (+60) 3 2691 3005; (+60) 3 2693 2072
Legal Aid Centre Johor Baharu (Bar Council)	Johor Legal Aid Centre Tingkat 5, Mahkamah Sesyen & Magistret, Jalan Ayer Molek, 80000 Johor Bahru Tel.: (+60) 7223 5698

Organization	Contact address
Malaysian Trade Union Congress, Penang (MRC)	2958 Jalan Prai Taman Indrawasih 13600 Prai, Penang Tel.: (+60) 4398 1175 H/P: (+60) 1 9475 6897
Malaysian Trade Union Congress – Headquarters (MRC)	Wisma MTUC, 10-5, Jalan USJ 9/5T, 47620 Subang Jaya, Selangor Tel.: (+60) 3 8024 2953
Labour Office Kuala Lumpur (for labour and industrial accident claims only)	Tingkat 9, Menara PERKESO 281, Jalan Ampang, 50532 Kuala Lumpur Tel.: (+60) 3 4141 4600
Labour Office Selangor (for labour and industrial accident claims only)	Suite A405-7 Tingkat, 3A, West Wing, Wisma Consplant 2, No. 7, Jln SS 16/1, 47500 Subang Jaya, Selangor Tel.: (+60) 3 5636 1605; (+60) 3 5632 8800
Labour Office Johor (for labour and industrial accident claims only)	JTK Cawangan Johor Bahru Tingkat 9 & 10, Menara Ansar, 65, Jalan Trus, 80000 Johor Bahru, Johor Tel.: (+60) 7224 3188/89



Notes

Notes

You have rights – and responsibilities!

Knowing these can help you avoid abuse
and make the most of your time in Malaysia.

Be aware!

This booklet gives you advice on how to live and work safely
in Malaysia and what to do if you need help.

Travel Smart – Work Smart!



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Promoting safe migration and protecting migrant workers