



International
Labour
Organization

► Post-arrival orientation for migrant workers in Malaysia

Facilitators' Guidelines



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Facilitators' Guidelines

Fundamental Principles and Rights at Work Branch (FUNDAMENTALS)

Labour Migration Branch (MIGRANT)

International Labour Organization (ILO)

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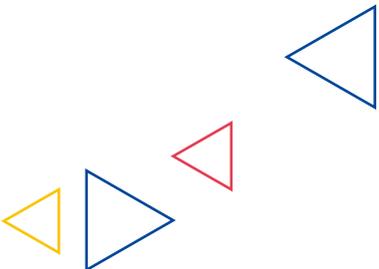
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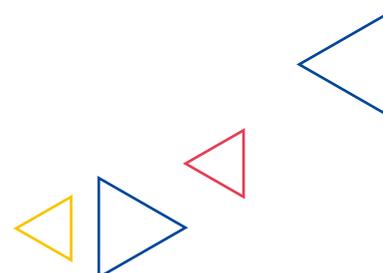


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Overview



Objectives of the Facilitators' Guidelines

These *Facilitators' Guidelines* are designed to contribute towards improving and supporting migrant workers' access to information about their rights at work and access to services in Malaysia. They draw upon a vast amount of publications and stakeholder interviews on various aspects of labour migration in Malaysia. Their aim is to assist facilitators who will conduct and implement post-arrival orientation training courses for migrant workers in Malaysia. Their specific objectives are as follows:

- To increase awareness among migrant workers of their rights and responsibilities upon arrival in Malaysia; and
- To increase the stakeholders' capacity to develop and implement post-arrival orientation training for migrant workers in Malaysia in line with national laws and international labour standards.

Structure of the Facilitators' Guidelines

The Facilitators' Guidelines consist of five modules that focus on the most significant aspects of a migrant worker's life in Malaysia. Each module, varying in length, is designed to last approximately half a day, and the complete post-arrival orientation training course can be delivered within two days. However, facilitators using these guidelines are encouraged to tailor the curriculum and the training materials to their audiences, taking into consideration factors such as the number of participants, the composition of the audience, the sector in which the participants are working, and the duration of the session. The training can be adapted to suit the composition of the audience by selecting or omitting specific sections within each module as appropriate.

The training is divided up into the following five modules:

Module No.	Content	Duration
1	Living and working in Malaysia provides information on ways to facilitate the process of adapting to life in Malaysia. This module highlights the psychological and emotional experiences of new migrant workers, as well as the social norms in Malaysia, and gives advice on communication skills with others in the country.	160 minutes
2	Workers' rights and responsibilities and employers' obligations in Malaysia. This module focuses on migrant workers' rights at work.	185 minutes
3	Challenges commonly experienced by migrant workers in Malaysia. This module addresses the risks of labour rights violations, violence and harassment at the workplace, substandard living and working conditions, and forced labour – which migrant workers may experience during their stay in the country.	80 minutes
4	This module, Seeking assistance through formal and informal grievance mechanisms , takes into account challenges that migrant workers may face and provides information on ways migrant workers can seek assistance in these cases.	65 minutes
5	The module Money and migration provides fundamental advice to migrant workers on the management of their personal finances, as well as on ways to remit their earnings back home to their countries of origin.	110 minutes

Tips for facilitators

Who should be a facilitator?

With a few hours of preparation, any trainer who is familiar with the labour migration situation in Malaysia should be able to use these *Facilitators' Guidelines* and organize a post-arrival orientation training course. Preparation involves becoming familiar with the contents of the *Guidelines* and the activities contained therein. The facilitator does not have to be a certified trainer or a training expert. The *Facilitators' Guidelines* are designed to be used by a wide array of stakeholders including trade union leaders, migrant workers' leaders, civil society organizations, consulates and embassies, employers and recruiters. A facilitator may adapt this tool to another language and/or deliver the training with the support of an interpreter when necessary.

Be familiar with the training materials

A facilitator must be familiar with the content of the *Guidelines*, as well as the activity materials and tools designed to support the implementation of the training – which include quizzes, role-plays and case studies. These materials and tools are designed to encourage the participation of those attending the training course. *The Facilitators' Guidelines* also include key resources to provide facilitators with further information on labour migration and migrant workers' experiences in Malaysia.

Training agenda

The training course is designed to take place over two days, and a suggested training agenda is included in the *Facilitators' Guidelines*. However, the modules are designed in such a way that they can be adapted to suit a specific context, audience or purpose. The length of the training can be reduced or extended accordingly.

Read the room

The Facilitators' Guidelines are designed to maximize engagement and interaction with the migrant workers, who must be reassured that the

training course is a safe space for asking questions and seeking answers. The facilitators are encouraged to foster an environment conducive to open communication and to “read the room” by considering the composition of those attending the training and asking themselves the following questions:

► Who are the participants attending the training?

Every training session and audience will be different. Consider which countries the participants come from and the languages they speak. Ask them how they prefer to communicate. Facilitators may sometimes require the assistance of translators or visual aid tools to communicate with their audience to ensure that their message is clearly understood. In training sessions with a diverse audience, it may be helpful to seat participants of the same nationality - or who speak the same language - together so that they can work through activities in a common language.

► How many participants will be in the training?

The number of participants can significantly impact the way facilitators connect with their audience. Consider ways in which the layout of the room where the training is conducted can be used to foster and facilitate easy communication and the sharing of ideas. If there is a large group of participants, break them up by seating them in small groups in “cabaret style”. Facilitators are encouraged to view the meeting venue in advance so that they can envisage how participants may be arranged during the training.

► How can I engage the audience?

Most of the participants attending the training course will be migrant workers migrating for work for the first time. Classroom settings may be unfamiliar and intimidating. Avoid presenting only from the front of the room or behind a table; walk around and speak directly to the participants. Facilitators can also help build up the participants' confidence by asking them questions to encourage a discussion or seek their opinion. The questions may either be general, such as “Do you have any questions on this part of the module?” or “How is this

different from the practices in your home country?"; or they may be specific and address a particular part of the module. Facilitators are also encouraged to recap what has been presented at the end of the session to ensure that the participants have followed the flow of the training course.

Use inclusive language

The way facilitators speak reflects the way they think about others. Using language and terms that are inclusive, people-first and rights-based will make the audience feel valued and respected. Inclusive language also helps to challenge discriminatory views, prevents false assumptions being made about people, and avoids reinforcing negative attitudes towards a group of individuals.¹ When conducting the training course:

- Whenever possible, use gender-neutral terms;

- Avoid expressions that are patronizing such as 'the girls who work here' or statements that reinforce stereotypical gender roles such as "it is the women in the house who will clean";
- Avoid referring to personal characteristics such as sex, religion or racial group when it is not necessary to do so;
- Avoid constructing examples that use gender or other forms of stereotypes;
- Avoid statements that inaccurately generalize characteristics of a group of individuals;
- Avoid 'positive' or patronizing comments based on stereotypes such as, 'You speak such good English!'

The following table contains acceptable alternatives to everyday terms that are used in the context of labour migration in Malaysia.²

Non-acceptable terms	Acceptable terms
Alien worker, foreign worker, illegal worker, <i>pendatang</i>	Migrant worker
Illegal migrant	Undocumented migrant, irregular migrant, migrant with irregular status
Labour import/labour export	Labour migration, cross-border migration, cross-border movement
Maid, helper, servant	Domestic worker
Prostitute	Sex worker
Slaves	Persons having fallen in a situation of forced labour

¹ See ILO: *Public attitudes towards migrant workers in Japan, Malaysia, Singapore and Thailand*, (2019), available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_732443.pdf

² See ILO: *TRIANGLE in ASEAN. Labour migration: Inclusive terminology*, available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/projectdocumentation/wcms_732757.pdf

Be prepared to be flexible and clear with your instructions

Facilitators should not only prepare for the presentation of the modules in these *Guidelines* but also understand how the exercises and activities will work best for their intended audience. Be clear when introducing activities and materials to participants and, if necessary, repeat the instructions to smaller groups. Participants may be uncertain about what they have to

do despite a clear presentation. Facilitators are encouraged to move around the room to ensure that participants are on track and to take questions if they arise.

Some sessions may not go as planned and participants may express a preference for knowing more about one module and spending less time on the others. Facilitators may need to balance content delivery with the participants' interests.

Glossary of key terms

Coercion	Compulsion, whether legitimate or not, by physical force or threat thereof. Coercion may also be economic in nature, where one uses his or her control over a particular resource to influence the behaviour of another (<i>See also forced labour</i>).
Country of destination	In the migration context, a country that is the destination for a person or a group of persons, irrespective of whether they migrate regularly or irregularly.
Country of origin	A country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly.
Culture	Term used to describe the symbolic organization of a social group and the values that the group chooses for itself in its relations with other groups. It may also refer to an accumulation of customs, beliefs, language, ideas, aesthetic tastes, technical knowledge, value systems and lifestyles.
Detention	Restriction on freedom of movement through confinement that is ordered by an administrative or judicial authority. There are two types of detention: criminal detention, having as a purpose punishment for the committed crime; and administrative detention, guaranteeing that another administrative measure (such as deportation or expulsion) can be implemented. In the majority of countries, irregular migrants are subject to administrative detention, as they have violated immigration laws and regulations that are not considered to be crimes. In many States, a non-national may also be administratively detained pending a decision on refugee status or on admission to or removal from the State.
Discrimination	A failure to treat all persons equally where no objective and reasonable distinction can be found between those favoured and those not favoured. Discrimination is prohibited in respect of "race, sex, language or religion."
Documented migrant	A migrant worker or members of his or her family authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party.
Forced/ compulsory labour	All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.
Gender	Refers to the set of roles, responsibilities, constraints, opportunities, and privileges of women and men in any context. Those attributes are learned and socially constructed, changeable over time and can vary within and between cultures.
Health	Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.
Hearing	The opportunity to be heard or to present one's side of a case before a tribunal.

Glossary of key terms

Identity document	An official piece of documentation issued by the competent authority of a State designed to prove the identity of the person carrying it. The most common identity documents are national identity cards and passports.
Immigration status	Status of a migrant under the immigration law of the host country.
Jurisdiction	A government's general power to exercise authority over all persons and things within its territory, or the geographical area within which such authority may be exercised. More specifically, it may refer to the legal power or authority to hear and determine a cause of action.
Labour migration	Movement of persons from one State to another, or within their own country of residence, for the purpose of employment.
Lawful	Not contrary to law; conforming to or permitted by law.
Migrant worker	A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.
Migration	The movement of a person or a group of persons, either across an international border, or within a State.
Passport	A document issued by the competent authority in a State identifying a person as a national of the issuing State, which is evidence of the holder's right to return to that State.
Remittances	Monies earned or acquired by non-nationals that are transferred back to their country of origin.
Undocumented migrant	A non-national who enters or stays in a country without the appropriate documentation. This includes, among others: a person (a) who has no legal documentation to enter a country but manages to enter clandestinely; (b) who enters or stays using fraudulent documentation; or (c) who, after entering using legal documentation, has stayed beyond the time authorized or otherwise violated the terms of entry and remained without authorization.
Work permit	A legal document issued by a competent authority of a State giving authorization for employment of migrant workers in the host country during the period of validity of the permit.

Suggested training agenda

Post-arrival orientation training

Day 1	
Time	Agenda item
9.00am – 9.30am	Registration and arrival of participants
9.30am – 9.40am	Introduction
9.40am – 10.05am	Activity 1 – Yes/No/I don't know
10.05am – 10.25am	Lecture 1.1: Understanding Malaysia
10.25am – 10.55am	Lecture 1.2: Conditions for living and working in Malaysia
10.55am – 11.10am	Activity 2 – True/ False
11.10am – 11.30am	Tea break
11.30am – 11.50am	Lecture 1.3: Communicating with employers and colleagues
11.50am – 12.20pm	Activity 3 – Role play
12.20pm – 12.40pm	Lecture 1.4: Taking care of general health and hygiene
12.40pm-1.40pm	Lunch break
1.40pm – 1.55pm	Lecture 2.1 : Main employment legislation in Malaysia
1.55pm – 2.15pm	Lecture 2.2: Overview of the responsibilities of employers in Malaysia
2.15pm – 2.30pm	Lecture 2.3: Overview of the responsibilities of migrant workers in Malaysia
2.30pm -3.00pm	Activity 4 - Group discussion
3.00pm – 3.15pm	Tea break
3.15pm – 4.00pm	Lecture 2.4: Rights at work
4.00pm – 4.20pm	Activity 5 - True/false
4.20pm – 4.30pm	Lecture 2.5: Joining a trade union
4.30pm – 4.40pm	Lecture 2.6: Sexual harassment
4.40pm – 5.00pm	Activity 6 - Situation/behaviour/impact technique

Day 2	
Time	Agenda item
9.00am – 9.30am	Registration and arrival of participants
9.30am – 10.00am	Recap
10.00am – 10.10am	Lecture 3.1: Workplace conflicts
10.10am – 10.30am	Lecture 3.2: Labour rights violations
10.30am – 10.40am	Lecture 3.3: Substandard working and living conditions
10.40am – 10.50am	Lecture 3.4: Violence and harassment
10.50am – 11.10am	Tea break
11.10am – 11.40am	Activity 1 – Case study
11.40am – 11.50am	Lecture 4.1: Informal dispute resolution for workplace grievances
11.50am – 12.00pm	Lecture 4.2: Internal worker grievance mechanisms
12.00pm – 12.15pm	Lecture 4.3: Formal dispute resolution for workplace grievances
12.15pm – 12.25pm	Lecture 4.4: Assessing support services to access justice
12.25pm – 12.45pm	Activity 2 – Case study
12.45pm – 1.45pm	Lunch break
1.45pm – 1.55pm	Lecture 5.1: Understanding the terms of the contract and employment benefits
1.55pm – 2.10pm	Lecture 5.2: Setting financial goals and making a budget
2.10pm – 2.40pm	Activity 3 – Making a budget
2.40pm – 2.50pm	Lecture 5.3: Keeping track of the money
2.50pm – 3.20pm	Activity 4 – Identifying needs vs. wants
3.20pm – 3.40pm	Tea break
3.40pm – 3.55pm	Lecture 5.4: Remitting home smartly
3.55pm – 4.15pm	Q & A and participants' recap of salient points from days 1 and 2 of training



Living and working in Malaysia



▶ 1



► Objectives

To provide an introduction of Malaysia to migrant workers, including information about the social norms, social etiquette and cultural practices of Malaysian society;

To inform migrant workers of – and prepare them for – the emotional and psychological challenges they may experience as they adapt to life in Malaysia;

To inform migrant workers about the relevant immigration laws governing labour migration in Malaysia and to prepare them for handling these.



► Recommended agenda

Focus area	Timing	Activities and materials
understanding Malaysia	25 minutes 20 minutes	Activity – Yes/No/ I don't know Lecture
Communicating with employers and colleagues	20 minutes 30 minutes	Lecture Activity – Role Play
Taking care of general health and hygiene	20 minutes	Lecture
Total Time	160 minutes	

▶ 1.1 Understanding Malaysia

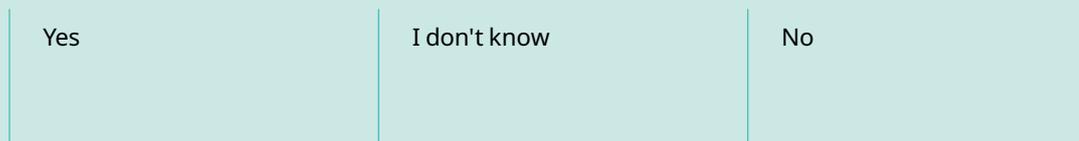
Activity

Understanding Malaysia

Duration: 25 minutes

Materials: None

- i. The facilitator should divide the hall into three imaginary areas. One section of the hall represents the answer “YES”, the middle section represents the answer “I DON’T KNOW”, and the third section represents the answer “NO”;



- ii. The facilitator should inform the participants what the three areas/sections represent;
- iii. The facilitator should inform the participants that they will be asked a series of questions and instructed to move to the relevant section of the hall which best represents their answer;
- iv. The facilitator may ask one or two participants “why did you choose to stand in this specific section?”, or ‘how important it is for you to know the answer to this question?’, as a way of deepening the discussion.

The purpose of this exercise is to gauge the participant’s understanding of adapting to life in Malaysia. After the exercise, the facilitator will give a talk to clarify any misconceptions the participants might have about the country. The exercise may also help facilitators determine which sections in this unit require more attention.

The facilitator will ask the following questions:

1. Malaysia is hot and humid throughout the year (Answer: Yes);
2. The official language in Malaysia is Tamil (Answer: No);
3. Shouting, raising your voice and speaking loudly is considered impolite in Malaysia (Answer: Yes);
4. Standing in a queue and waiting for your turn when paying for things at a store is common practice in Malaysia (Answer: Yes);
5. The currency used in Malaysia is Rupiah (Answer: No);
6. Islam is the official religion in Malaysia (Answer: Yes);
7. Muslims do not consume alcohol and pork (Answer: Yes);
8. It is all right to show up late for appointments in Malaysia (Answer: No).

Understanding Malaysia

Lecture material

Malaysia is located in South-East Asia. It has two land masses, separated by the South China Sea. Peninsula Malaysia shares a land border with Thailand. East Malaysia shares land borders with Brunei and Indonesia. The capital city of Malaysia is Kuala Lumpur and the administrative capital city of Malaysia is Putrajaya.

Climate: Malaysia experiences hot and humid weather throughout the year and has an average temperature of 30°C. Rainfall is expected throughout the year in Malaysia.

Population: Malaysia has a population of 32.73 million, of which 3.12 million are non-citizens. It is a culturally and ethnically diverse country. The

official religion in Malaysia is Islam but other religions are widely practised.

Language: Bahasa Malaysia or Malay is the official language in Malaysia. However, other languages like English, Mandarin and Tamil are widely spoken.

Work week and weekends: The working week and weekends vary between states in Malaysia. The working week usually begins on Monday and ends on Friday, with Saturday and Sunday considered as the weekend. However, the states of Johor, Kedah, Kelantan and Terengganu observe the Friday-Saturday weekend.

Public holidays: There are federal public holidays and state public holidays in Malaysia. Federal public holidays are generally observed nationwide. Meanwhile, state holidays are



Malaysia map

gazetted by the State Government and observed by individual states.

Below is a list of Federal public holidays in Malaysia:

Federal Public Holidays	Date
New Year's Day	1 January
Labour Day	1 May
King's Birthday	Currently first Monday of June until 2024
<i>Hari Merdeka</i> (National Day)	31 August
Malaysia Day	16 September
Christmas	25 December
Chinese New Year	Fluctuates
Wesak Day	Fluctuates
<i>Hari Raya Puasa (Aidilfitri)</i>	Fluctuates
<i>Hari Raya Qurban (Aidiladha)</i>	Fluctuates
Prophet Muhammad's Birthday	Fluctuates
<i>Deepavali</i>	Fluctuates
<i>Awal Muharram</i>	Fluctuates

Money: The currency in Malaysia is the *ringgit*. Its symbol is RM.

Traffic: Cars drive on the left-hand side of the road in Malaysia. The slow lane is on the left, while the fast lane is on the rightmost lane. Generally, the speed limit on public roads is between 50 km/h and 70 km/h, but it increases to 110 km/h on motorways. Cars are expected to overtake on the right-hand lane. However, motorists do not always comply with traffic rules and are not always aware of pedestrian traffic. Pavements are generally available to pedestrians when they walk along the main road, and pedestrian crossings are sometimes available to make it easier to cross the road.

1.1.1 Social norms, customs and etiquette in Malaysia

As Malaysia is an incredibly diverse country, with different ethnicities, languages and religions, people are attentive towards each other's cultural

norms and practices. This section will discuss what is generally considered to be "Malaysian culture." It will also discuss a number of social practices that are applicable more specifically to certain sections of Malaysian society.

Meeting and greeting etiquette

Greetings play an important role in Malaysian social life and are often taken as indicators of individual politeness, respect and courtesy. An impolite greeting may cause offence. Below are a few pointers:

- Handshakes are generally an acceptable form of greeting across all ethnicities. However, some refrain from physical contact between men and women. If you are meeting someone from the opposite sex, wait to see if he/she extends a hand before offering a handshake;
- It is also increasingly common, especially since COVID-19, for Malaysians to greet each other by putting one hand on the chest and nodding or bowing slightly;

- Elders may be addressed as *pakcik* (uncle) for men and *makcik* (aunty) for women out of respect;
- In formal or work settings, individuals should be addressed according to their appropriate titles such as "Mr", "Miss", "Mrs" or "Doctor" followed by the family name;
- Among all cultures, it is advisable to greet first the most senior person - either by rank or age;
- Shouting, raising your voice and speaking loudly are considered to be impolite behaviour.

Giving and saving face

'Face' or *muka* in Malay refers to the cultural understanding of individual respect, pride, dignity and social standing in relation to a community. Actions or words that are disrespectful or embarrass a person may bring shame on that person or cause her/him to "lose face", while actions or words that show respect and give importance may "give face". To avoid causing someone to lose face, people in Malaysia deliberately set out not to offend others and to preserve their own social standing within the community. As a result, communication may be subtle, hinting at a point rather than making a direct reference. For example, when somebody is asked to do something, she/he may reply "I will see what I can do" or "let me try" rather than directly saying "no". This will allow the person making the request and the person turning down the request to "save face".

Dining and dietary restrictions

Food is an important part of Malaysian culture. The sharing of food and eating together are common practices among Malaysians. However, these social rituals are governed by unspoken rules. Basic etiquette requires the following:

- When giving and receiving something, including food, the right hand should be

used. Culturally, the left hand is reserved for cleansing one's body;

- People often eat with their hands; the right hand should be used;
- Personal and religious dietary restrictions are taken seriously. Not everyone consumes alcohol;
- Muslims do not consume alcohol and pork; meat consumed by Muslims also has to be 'halal' or prepared in accordance with Islamic rites. Many Hindus and Buddhists do not consume beef. When gifting or sharing food, account should be taken of the other's dietary restrictions.

General etiquette - dos and don'ts

- When walking past an elder, it is polite to bow or bend slightly so that your head is lowered below that of the elder's as a sign of respect;
- Modesty in clothing is valued. Wearing trousers and long skirts are appreciated but not essential;
- Take your shoes off and leave them on the front porch before entering a house;
- Say 'please' and 'thank you' when asking for help;
- Do not speak in a loud voice or watch noisy videos on your mobile phone in an open or public space as it may bother others. Instead, use earphones;
- When speaking to others, avoid looking at your mobile phone unless there is an urgent need to respond to a phone call or an incoming message;
- When purchasing and paying for things at a store, wait for your turn in a queue. Do not walk to the front of the queue;
- Be on time. This is a sign of respecting other people's time.

1.1.2 Adapting to life in Malaysia

Migration is both an exciting and stressful experience for migrant workers. Arriving and adapting to a new environment and country can be disorienting, and migrant workers will experience a range of emotional and psychological reactions to the migration process.

Some of the major challenges that migrant workers can expect to face upon arrival in Malaysia are listed below:

Culture shock: Migrant workers may experience “culture shock”, i.e., the emotional and psychological impact of moving from a familiar culture and environment to ones that are unfamiliar. New migrants can expect to have mixed feelings of anxiety, uncertainty, confusion and frustration while adapting to Malaysian life. They may be frustrated during their initial weeks or months after arriving in Malaysia because they do not understand the local languages or are unable to communicate effectively, they do not like the food, and they do not have the support or comfort of family members and friends. This feeling of “shock” will be alleviated over time as they find their bearings by familiarizing themselves with their new surroundings and establishing new relationships or connections.

Homesickness: Many migrant workers experience homesickness.. This is especially common among first-time migrants - even if extensive preparations have been made before travelling. Homesickness is part of an adjustment process and will look different to different people. Some experience general feelings of sadness, while others become irritated by new things, withdraw from socializing and avoid interaction with others. Keeping in touch with their family members and friends in their countries of origin will help migrants to manage their homesickness.

Malaysia offers a range of telecommunications networks that help migrant workers connect with family members through phone calls, texts and social media. The four main national prepaid network operators are:

- ▶ Digi
- ▶ Maxis
- ▶ Celcom
- ▶ U Mobile

Stress: Migrant workers may experience varying degrees of stress during their stay in Malaysia. Stress is a feeling of not being able to cope with a specific situation or events. It may be caused by work demands, personal relationships, financial pressures and other situations. A certain amount of stress is normal and healthy, and can motivate individuals to rise to the challenges they face. When stress becomes overwhelming, it can undermine a person's mental and physical health and disrupt daily life. For example, high levels of stress over time can cause shortness of breath, loss of appetite, tensed muscles and a lack of sleep. It is therefore important for everyone to manage their stress levels. Exercise, reducing alcohol intake and talking to someone to “let off steam” are all ways of reducing stress levels.

Exclusion and isolation: Migrant workers in Malaysia may experience some form of exclusion and isolation from Malaysian society. This is particularly common among migrant workers who work or live in isolated workplaces or accommodation provided by employers, which separate migrants from local communities. This isolation may prevent them from easily accessing the goods and services they need and cause them to be excluded from or rejected by local communities. At worst, the local communities' rejection of migrant workers can lead to verbal and physical violence.

► Note to facilitator

At this point, the facilitator can ask one or two participants to:

- share an incident in life when they - or someone they know - was under tremendous stress, and to relate how the stress was dealt with or how the situation was resolved.

The facilitator can then reiterate the importance of exercising, reducing alcohol intake, and identifying healthy activities that can help reduce stress levels. For some, it might be speaking to family members back home; for others it might be listening to music. Stress management techniques differ for every individual. It is important that everyone finds what works best for them.

► 1.2 Conditions for living and working in Malaysia

The Government of Malaysia imposes a number of conditions on migrant workers who live and work in Malaysia:

- Migrant workers are only allowed to be employed in the manufacturing, construction, plantation, agriculture and domestic work sectors in Malaysia. There are also restrictions on the specific number of workers per nationality authorized to work in the various sectors;
- The employment permit for migrant workers is known as the Visit Pass (Temporary Employment) (VP(TE)) or *Pas Lawatan Kerja Sementara* (PLKS) in Malay. The VP(TE) specifies which sector a migrant worker is employed in, as well as the employer's name;
- Migrant workers who hold the VP(TE) must comply with the following conditions:
 - family members are not allowed to accompany migrant workers to live in Malaysia;
 - migrant workers may not be recruited as frontline workers;
 - migrant workers cannot change employers or employment sectors; and
 - migrant workers are not allowed to marry Malaysian and foreign citizens.

There are specific requirements for migrant workers related to the employment of domestic workers in Malaysia:

- Only nationals from Cambodia, India, Indonesia, Lao People's Democratic Republic, the Philippines, Sri Lanka, Thailand and Viet Nam can be employed in the domestic work sector;
- Migrant domestic workers have to be women aged between 21 and 45 years;
- The net income of those employing domestic workers net income should be at least 3,000 ringgit a month. For those employing domestic workers from India, the Philippines and Sri Lanka, a minimum net income of 5,000 ringgit is required;
- Employers who are Muslims are allowed only to hire migrant domestic workers who are Muslims;
- Employers of migrant domestic workers have to:
 - ensure that domestic workers are assigned only to domestic chores (not including car washing);
 - provide them with room amenities or accommodation equipped with basic facilities.

- ▶ provide them with nutritional food and allow proper rest periods, including sleeping time.
- ▶ Employers who employ Muslim migrant domestic workers must also respect their religious sensitivities. They must:
 - ▶ allow domestic workers to abide by their religious convictions, such as praying five times a day;
 - ▶ allow them to observe the fasting month of Ramadan; and
 - ▶ refrain from asking them to do chores that oppose the religion of Islam.

1.2.1 Documentation for migrant workers

Migrant workers require a number of documents to work in Malaysia.

Passport

A passport is the most important official identity document. Under the Malaysian Passport Act 1966, a migrant worker is entitled to hold and remain in possession of her/his passport. In addition to the original copy of the passport, migrant workers are advised to keep multiple copies of their passport and have one with them wherever they go. They are also encouraged to take photographs of their passport cover page and work permit and send them to their families in their countries of origin.

▶ Note to facilitator

At this juncture, ask participants: 'Who has made copies or taken pictures of their passport?', and 'who have you shared copies or pictures of your passport with?'

The employer or recruitment agent will sometimes require a worker's passport for immigration-related processes such as the renewal of the work permit. This requires written authorization from the migrant worker. Employers and agents often retain the migrant worker's passport on the pretext of safekeeping.

However, it is an offence under Malaysian law for the employer or recruitment agent to retain a migrant worker's passport. If a migrant worker's passport is lost or stolen, the employer is required to report this to the police station and obtain a new passport from the relevant Embassy or High Commission. It is also common for law enforcement officials to stop and request migrant workers for proof of identity documents. Those who are unable to produce a passport risk being arrested and detained under Malaysia's immigration laws.

Visit Pass (Temporary Employment), also known as *Pas Lawatan Kerja Sementara (PLKS)*

A Visit Pass (Temporary Employment) (VP(TE)) is commonly referred to as a work permit in Malaysia. The VP(TE) is issued to migrant workers after they have passed a medical examination at a registered clinic within 30 days of their arrival in Malaysia. It signifies that the migrant worker is authorized to work in Malaysia. The VP(TE) is a sticker that is adhered to the migrant worker's passport, and it provides basic information such as the worker's sector of work and the employer's name. The employer is bound to renew the VP(TE) on an annual basis, at least one month before it expires.

► **Employment contract terms and conditions checklist**

Contract components	Is this particular component in your contract?
Names of employer and worker	
Job description	
Place of work	
Employment start and end dates	
Wages and other rates of pay - including overtime	
Date and methods of payment	
Salary deductions and fees charged to employees	
Expected working hours, days and overtime procedures	
Holiday entitlement, rest day	
Annual leave	
Sick leave	
Termination of employment	
Repatriation of the migrant worker	
Insurance or compensation in the event of death, occupational disease or personal injury	

► **Note to facilitator**

The facilitator should hand out a copy of the above table to the participants. Taking them through each item, the facilitator can ask:

- *Was this item available in your contract?*

After running through every item on the checklist, the facilitator can ask participants:

- *Was your contract provided in a language that you understand?*
- *Do you have a copy of your contract?*

Activity**Documentation for migrant workers****Duration: 15 minutes****Materials: None**

- i.** The facilitator should ask participants to think about the lecture, particularly about migrant workers' documentation and the contents that should be in an employment contract;
- ii.** The facilitator should inform participants that they will be asked a series of questions, and they should either answer "True" or "False" to each question;
- iii.** The facilitator should randomly select participants to answer each question;
- iv.** After asking the series of questions, the facilitator should open the floor for additional questions from the participants.

Questions:

- 1.** Is the migrant worker entitled to hold and maintain possession of her/his passport?
(Answer: True);
- 2.** Does the work permit or PLKS have to be renewed once every two years?
(Answer: False);
- 3.** Should your employment contract contain:
 - i.** Your name? (Answer: True);
 - ii.** Your employer's name? (Answer: True);
 - iii.** Your employer's address? (Answer: True);
 - iv.** The place of your employment? (Answer: True);
 - v.** Your job description? (Answer: True);
 - vi.** A prohibition on joining a trade union? (Answer: False);
 - vii.** Your basic wage and other payment including overtime?
(Answer: True);
 - viii.** The date and methods of payment to you? (Answer: True);
 - ix.** Salary deductions? (Answer: True);
 - x.** Expected working hours? (Answer: True);
 - xi.** Annual and sick leave? (Answer: True);
 - xii.** Your entitlements to days of rest? (Answer: True);
 - xiii.** Conditions for terminating your employment? (Answer: True);
 - xiv.** Insurance or compensation in case of injury or death?
(Answer: True); and
 - xv.** Information on repatriation? (Answer: True).

▶ 1.3 Communicating with employers and colleagues

1.3.1 Communicating with others at the workplace in Malaysia

Migrant workers work in diverse situations in Malaysia, often among colleagues of different nationalities and with varying cultural practices, communication styles and languages. Effective communication is important at work and in workers' places of accommodation; it is the basis for building strong relationships with others, improving work productivity and performance, and avoiding conflict and misunderstanding. A number of pointers on communication at the workplace are listed here-below:

- ▶ The employer, or the manager, is usually responsible for assigning tasks to workers. Show respect by acknowledging and following their instructions at the workplace. If clarification is required, ask questions politely. In Malaysia, speaking loudly is considered impolite;
- ▶ Non-verbal communication is as important as verbal communication. A relaxed body language and maintaining eye contact when speaking project a willingness to focus and listen to what others have to say. Keeping a neutral body posture and tone of voice are encouraged;
- ▶ Listening and paying close attention to others when they speak is important. Do not interrupt or speak over others' voices. When it is your turn to speak, do so calmly without raising your voice;
- ▶ Many people in Malaysia communicate indirectly. When asking for something or when expressing disagreement, it is common for them to use terms such as "Would you mind ..." or "I am wondering ...". This may be different from cultures which are more direct in their forms of communication:
- ▶ Learning some Malay or English phrases for greeting people will help to break the ice and ease communication with Malaysians.

Essential Malay phrases	
Malay	English
Hello	Hello
Apa khabar	How are you
Selamat pagi	Good morning
Selamat petang	Good evening
Selamat malam	Good night
Selamat tinggal	Goodbye
Ya	Yes
Tidak	No
Mungkin	Maybe
Terima kasih	Thank you
Sama-sama	You're welcome
Maaf	Excuse me
Maafkan saya	I'm sorry
Saya tidak ada	I don't have
Kami tidak ada	We don't have
Name saya	My name is
Umur saya ialah.....tahun	I'm ... years old
Saya tidak faham	I don't understand
Saya tidak boleh cakap Bahasa Melayu	I don't speak Malay
Tolong	Please
Tolong ulang	Can you please repeat
Sekejap	Just a moment
Sana	There
Sini	Here
Satu	One
Dua	Two
Tiga	Three
Empat	Four
Lima	Five
Enam	Six

Essential Malay phrases	
Tujuh	Seven
Lapan	Eight
Sembilan	Nine
Sepuluh	Ten

▶ Note to facilitator

The facilitator should hand out printed copies of the above table to the participants.

1.3.2 Communicating with those who share the same living space

Living together with people of different nationalities and cultural backgrounds - and who speak different languages - requires tolerance and compromise. Below are some pointers on communication with others sharing the same living space:

- ▶ Learn to respect differences in cultures, lifestyles and communication styles. Understand that others may not behave in ways that you expect, so it is important to get to know the people with whom you are living;
- ▶ If there is something that is bothering you, speak to your roommate directly in a polite manner. Avoid discussing the issue behind her/his back as this can result in frustration and a breakdown in trust;
- ▶ Whenever there is a disagreement, it is important for the parties involved to provide each other with the opportunity to present their side of the story, evaluate their different needs and propose a solution together. A solution to the disagreement should, as far as possible, be acceptable to all parties;
- ▶ In dormitories or shared living spaces, everyone has the responsibility to maintain the cleanliness and hygiene of public spaces such as the kitchen and bathroom. Consider establishing a roster to ensure that the responsibility is shared equally;
- ▶ Respect the privacy of others. Even when sharing a tight living space, everyone needs some time alone and a space of their own;
- ▶ Respect your roommates' area and possessions and do not use their personal possessions without permission.

Activity

Communicating with employers and colleagues

Duration: 30 minutes

Materials: None

- i. The facilitator should ask the group for four (4) volunteers and divide them into pairs;
- ii. Each pair should then be given the same scenario: "first, someone in the hostel has used your plate to eat beef and you are unhappy about it because you do not eat beef for religious reasons; and second, the person did not ask for permission before using your plate;"
- iii. Make each pair enact how they would deal with the situation. Ask the first pair of volunteers to approach the situation in a composed manner - speaking calmly, explaining the situation politely and suggesting a solution. Ask the second pair of volunteers to handle the matter in a rude manner, - speaking loudly as in a confrontation;
- iv. The facilitator should ask the participants watching both scenarios:
 - a. How do you feel about the two approaches?
 - b. Which part of each approach do you like?
 - c. Which approach do you think is more effective in resolving the issue?
 - d. What suggestions do you have for approaching this situation?
- v. The facilitator should end the discussion by reiterating that it is important to learn to respect different cultures and to compromise with one another. Being tolerant and communicating politely is key to avoiding disagreements.

► 1.4 Taking care of general health and hygiene

Maintaining good domestic and personal hygiene is important for keeping healthy. Inadequate domestic or personal hygiene can lead to many sicknesses and diseases, including food poisoning, pneumonia, skin infections, colds and flu, hepatitis and tuberculosis. Migrant workers are also required to undergo a number of compulsory medical examinations – upon arrival and then

annually for the first two years. Subsequently they must have a medical examination on alternate years – fourth, sixth, eighth, tenth years and so on⁴- and those who fail these tests are not allowed to renew their work permits.

A number of examples for maintaining good domestic and personal hygiene are listed here-below:

1.4.1 General health

- ▶ Food and nutrition are key to good health. Making smart choices on nutrition and food can help to prevent disease;
- ▶ If the job requires manual labour, consume food that can fuel the body sufficiently;
- ▶ Have a balanced diet that includes nutritious/ healthy food such as fruits and vegetables, and avoid food with a high sugar and sodium content;
- ▶ Hydrate the body properly by drinking water, even when busy. Failing to drink enough water can result in adverse effects such as headaches, muscle cramps and dizziness;

- ▶ Protection from the sun is important. If a job entails long hours under the sun, wear a hat, a long-sleeve shirt and sunglasses for protection;
- ▶ If consuming alcohol, do so moderately. Never drink while at work;
- ▶ Exercise regularly. This helps to improve physical and mental health.

1.4.2 Domestic hygiene

- ▶ Maintain cleanliness in the living space. Domestic work such as sweeping and washing floors, cleaning the toilet, changing and airing bed sheets and blankets, and washing the dishes after meals are examples of domestic

▶ Box 1.1. COVID-19: Reducing the chances of being infected

The most common symptoms of COVID-19 are fever, dry cough, and tiredness. Other symptoms that are less common and may affect some patients are aches and pains, nasal congestion, headache, conjunctivitis, sore throat, diarrhoea, loss of taste or smell, a skin rash or a discoloration of fingers and toes.

- ▶ Regularly and thoroughly clean your hands with an alcohol-based hand rub, or wash your hands with soap and water.
- ▶ Maintain at least a 1-metre (3 feet) distance from others. When someone coughs, sneezes, or speaks, they spray small liquid droplets which may contain the virus.
- ▶ Avoid going to crowded places.
- ▶ Avoid touching your eyes, nose and mouth. Once contaminated, hands can transfer the virus to the eyes, nose or mouth and enter the body.

- ▶ Cover your mouth and nose with a bent elbow when coughing or sneezing.
- ▶ Dispose of used tissue and immediately wash your hands.
- ▶ Stay home and self-isolate if you have minor symptoms. If leaving the house is necessary, wear a mask to avoid infecting others.
- ▶ In the event of a fever, cough and difficulty breathing, seek medical attention. Call by telephone in advance if possible and follow the directions of the local health authority.

Malaysia's Social Security Organisation (SOCSO) has designated COVID-19 as an occupational disease. Workers may be exposed to the risk of COVID-19 infection on account of the nature of their work and their exposure to infected persons. Documented migrant workers are SOCSO contributors and are entitled to compensation under the Employment Injury Scheme.

Source: World Health Organization

work that should be carried out to keep living spaces clean;

- If living space is shared with others, cleaning tasks may be divided among those who live in the shared space;
- Maintain cleanliness in the areas outside the house or where you live. Removing rubbish and stagnant water can discourage the breeding of mosquitoes. Mosquito-borne diseases such as dengue fever are common in Malaysia;
- If there are communal toilets or laundry facilities, it is important to clean them regularly and check for blockages;
- The kitchen should be kept clean. Kitchen waste should be disposed of carefully to avoid pests and rodents;
- There are designated locations for garbage disposals. Do not dispose of garbage on public roads or throw it out of the window.

1.4.3 Personal hygiene

- Wash the body often. In Malaysia, it is common for people to shower, brush their teeth, and wash their hair with soap every day;
- Keep fingernails and toenails trimmed and clean;
- Apply deodorant or antiperspirant as necessary;
- Avoid sharing personal hygiene items such as toothbrushes and towels;
- Wash hands with soap after going to the toilet as well as before and after preparing food and/or having meals;
- Wear clean and neat clothing. Clothes should be washed when they are dirty and dried properly. It is common for people to hang their clothes out in the sun to dry;

► Box 1.2. Common infectious diseases in Malaysia

Infectious diseases can have severe health and financial repercussions for migrant workers. Those common in Malaysia are dengue and tuberculosis (TB). Preventing infectious diseases requires practising good personal and domestic hygiene at all times. If a migrant worker is suspected of having an infectious disease, she/he should seek medical assistance immediately.

Dengue

Dengue is one of the most common viral diseases in Malaysia. Dengue viruses are transmitted to humans through the bites of the striped Aedes mosquito. Dengue does not spread directly from person to person. Symptoms of dengue fever are aching muscles and joints, a body rash, high fever, intense headache, pain behind the eyes, vomiting and nausea. Prevent dengue by

removing containers that can hold water, wearing long-sleeved clothes in areas where there are mosquitoes, and applying insect repellents or using a mosquito net.

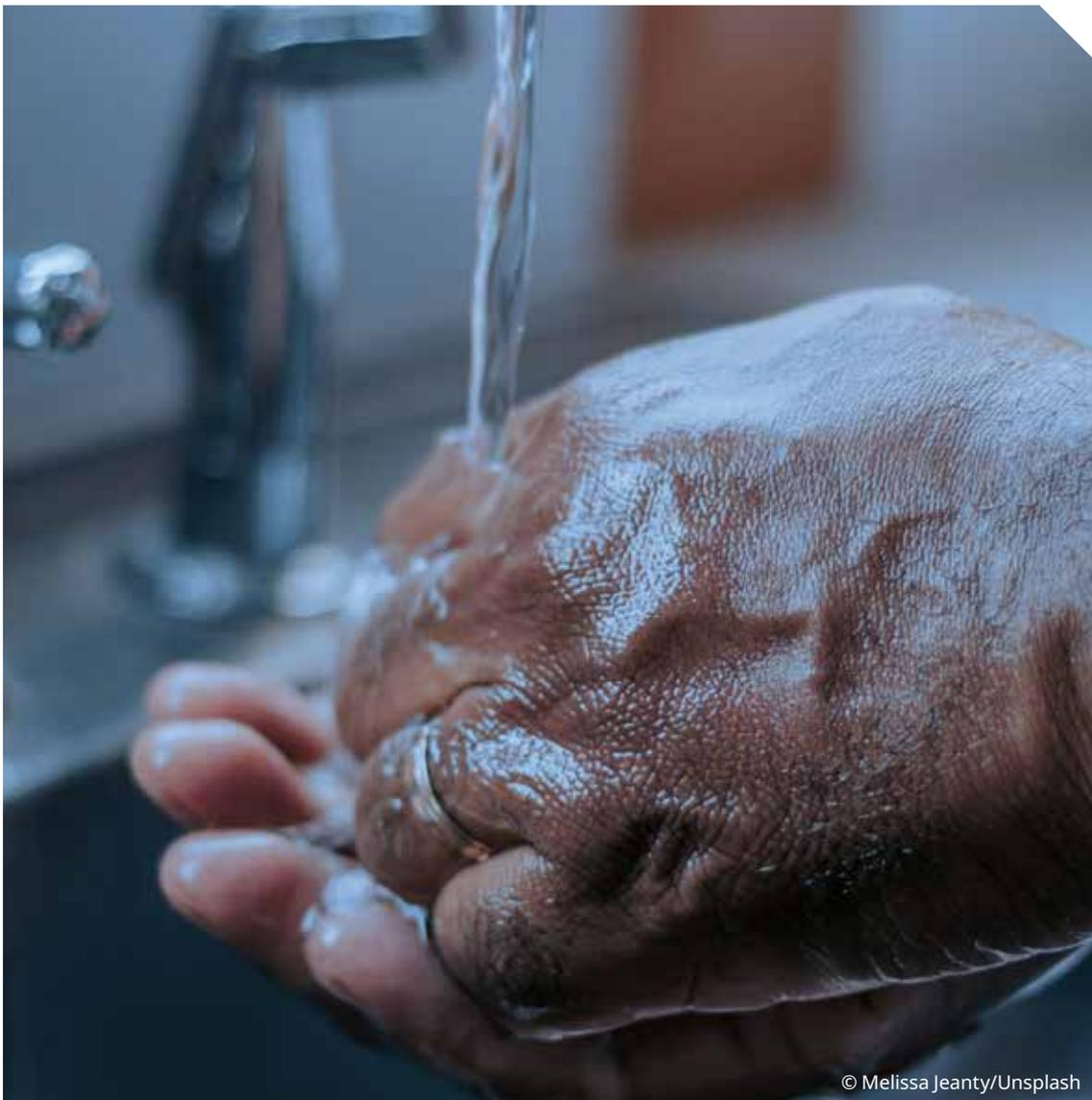
Tuberculosis

Tuberculosis (TB) is an infectious disease that usually affects the lungs, although it can also affect other body parts such as the bones, joints, genito-urinary system, intestines, skin and others. TB infection is usually caused by airborne transmission from person to person. The most common symptoms of TB are a cough that lasts for more than two weeks, cough with sputum which is occasionally bloodstained, a loss of appetite and loss of weight, fever, dyspnoea, night sweats, chest pain and hoarseness of voice.

- Turn away from other people or cover your nose and mouth with a tissue/handkerchief when you sneeze or cough.

► Note to facilitator

At the end of this section, randomly select participants and ask them to recall three things they remember from the lesson on taking care of general health and hygiene.



Workers' rights and responsibilities and employers' obligations



► 2



► Objectives

Introduce the main legislation in Malaysia related to migrant workers;

Provide practical information to migrant workers about their rights and entitlements at work, as well as about relevant tools such as mobile applications and social media platforms to facilitate their access to information;

Increase the migrant workers' understanding of how their wages are calculated



► Recommended agenda

Focus area	Timing	Activities and materials
Main employment legislation in Malaysia	15 minutes	Lecture
Overview of employers' responsibilities in Malaysia	20 minutes	Lecture
Overview of migrant workers' rights and responsibilities in Malaysia	15 minutes 30 minutes	Lecture Activity – Group discussion
Rights at work	45 minutes 20 minutes	Lecture Activity – True/ False
Joining a trade union	10 minutes	Lecture
Sexual harassment	10 minutes 20 minutes	Lecture Activity – Situation/ Behaviour/ Impact technique
Total Time	185 minutes	

▶ 2.1 Main employment legislation in Malaysia

Malaysia has a number of laws that regulate the employment of migrant workers and safeguard their rights at work. These are lengthy and complex legal agreements. The main legislation governing the relationship between an employer and employee consists of:

Employment Act 1955

The Employment Act is the main legislation governing relationships between an employer and an employee and provides for minimum standards of employment-related rights. These include provisions on payment of wages, rest days, annual and sick leave, and termination of the employment relationship. The provisions of the Employment Act 1955 are further detailed in this module.

Employment (Restriction) Act 1968

The Employment (Restriction) Act 1968 states that the employment of a non-citizen in any business in Malaysia must be subject to the issuance of a valid employment permit. It restricts the validity period of an employment permit to two years.

Factories and Machinery Act 1967

The Factories and Machinery Act 1967 provides for the control of factories with respect to the safety, health and welfare of persons therein, and the registration and inspection of machinery.

Industrial Relations Act 1967

The Industrial Relations Act 1967 regulates the relations between employers, workers and their trade unions. It sets the rules for collective bargaining and procedures for handling trade disputes, and guarantees freedom of association.

Occupational Safety and Health Act 1994

The Occupational Safety and Health Act 1994 is the main law governing safety and health at the

workplace in Malaysia. It stipulates the duties of employers and employees with respect to the prevention against occupational hazards and worker protection at the workplace. It also makes it incumbent upon employers to establish effective self-regulation schemes for safety organization that are in line with the activities of the industry or enterprise.

Passports Act 1966

The Passports Act 1966 provides that all persons who enter and exit Malaysia must hold a passport; non-citizens must have a valid visa. The law makes it an offence for any person without lawful authority to use a passport issued for somebody else.

Private Employment Agencies Act 1981

The Private Employment Agencies Act 1981 regulates private recruitment agencies. It provides for the licensing of a company that acts as an intermediary between employers and workers, with a view to recruiting and placing workers in employment.

Trade Unions Act 1959

The Trade Unions Act 1959 regulates the management of trade unions. It prohibits non-citizens from holding office in a trade union, or from being employed as a member of staff therein.

Workers' Minimum Standards of Housing and Amenities Act 1990

The Workers' Minimum Standards of Housing and Amenities Act 1990 stipulates the minimum standards of housing and amenities for workers and their dependents provided by an employer or centralized accommodation provider.

► 2.2 Overview of employers' responsibilities in Malaysia

2.2.1 Secure the safety, health and welfare of persons at work

It is an employer's duty to provide a safe and healthy place of work and be responsible for:

- Providing training and supervision to ensure safety and health at work;
- Issuing suitable and adequate protective equipment to workers, and ensuring the use of the personal protective equipment (PPE) provided. Examples of personal protective equipment are personal protective clothing, goggles, gloves, leggings, helmets, footwear and protective ointment or lotions;
- Establishing a safety and health committee in a workplace with forty or more persons, and consulting the safety and health committee with a view to promoting and developing safety and health measures.

2.2.2 Register migrant workers with the Social Security Organization (SOCSO)

Employers who employ migrant workers (excluding domestic workers) are responsible for registering their employees with SOCSO and contributing to the Employment Injury Scheme (EIS). Each migrant worker registered with SOCSO will have a Foreign Workers' Social Security Number (FWSS), which is required for making claims and other matters.

2.2.3 Organize migrant workers' health insurance

Employers must organize health insurance for their migrant workers under the Foreign Worker Hospitalization and Surgical Insurance Scheme (SPIKPA), with the exception of those who work in

the plantation sector. This is an annual renewable hospital and surgical insurance scheme that covers the cost of treatment at public hospitals. Without SPIKPA, a migrant worker cannot renew her/his work permit. The cost of the health insurance scheme may be covered by the employer or passed on to the migrant worker through wage deductions. If migrant workers experience wage deductions for health insurance, it is important that they know how much is being deducted each month. They should have a copy of the insurance policy and understand the terms and conditions of their insurance coverage.

2.2.4 Provide workers with employment-related rights and benefits in accordance with the law

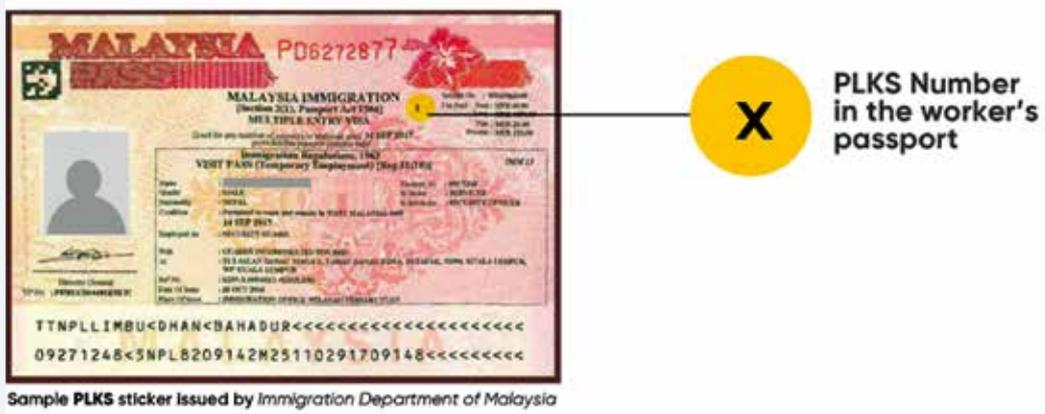
The employer is responsible for providing workers with the rights and benefits to which they are entitled under the law – with respect to wage payments, overtime rates, days of rest, public holidays, annual leave and termination of employment.

2.2.5 Comply with immigration regulations for the renewal of work permits

Migrant workers in Malaysia hold the VP(TE) / PLKS, commonly referred to as a "work permit". It is the employer's responsibility to facilitate the process of renewing a migrant worker's work permit and to pay for the migrant workers' levy. The cost of this levy cannot be recovered through wage deductions. The process for renewing the work permit can start as early as three months before its expiry date. Once the work permit expires, it cannot be renewed online. It should be noted that migrant workers who do not have a valid work permit are considered to be undocumented workers. This is in violation of Malaysian laws.

▶ Note to facilitator

The facilitator should show participants a sample of a work permit. The sample below may be used



Select five participants randomly and ask them to recall one thing they each remember from the lesson on employers' responsibilities in Malaysia.

▶ Box 2.1.Extension of a migrant worker's VP(TE) or "work permit"

- ▶ VP(TE) is valid for a period of 12 months. Employers can apply for a VP(TE) extension three months before its expiry date.
- ▶ Employers must ensure that the extension application is made before the VP(TE) expires. Any application submitted after the expiry date will be referred to the Immigration Enforcement Division for consideration.

What is required to renew a migrant worker's VP(TE)?

- ▶ Passport of the migrant worker still valid for 12 months and above
- ▶ Application letter to extend the VP(TE)
- ▶ Identification document of an employee/ company representative (SSM company/ Form 49/Form B and D/Card Company

Representative/Form Company representatives have an endorsed/copy of the employer's identity card)

- ▶ Security bond in the form of a bank guarantee/insurance guarantee/deposit (the validity period of a bank /insurance guarantee is at least 18 months)
- ▶ Foreign Worker Hospitalization and Surgical insurance Scheme (SPIKPA) – except for the plantation sector
- ▶ Slip of Foreign Workers' Compensation Scheme (FWCS)
- ▶ Migrant workers must undergo a medical examination and be certified fit by the clinic or medical centre registered with FOMEMA (for the second- and third-year extension only)

▶ 2.3 Overview of migrant workers' rights and responsibilities in Malaysia

2.3.1 Right to a safe workplace

All workers are entitled to a safe and healthy workplace, including a workplace that is free from violence and harassment. However, workers also have a responsibility to ensure the workplace is safe and healthy. They must take care of their own health and safety at work, use personal protective equipment (PPE) provided by the employer, and comply with laws and workplace policies on health and safety.

Workers should be instructed to take the following precautions to protect themselves from occupational hazards:

- ▶ Be alert at work;
- ▶ Do not use equipment at work if you not trained to handle it;
- ▶ Use appropriate PPE, which includes goggles, gloves, safety vests, earplugs, masks, boots, and safety helmets. The amount of time you have to wear PPE depends on the nature of the work and its requirements;
- ▶ It is important that you know where the safety exits are located at work;
- ▶ You must place tools and equipment in safe and appropriate locations, which do not obstruct passages;
- ▶ It is vital that you understand warning labels and signs that indicate hazardous or dangerous materials;
- ▶ Alert supervisors or employers to any hazards at the workplace;
- ▶ As chemicals enter the body through contact with the skin and eyes, you must wear safety goggles and dress appropriately at all times when handling them;

- ▶ Working in a dusty environment will affect your lungs and may cause breathing-related problems. You must use safety masks and goggles as a basic minimum;
- ▶ Working in a noisy environment can lead to permanent hearing damage. You should therefore use earplugs to block out excessively loud sounds.

2.3.2 Right to healthcare and social security scheme

Employers should provide employees with health insurance and enrol migrant workers with the SOCSO's Employment Injury Scheme (EIS). Workers registered with the SOCSO's EIS are entitled to⁵:

Medical benefit: Employees suffering from employment injuries or occupational diseases may receive free medical treatment at SOCSO's panel clinics or Government clinics or hospitals until they are fully recovered.

Temporary disablement benefit: This benefit is paid for the period the employee is on medical leave certified by a doctor.

Permanent disablement benefit: This is a benefit that can be claimed by employees who suffer from permanent disability due to an employment injury.

Dependants' benefit: If an employee dies as a result of an employment injury, her/his dependents are entitled to this benefit.

Funeral benefit: The beneficiaries of migrant workers who die in Malaysia and whose bodies are repatriated to their country of origin for burial are entitled to 6,500 *ringgit* in funeral benefit. In the case of migrant workers who die and are buried in Malaysia, their eligible beneficiaries will receive 2,000 *ringgit* - or in the case of non-beneficiaries,

⁵ *Employees' Social Security Act 1969*, available at: <https://www.ilo.org/dyn/travail/docs/1626/Employees%27%20Social%20Security%20Act%201969%20-%20www.agc.gov.my.pdf>

the expenses will be reimbursed on the basis of the funeral receipt, whichever is lowest.

Constant-attendance allowance: This allowance is paid to an employee who is so severely incapacitated or disabled as to constantly require the personal attendance of another person.

Rehabilitation: SOCSO subscribers have access to physical rehabilitation.

2.3.3 Right to access justice

The law protects the right of migrant workers to access justice, including the right to legal representation, and to access avenues for dispute resolution. The various mechanisms, formal and informal, for migrant workers to access justice in the event of a dispute with their employers will be discussed in Module 4.

Activity

Possible accidents and how to prevent them

Duration: 30 minutes

Material: Printed copies of the following table:

Based on the type of job you do, what accidents might occur at your workplace?	What might happen as a result of that accident?	What can you do to prevent an accident?

- i. The facilitator should divide participants into several groups. Each group should be given a sheet of paper with the above table printed on it.
- ii. Participants should be given 20 minutes to discuss the questions and fill in their answers on the printed sheet.
- iii. The facilitator should ask the participants to assemble after 20 minutes, and each group should select a representative to share its answers with everyone.
- iv. The facilitator should reiterate that both workers and employers have a duty to ensure that work conditions are safe and that the workplace is free from violence and harassment

► 2.4 Rights at work

2.4.1 Payment of wages, wage deductions and paid holidays

The First Schedule of the Employment Act 1955 is the basic legislation that governs the rights at work for employees in Malaysia. It applies to the following categories of workers⁶:

- Employees whose monthly wages do not exceed 2,000 ringgit;
- Employees engaged in manual labour;
- Employees engaged in the operation or maintenance of mechanically propelled vehicles;
- Employees who supervise or oversee other employees engaged in manual labour;
- Employees engaged in any capacity on any vessel registered in Malaysia;
- Domestic workers.

For employees who are not covered under the Employment Act 1955, the employment relationship is governed by the terms of employment between the employer and the employee. With respect to employees’ rights at work, these guidelines will be based on the standards set by the Employment Act 1955.

Minimum wage

With the exception of migrant domestic workers, migrant workers in Malaysia are entitled to a statutory minimum wage. The statutory minimum wage in Malaysia is periodically revised. As at February 2020, the statutory minimum wage in Malaysia varies in accordance with location.⁷

A monthly minimum wage of 1,200 *ringgit* applies to 16 city council areas and 40 municipal council areas. They are:

City council areas: Alor Setar, Ipoh, Iskandar Puteri, Johor Bahru, Kota Kinabalu, Kuala Lumpur, Kuala Terengganu, Kuching Selatan, Kuching Utara, Melaka Bersejarah, Miri, Petaling Jaya, Pulau Pinang, Seberang Perai, Seremban and Shah Alam

Municipal council areas: Alor Gajah, Ampang Jaya, Batu Pahat, Bentong, Bintulu, Dungun, Hang Tuah Jaya, Jasin, Jempol, Kajang, Kangar, Kemaman, Klang, Kluang, Kota Bharu, Kota Samarahan, Kuala Kangsar, Kuantan, Kubang Pasu, Kulai, Muar, Kulim, Labuan, Langkawi, Manjung, Padawan, Pasir Gudang, Port Dickson, Putrajaya, Sandakan, Segamat, Selayang, Sepang, Sibu, Subang Jaya, Sungai Petani, Taiping, Tawau, Teluk Intan, and Temerloh.

Minimum wage rates				
Monthly	Daily			Hourly
	Number of working days in a week			
	6	5	4	
RM 1,200	RM 46.15	RM 55.38	RM 69.23	RM 5.77

RM = ringgit

⁶ First Schedule Employment Act 1955, available at: <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/48055/66265/E55mys01.htm>

⁷ Minimum Wages Order 2020 P.U.(A)5

In areas which were not specified above, the monthly minimum wage is MYR1,100.

Minimum wage rates				
Monthly	Daily			Hourly
	Number of working days in a week			
	6	5	4	
RM 1,100	RM 42.31	RM 50.77	RM 63.46	RM 5.26

RM = ringgit

Payment of wages

An employee can expect to be paid her/his wages on a monthly basis, no later than seven days after the end of the wage period. For example, if a migrant worker is paid on a monthly basis and receives her/his salary on the last day of the month (e.g. 31 January), the next salary should be paid before the seventh day of the next month (e.g. 7 February) The law provides that wages should be paid into a bank account in the name of the employee.⁸ However, wages may be paid in cash or by cheque at the request of the employee.⁹

Wage deductions

Migrant workers may experience wage deductions during their time in Malaysia. However, not all wage deductions are lawful. Only deductions that are authorized by the law should be made, and migrant workers should be aware of the reason for any deductions made to their wages.¹⁰ The total of any amount deducted from a migrant worker's monthly wage cannot be more than 50 per cent - or half of the wages she/he has earned that month.¹¹

The following are lawful deductions of a migrant worker's wages:

- ▶ Overpayment of wages as a result of the employer's mistake.
- ▶ Resignation of an employee without serving the notice period required in the contract.
- ▶ An advance taken by a worker on her/his wages. In this case, a deduction can be made to recover the advanced wages. No interest can be charged on the advance.
- ▶ Payment for subscription for membership of a registered trade union.

Certain salary deductions are only lawful when they are made at the request of the migrant worker *and* with prior written permission of the Malaysian government.¹² The circumstances most relevant to migrant workers are:

- ▶ Deductions for payments to a third party (for example payment for non-mandatory insurance premiums) on behalf of the migrant worker.
- ▶ Deductions for the purchase of goods sold by the employer to the migrant worker.
- ▶ Deductions for the rental for accommodation provided by the employer.

⁸ Section 25 of the *Employment Act 1955*

⁹ op.cit., section 25(A)

¹⁰ Section 24 of the *Employment Act 1955*

¹¹ Section 24(8) of the *Employment Act 1955*

¹² Section 24 of the *Employment Act 1955*

- Deductions for the cost of services provided by the employer - such as electricity and transportation to the workplace.
- Deductions for food and meals provided by the employer.

It is important for migrant workers to keep a record of wage payments and any wage deductions made by the employer. The employer has to provide every worker employed with a "payslip."¹³ Payslips are important as evidence of wages earned and paid in the event of a dispute with the employer. Encourage migrant workers to keep their payslips.

► Note to facilitator

The facilitator should project a sample of a payslip to workers. The sample below may be used.

- Go through each entry on the payslip so that workers understand the content;
- Emphasize that payslips may look different but should contain key information on payments and deductions.

 ABC SDN. BHD. 52, Jalan Awan Hijau, 58200 Kuala Lumpur, Malaysia		03-03-2017	
NAME : ██████████		STAFF NO : 058	
NRIC No : ██████████		Payslip for February, 2017	
EARNINGS	CURRENT (RM)	DEDUCTIONS	CURRENT (RM)
Basic Pay	2,500.00	Employee EPF Employee SOCSO	275.00 12.25
Gross Total	2,500.00		
Employer EPF Employer SOCSO	325.00 42.85	Total Deductions	287.25
Medical Leave = 1, Balance = 9 Annual Leave = 3, Balance = 17		NETT PAY	2,212.75

¹³ *Employment Regulations 1957*, available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=10029&p_country=MYS&p_count=199

Working hours and rest day

Normal hours of work in Malaysia are 48 hours in one week, or eight hours a day. An employee is also entitled to one paid day off a week.

Work carried out in excess of normal hours of work are considered as 'overtime work'. The law imposes a limit on overtime work up to a total of 104 hours in any one month.¹⁴

Public holidays

Every employee is entitled to 11 paid holidays a year. Five of these are:

- ▶ National Day (31 August)
- ▶ Birthday of the King (First Monday of June)
- ▶ Birthday of the Yang di-Pertua Negeri or Ruler of the state where the employee works
- ▶ Labour Day (1 May)
- ▶ Malaysia Day (16 September)

The remaining six holidays are chosen by the employer from the list of public holidays given in Module 1. If a public holiday falls on a rest day (usually a Sunday), the next work day will be a holiday.

Overtime rates¹⁵

Under the Employment Act 1955, an employee engaged in overtime work is entitled to overtime rates. The calculation of overtime pay can be confusing and complicated. If an employee is unclear about how overtime pay is calculated, she/he should approach the employer or supervisor to seek a better understanding of the calculation.

An employee who is paid on a monthly basis is entitled to the following overtime rates:

Working in excess of normal working hours on a normal work day	1.5 x hourly rate of pay
Working on a public holiday, but normal working hours	two days' wages at the ordinary rate of pay
Working on a public holiday in excess of normal working hours	3 x hourly rate of pay

An employee who is paid piece rates is entitled to the following overtime rates:

Working on a rest day at normal working hours	2 x ordinary rate per piece
Working on a public holiday, but normal working hours	2 x ordinary rate per piece
Working on a public holiday in excess of normal working hours	3 x ordinary rate per piece

¹⁴ *Employment (Limitation of Overtime Work) Regulations 1980*, available at: http://ilo.int/dyn/natlex/natlex4.detail?p_lang=-fr&p_isn=48055&p_count=102766&p_classification=01.02&p_classcount=1243

¹⁵ Hourly rate of pay refers to the ordinary rate of pay divided by the normal hours of work.

► **Note to facilitator**

Inform the participants about the SaverAsia app and website (saverasia.com), which allows migrant workers to access an overtime pay calculator. It also includes a budget calculator and guidance on finance basics. It also enables migrant workers to compare money transfer services based on cost, speed and method of transfer to help them make smart choices about sending money home.^a

Paid annual leave

Paid annual leave is paid time off from work granted to employees; annual leave days are in addition to rest days and paid holidays.

Exercising leave entitlements requires the employer's permission. When a migrant worker

wants to take leave, she/he must request a leave of absence from the employer. An employee does not have to provide justification for applying for leave. The employer may reject leave applications.

The minimum requirements for annual leave are as follows¹⁶:

Years of service	Paid annual leave entitlement (for every 12 months of continuous service)
Less than two years	eight days
Two years and more but less than five years	12 days
More than five years	16 days

Sick leave

The Employment Act 1955 provides the minimum requirements for sick leave as follows¹⁷:

If an employee takes paid sick leave, she/he is required to have a medical certificate (commonly referred to as "MC") provided by a doctor or dentist and to inform the employer of the

Years of service	Paid annual sick leave (for every 12 months of continuous service)
Less than two years	14 days
Two years and more but less than five years	18 days
More than five years	22 days

¹⁶ Section 60E of the *Employment Act 1955*

¹⁷ Section 60F of the *Employment Act 1955*

situation. If employees do not inform or attempt to inform the employer that they are on sick leave, they will be considered to have been absent from work without permission. Employees who are absent from work without approved leave may be subject to disciplinary action, including verbal or written warnings and dismissal.¹⁸

It should be noted that some employers require their employees to obtain a sick-leave certificate from panel clinics and hospitals they have specifically chosen to provide medical treatment to their employees.

Termination of employment

Either the employer or employee may at any time give notice to the other party of her/his intention to terminate the employment contract.¹⁹

For a migrant worker, employment in Malaysia is also tied to immigration status. Migrant workers must have a valid permit issued by the immigration department to stay in Malaysia.

The conditions under which both parties can terminate the contracts prematurely are as follows:

Employers:

- a. Employers may terminate a work contract prematurely without giving notice on the grounds of gross misconduct, as stipulated in the Employment Act. Examples of gross misconduct may include a worker committing a criminal act, such as destroying public property, or leaving her/his employment without notice.

Workers:

- a. Workers may terminate a work contract prematurely without giving notice in the event of harassment, abuse, or a serious violation of their rights by the employer. Examples of serious violations range from the employer unilaterally changing the terms of employment without obtaining

prior consent from the workers or failing to pay the workers' wages;

- b. Workers may terminate the contract prematurely without giving notice in the event of a serious illness;
- c. Workers may terminate the contract prematurely without giving notice due to extenuating circumstances, such as the death or serious illness of a family member.

Premature termination of employment without cause

If a migrant worker voluntarily terminates the work contract without stating the cause and giving reasonable notice, she/he is bound – in the absence of any fault on the employer's part - to pay the employer the notice period and other compensation as contractually agreed.

In the event that an employer voluntarily terminates the work contract without cause, he/she is bound to pay for the notice period and any other termination benefits or compensation in accordance with the Employment Act 1955. Upon termination of employment and prior to repatriation, migrant workers shall receive all outstanding remuneration including wages, bonus, overtime payments, and other benefits including severance payments.

Repatriation

When the work contract expires - or upon termination of an employment contract - - the migrant worker must be repatriated to her/his country of origin. As part of the repatriation process, the cost of the worker's return airfare should be borne by the employer upon completion of the worker's contract.

In the event of a premature termination of an employment contract on account of bankruptcy or the employer's breach of contractual terms, the employer is bound to pay for the costs of the

¹⁸ Section 60F(1) of the *Employment Act 1955*

¹⁹ Section 12 of the *Employment Act 1955*

Activity

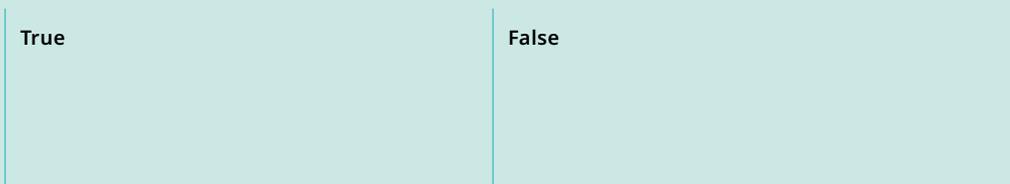
Rights at work

Duration: 20 minutes

Materials: None

The purpose of this exercise is to reinforce the points from section 2. 4 (Rights at work). Repeating these facts as part of this activity will help remind participants of their rights and employment entitlements.

- i. The facilitator should divide the hall or seminar venue into two imaginary areas. One section of the hall represents the answer “TRUE”, the other section represents the answer “FALSE”;



- ii. The facilitator should explain to the participants what the two sections represent;
- iii. The facilitator should inform the participants that they will be asked a series of questions, and that they should move to the relevant section of the hall which best represents their answers;
- iv. The facilitator will immediately clarify answers and reiterate points if any participant responds to questions incorrectly.

Questions:

- a. The minimum wage throughout Malaysia is 1,200 ringgit (Answer: False - in some areas it is 1,100 ringgit and in others it is 1,200 ringgit);
- b. Wages should always be paid in cash to employees (Answer: False - wages should be paid into the employees’ bank account unless they have specifically asked for a cash payment);
- c. An employer can deduct wages for accommodation if she/he has obtained permission from the relevant government department (Answer: True);
- d. All deductions made must be reflected in the payslip (Answer: True);
- e. The total amount deducted cannot exceed 50 per cent (half) of a worker’s monthly salary (Answer: True);
- f. Normal working hours are ten hours per day (Answer: False - normal working hours are 8 hours per day);
- g. “Overtime” is any work performed over eight hours a day (Answer: True);
- h. Every employee is entitled to 11 paid public holidays in a year (Answer: True);
- i. If an employee performs overtime work in excess of eight hours on a normal day, the employee is entitled to 1.5 times the hourly rate (Answer: True);

- j. An employee can take sick leave as and when she/he feels like it (Answer: False – an employee is required to obtain a medical certificate provided by a doctor or dentist and inform the employer that she/he is on sick leave);**
- k. In no circumstances can an employee terminate an employment contract (Answer: False - an employee can terminate an employment contract in the event of harassment or abuse by the employer. An employee can also terminate the employment contract if she/he contracts a serious illness or due to extenuating circumstances, such as the sudden death or serious illness of a family member);**
- l. The cost of the employee's return airfare should be borne by the employer upon completion of the employment contract (Answer: True).**

▶ 2.5 Joining a trade union

It is the right of all workers in Malaysia, irrespective of whether they are nationals or migrants, to join a trade union if they wish to do so. A trade union is an independent organization or group of workers from a common establishment, trade, occupation or industry - or within similar trades, occupations or industries. These bodies organize collective actions to defend workers' interests by means of mechanisms such as collective bargaining. Trade unions also play a key role in promoting good and harmonious relations between employers and workers at the individual and collective level by participating in dispute prevention and resolution mechanisms, where they represent and defend workers' rights.

2.5.1 The right to join and form a trade union

Joining a trade union can have a significant impact on a worker's working and living conditions. It provides a platform for workers to voice their grievances collectively, negotiate for better employment-related benefits with employers, and represent individual workers in disputes with their employers. It is therefore important for

workers to understand their rights with respect to joining and forming a trade union.

- ▶ While it is the right of every worker of Malaysian citizenship to form a trade union²⁰, migrant workers are not allowed to form a union of their own or to hold elected leadership positions in trade unions;²¹
- ▶ Joining a trade union is a choice. A worker may choose not to join a trade union and cannot be forced to do so;
- ▶ Trade unions may collect a subscription fee from their members;
- ▶ An employer cannot prohibit workers from joining a trade union, or include a clause in the employment contract banning them from doing so;
- ▶ An employer cannot refuse to employ a person on the basis of her/his trade union membership;
- ▶ An employer cannot discriminate against a worker on the grounds that she/he is a trade union member;

²⁰ Section 4 of the Industrial Relations Act 1967, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/48066/99440/F1841123767/MYS48066.pdf>

²¹ Sections 28(1) and 29(2) of the Trade Unions Act 1959, available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=10327&p_country=MYS&p_count=199

- An employer cannot dismiss or threaten to dismiss a worker because of her/his trade union membership or participation in trade union activities.

If a migrant worker is interested in joining a trade union, she or he can approach the trade union

leader or representative at the workplace, or the trade union leader or representative in the relevant trades and industry. The process for joining a trade union and the fees for trade union membership differ between trade unions.

► 2.6 Sexual harassment

Employers are responsible for providing a safe working environment for workers, including one that is free from violence and harassment. Sexual harassment can happen anywhere, including at the workplace. A worker should not feel embarrassed to talk about or speak up against sexual harassment. Under Malaysian laws, an employer is required to inquire into all complaints of sexual harassment.

2.6.1 What is sexual harassment?

Every individual has the right to a world of work free of violence and harassment. Under the Employment Act 1955, "sexual harassment" is defined as any "unwanted conduct of a sexual nature, whether verbal, non-verbal, visual, gestural or physical, directed at a person which is offensive or humiliating or is a threat to his well-being, arising out of and in the course of his employment".

Sexual harassment occurs when a recipient does not consent to a conduct that is sexual in nature, which can occur in a number of ways and take various forms. Both women and men can be subjected to this - and also perpetrate it. Similarly, sexual harassment can occur in different employment-related situations such as during work-related social functions, work-related training sessions, work-related travel, over the phone and through electronic media. Some forms that sexual harassment might take are listed below:

- **Verbal harassment:** Offensive or suggestive remarks, comments, jokes, jesting, kidding, sounds, questioning;

- **Non-verbal/gestural harassment:** Leering or ogling with suggestive overtones, licking lips or holding or eating food provocatively, hand signals or sign language denoting sexual activity, persistent flirting;
- **Visual harassment:** Showing pornographic materials, drawing sex-based sketches or writing sex-based letters, sexual exposure;
- **Psychological harassment:** Repeated unwanted social invitations, relentless proposals for dates or physical intimacy ;
- **Physical harassment:** Inappropriate touching, patting, pinching, stroking, brushing up against the body, hugging, kissing, fondling, sexual assault.

Sexual harassment might also occur if an employer uses a refusal to submit to such conduct as a pretext for not hiring someone. It might also interfere with the employee's work performance, or create an environment that is hostile and intimidating.

2.6.2 Online sexual harassment

Sexual harassment can also occur online, through social media platforms and other virtual communication technologies. Online harassment often has long-term and debilitating consequences on its victims because information posted on social media remains for a long time and appears whenever someone searches for information. This harassment can take many forms - be it sexual comments or advances, attempts to obtain a sexual act, or sexual threats

and coercion. It may also consist of spreading rumours online, filming and distributing photos and videos of someone in a sexual act without their consent, and sending damaging images with the aim of harming or humiliating an individual.

2.6.3 What to do in the case of sexual harassment?

If a person is being sexually harassed at work, there are a number of things she/he can do to protect herself/himself.

- ▶ Tell the harasser firmly that his/her behaviour is not wanted;
- ▶ If the harassment does not stop, report it to the supervisor. If the harasser is the supervisor, report it to others such as a trade union representative;
- ▶ Document and record the details of the harassment every time it happens. Include

details of when, where and how it occurred and give the names of any witnesses who were present;

- ▶ File a formal complaint using your company's policies and procedures. If this is not available, file a complaint with the police. Seek the help of trade union representatives or non-governmental organizations for filing a formal complaint.

It is not easy for a victim of sexual harassment to report what has happened. For a migrant worker, power imbalances between the harasser and the victim may play a part in the victim's reluctance to report the incident(s). For example, a migrant worker's work permit is tied to a specific employer and reporting an incident of harassment against an employer or supervisor may lead to its termination or cancellation. There are organizations in Malaysia that provide support services for migrant workers who are victims of violence (box 2.1). A directory of services will be provided in Module 4.

▶ Box 2.2. Seeking help for sexual harassment

There are a number of organizations providing support services to victims of violence, which can be contacted if assistance is required.

- ▶ All Women's Action Society: Helpline/ WhatsApp: +60162374221
- ▶ Women's Aid Organisation: Hotline: +60379563488 (24 hours)
- ▶ Women's Aid Organisation: SMS/ WhatsApp TINA: +60189888058 (24 hours)
- ▶ Tenaganita: Hotline: +60123350512 and +60123395350 (24 hours)

Activity**Sexual harassment scenario****Duration: 20 minutes****Materials: None**

- i.** The facilitator should obtain two volunteers for role-play: one person subjected to “sexual harassment” and the other responsible for the behaviour;
- ii.** The facilitator should ask the participants to think about a sexual harassment scenario that could potentially take place at their workplace. The person responsible for the behaviour is asked to enact the situation. Afterwards, the facilitator should ask the person subjected to the behaviour the following questions:

Step 1: Describe what happened;
Step 2: Describe the behaviour that took place;
Step 3: Describe the impact/ effect it had on you;
Step 4: Describe what you want the person to change;
Step 5: State the consequences if the behaviour does not change.
- iii.** The facilitator should then ask one or two participants to discuss one specific thing that was said, which made it clear the behaviour was unwelcome.



Challenges commonly experienced by migrant workers in Malaysia





▶ 3



► Objectives

Provide an overview of the common challenges that migrant workers face in Malaysia

Contribute to the understanding among migrant workers of how they may be affected by labour rights and human rights violations



► Recommended agenda

Focus area	Timing	Activities and materials
3.1 Workplace conflicts	10 minutes	Lecture
3.2 Labour rights violations	20 minutes	Lecture
3.3 Substandard working and living conditions	10 minutes	Lecture
3.4 Violence and harassment	10 minutes 30 minutes	Lecture Activity – Case study
Total time	80 minutes	

Migrant workers stand to benefit from positive labour migration experiences. Labour migration can be a way of fulfilling personal aspirations, increasing earnings, and gaining new skills and knowledge. Despite the gains that can be made from migrating for work, it is important to highlight that living and working in Malaysia may lead to negative experiences and outcomes. Negative experiences can vary from minor workplace conflicts to severe labour rights violations.²² Some of these challenges may be resolved through informal interventions, while others may require migrant workers to engage with formal labour dispute resolution mechanisms.

Providing information to migrant workers on the various challenges they may face not only helps them to have a better overall understanding of labour migration outcomes in Malaysia but also makes them more aware of their rights - and when they may be violated.

When presenting the following sections to the participants, facilitators are encouraged to draw upon personal experiences with respect to handling or responding to workplace challenges. This will help to illustrate how the various themes discussed might directly apply to them as migrant workers in Malaysia.

²² ILO: Risks and Rewards: Outcomes of Labour Migration in South-East Asia - Key Findings in Malaysia (Bangkok, 2017)., available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_628385.pdf

▶ 3.1 Workplace conflicts

Workplace conflicts are inevitable when employees with various personalities, cultural backgrounds and communication styles come together. They may occur between and among employees and between employees and employers. Workplace conflicts arise on account of:

- ▶ Personality differences;
- ▶ Miscommunication or misunderstandings;
- ▶ Perceived inequities in the distribution of resources and rewards;
- ▶ Confusion as to the scope of work or the roles of different employees at the workplace; and

- ▶ Differences in opinions.

Workplace conflict can be expressed in a variety of ways such as anger, bullying, incivility, impolite language and communication, as well as non-cooperation among colleagues. In extreme cases, these behaviours can amount to violence and harassment. They may also result in work disruptions, decreased productivity and emotional stress. In the case of migrant workers living in employer-provided or centralized accommodation, this unresolved interpersonal tension among colleagues may spill over to the living space.

▶ 3.2 Labour rights violations

As discussed in Module 2, the law in Malaysia provides protection for a wide range of workers' rights. However, workers may find themselves with employers who do not comply with statutory labour rights standards. Violations of the law take many forms, and migrant workers may be confronted with one or more of them perpetrated by their employers or agents. These labour rights violations may include:

- ▶ Withholding of identity documents;
- ▶ Inability to take leave from work;
- ▶ Inability to leave place of accommodation/ hostel to go out other than for work;
- ▶ Excessive work hours;
- ▶ No paid day off;
- ▶ No payment for overtime work performed;
- ▶ Misinformation about the nature of the job (tasks);
- ▶ Misinformation about payment of wages;

- ▶ Lack of adequate PPE provided to workers;
- ▶ Physical abuse;
- ▶ Sexual abuse;
- ▶ Verbal abuse including threats by employers to denounce workers to authorities or to not pay workers' wages;
- ▶ Contract substitution; and
- ▶ Wages below legal minimum wage.

Many migrant workers on a short-term contract may feel compelled to accept the labour rights' violations and be reluctant to pursue legal remedies out of fear of retaliation from their employers. This vulnerability is compounded by the constraints they face in accessing legal remedies, including the fear of termination and becoming undocumented, the lack of information or understanding of their rights and redress options, and the absence of legal aid services for migrant workers.

▶ 3.3 Substandard working and living conditions

Migrant workers may find themselves in working and living conditions that do not match their expectations or reflect what was promised when they were recruited. Substandard working and living conditions can negatively affect migrant workers' physical and mental health. In particular, unsanitary living conditions can contribute to the spread of diseases, which prevents individuals from working and undermines the well-being of the wider community.

3.3.1 Substandard working conditions

Workers may also be exposed to unsafe working conditions on the job, which can result in injuries or deaths. Substandard working conditions can include working in conditions that do not comply with national laws on safety and health, working with defective machinery, a lack of or inadequate PPE required for the job, a lack of on-the-job training for the task required, excessive working hours without rest days, a dirty or cluttered workplace, and inadequate or broken warnings systems. Some workers also live on the premises where they work, which carries workplace hazards over to their living space.

3.3.2 Substandard living conditions

Employers and centralized accommodation providers have to comply with the minimum

standards set by the Workers' Minimum Standards of Housing and Amenities Act 1990.²³ This Act stipulates that it is the employer's duty to:

- ▶ Provide free and adequate running water and electricity;
- ▶ Keep buildings in a good state of repair;
- ▶ Provide separate accommodation for employees of the opposite gender;
- ▶ Take necessary preventive measures to ensure the employees' safety and well-being;
- ▶ Take fire safety measures in accordance with the law;
- ▶ Ensure that the electrical wiring complies with the statutory safety requirements;
- ▶ Ensure that employees receive the necessary medical assistance; and
- ▶ Take preventive measures to contain the spread of infectious diseases.

Despite this legislation, many workers live in accommodation that does not comply with these requirements. Migrant workers are often housed in crowded living spaces that do not have adequate sanitary amenities, which may negatively impact their health and privacy.

²³ The amendments to the Workers' Minimum Standards of Housing and Amenities Act 1990, adopted in 2019, only apply to Peninsula Malaysia and the Federal Territory of Labuan. However, the Governments of Sabah and Sarawak have agreed that the same provisions will be included in their respective Labour Ordinances.

▶ 3.4 Violence and harassment

The ILO Violence and Harassment Convention, 2019 (No. 190) defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”.

The term “violence and harassment” often means different things to different people. Women and men may also perceive the concept differently. It may be caused by employers’ behaviours towards their employees or exist between employees. Some examples of unacceptable behaviours are: sexual, offensive or insulting remarks; threats and intimidating language; racist or sexist remarks and jokes; behaviour that intentionally humiliates others; bullying and cyberbullying; the

spreading of rumours or distributing of personal information to others without permission; and an abuse of power.

Violence and harassment not only occurs at the workplace but can also happen in other circumstances, such as:

- ▶ Where workers receive their pay, take a rest break or a meal, or in sanitary, washing and changing facilities;
- ▶ During work-related trips, travel, training, or social activities;
- ▶ Through work-related communications, including social media platforms;
- ▶ In employer-provided accommodation; and
- ▶ When commuting to and from work.

▶ Box 3.1. Being stopped by a police officer

Migrant workers often encounter police officers in their day-to-day lives in Malaysia. They may meet them on their way to and from work, or on their rest days. These encounters can happen anywhere – near the migrant workers’ place of work or accommodation and in public spaces – and can sometimes lead to arrest and detention. Knowing their rights will help migrant workers interact with law enforcement officials during these encounters.

- ▶ A police officer should be in uniform. If a migrant worker is stopped by a police officer in plain clothes, she/he can ask for a police authority card. The police authority card will state the police officer’s name and ID number. If the police authority card is red, it means that the police officer has been suspended and has no authority to stop anyone;
- ▶ The migrant worker should note the number plate of the police patrol car or motorcycle if stopped;
- ▶ A police officer is authorized to ask the migrant worker for her/his name, address and identification document. This is why it is important for migrant workers to carry with them their passport and also a copy of the passport. If the police officer asks for more than the migrant worker’s name, address and identity document, she/he should politely ask: “Am I under arrest?”
- ▶ A migrant worker is under arrest when the police officer says that she/he is, does not allow her/him to leave, wants to take her/him to the police station or handcuffs her/him;
- ▶ If a migrant worker is not under arrest, she/he can refuse to follow the police

officer to the police station or anywhere else;

- If a migrant worker is under arrest, he/she should not resist and ask: "Why am I under arrest?" An arrest is unlawful when the person arrested is not informed of the reason for the arrest. The migrant worker should also ask which police station she/he will be taken to.

What happens when a migrant worker is under arrest, and what are her/his rights after an arrest and during detention?

- The migrant worker has the right to make a telephone call. She/he is encouraged to call a family member, friend, employer, the embassy or a civil society organization that she/he knows. A list of

relevant service providers can be found in this manual;

- The migrant worker should inform these contacts that an arrest has occurred, the reason for the arrest, the time and place of the arrest, and the name of the police station to which she/he has been taken;
- After an arrest, the migrant worker may be detained up to 24 hours at the police station or in a "lock-up" to assist the police investigation;
- The police officer must bring the migrant worker to a magistrate to request for a remand order to extend the detention beyond 24 hours. The remand order can last up to 14 days. The police cannot detain persons beyond 15 days without charging them with an offence.

Activity

Case study: Madhu (scenario 1)

Duration: 30 minutes

Material: Printed copies of the case study

- i. The facilitator should divide participants into several groups. Each group should be given a copy of the case study below.
- ii. Participants should be given 20 minutes to read and identify labour rights violations in the case study.
- iii. The facilitator should ask the participants to gather together after 20 minutes and choose a representative from each group to share their answers with the whole group.
- iv. When participants are sharing their answers, facilitators are encouraged to probe participants on a potential remedy for the worker in the case study.
- v. The participants should be informed that the next Module (4) will provide more clarity on available remedies.

Case study: Madhu

Madhu is a Nepalese worker who came to work in Malaysia two years ago. His agent in Nepal told Madhu that he would work in a grocery shop in Malaysia.

Madhu arrived in Malaysia with a passport and had no problems coming through Kuala Lumpur International Airport. An agent in Malaysia picked Madhu up from the airport and took Madhu's passport from him, saying that it would be given to Madhu's employer. The agent then sent him to work at an electronics factory in Damansara.

Madhu was surprised that he was not working at the job for which he had signed up. He contacted his agent in Nepal, but the agent merely told him to listen to his employer in Malaysia and not cause any trouble. At the electronics factory, Madhu's employer did not return his passport. Although Madhu requested many times for his passport to be returned, the employer only gave Madhu a photocopy of his passport and work permit – telling him that he could not hold his passport because he would lose it and a lost passport cannot be replaced.

One day, Madhu had an accident at the electronics factory. He slipped and fell because the factory's floor was wet after the janitor had mopped it. He was carrying some heavy boxes at the time and the boxes fell on his chest and legs. As a result, Madhu had a sore back and his left foot was swollen. This made it difficult for him to walk and carry heavy boxes while at work. Madhu's employer did not attend to his injuries or send him to a clinic, so he had to visit a doctor himself and pay for his own medical treatment.

Madhu has worked for one year in Malaysia. However, his employer has not paid him during this time and owes Madhu 15,000 ringgit in wages. Whenever Madhu approaches his employer to ask for his unpaid wages, the employer threatens to report Madhu to the immigration officials. Madhu does not know what to do and the situation is making him anxious. He has not spoken to his family in Nepal for almost a year because he feels ashamed that he has not sent any money home, despite the fact that if his family had known about his problems they could have tried to seek help for him in Nepal. He has spoken to some of his colleagues about his problems and they support him by paying for his food. He does not want to keep living and working in fear.

Violations in this case are: The worker was deceived about the nature of his job; the employer withheld the worker's passport; the employer did not attend to the worker's injuries and he had to pay for his own medical fees; the worker's wages are unpaid, and the employer threatens the worker whenever he asks for them.

Supplementary resources

- ▶ International Labour Organization (ILO): [Situation and gap analysis on Malaysian legislation, policies and programmes, and the ILO Forced Labour Convention and Protocol](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_650658.pdf) (Bangkok, ILO), available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_650658.pdf
- ▶ ILO: [General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf) (Geneva, 2018), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf
- ▶ ILO: Risks and rewards: Outcomes of labour migration in South-East Asia - Key findings in Malaysia (Bangkok, 2017).

Seeking help in Malaysia through formal and informal grievance mechanisms



▶ 4



▶ Objectives

Increase the understanding of various formal and informal workplace grievance mechanisms in Malaysia that are relevant to migrant workers

Provide information on key stakeholders which provide support services to migrant workers and help them access justice

▶ Recommended agenda



Focus area	Timing	Activities and materials
4.1 Informal dispute resolution for workplace grievances	10 minutes	Lecture
4.2 Internal worker grievance mechanisms	10 minutes	Lecture
4.3 Formal dispute resolution for workplace grievances	15 minutes	Lecture
4.4 Accessing service providers for migrant workers	10 minutes 20 minutes	Lecture Activity – Case study
Total time	65 minutes	

Grievances and conflicts are an inevitable part of an employment relationship. Depending on the nature and severity of the case, migrant workers have several avenues for resolving their workplace grievances. Although workplace grievances can also occur between colleagues, this module discusses in detail avenues for resolving workplace disputes between employees and employers.

► 4.1 Informal dispute resolution for workplace grievances

An informal dispute resolution is often the most common method used for resolving conflicts between colleagues or between an employer and a worker at the workplace. Informal processes, such as direct negotiation or mediation through a third party, often allow parties in dispute to resolve the issue quicker and with less expense than the traditional method of “taking a matter to court”.

Negotiation

Negotiation is one of the most basic ways of settling differences, involving communication between the employer and the employee in conflict with the aim of finding a solution. When a migrant worker is confronted with a difficult situation at work, the first step she/he can take is to address the issue by speaking directly to the supervisor or employer.

When speaking to a supervisor or employer, it is important to identify and articulate the problem clearly. This means being prepared by knowing all the necessary information and facts. For example, if a migrant worker approaches a supervisor with a complaint about inaccurate overtime payments, she/he should be equipped

with payslips or further proof of overtime work. Being prepared is not about winning an argument; it is to ensure that the negotiation is focused and geared towards finding a solution. During the discussion, it is important to listen to and record the explanation provided by the manager or employer. Seek clarification if the explanation is unclear. At times, this process may help to clarify misunderstandings or help parties to reach a compromise. At other times, there may be a breakdown in discussions and parties do not agree to a solution.

Bringing in a third party - such as a worker's leader or representative at the workplace, a trade union leader or a civil society organization - to negotiate on behalf of a migrant worker may help to facilitate the process. This is particularly relevant when a migrant worker has difficulties communicating with the employer, or when there are significant power imbalances between the migrant worker and the employer. The knowledge and experience of a third party who is familiar with labour disputes and migrant workers' labour rights are indispensable when attempting to identify solutions in negotiations with employers.

► 4.2 Internal worker grievance mechanisms

An internal worker grievance mechanism is a procedure through which a grievance can be raised, addressed, investigated and responded to - and is established by the employer. Some examples of workplace grievances that can be reported are harassment, discrimination, non-compliance to workplace safety and health standards, and terms and conditions of employment.

A worker grievance mechanism can have various entry points for submitting complaints to the employer or management. Conventional routes

for channelling workers' grievances are written notes to the human resource management, complaints boxes and feedback forms. Employers are also increasingly authorizing other complaints mechanisms such as worker hotlines and worker voice apps, and allowing grievances to be raised through and received by an external party. If an internal worker grievance mechanism exists at the workplace, the following questions need to be clarified:

- How can a worker raise her/his workplace grievance?

- What happens when a worker raises a workplace grievance? How will the complaint be investigated?
- Does the internal workplace grievance mechanism ensure the worker's anonymity?
- Will the worker be penalized for raising a workplace grievance?
- Will the worker be protected if she/he raises someone else's complaint as a whistle-blower?
- What kind of role will a whistle-blower play in the investigation?
- How long will it take to investigate a worker's complaint?
- How will a worker be notified of the outcome of the investigation?
- What are the forms of resolutions that can be achieved?

► Note to facilitator

The facilitator can ask at this point:

- Do you know who your HR manager is?
- Do you know how you can raise a complaint at work?

If the participants do not know who the HR manager is, the facilitator should encourage them to find out. If the participants are not aware of their company's grievance policies, the facilitator can encourage them to find out this information from the HR manager.

► 4.3 Formal legal dispute resolution for workplace grievances

A consensus-based process such as negotiation and mediation is – whenever it is possible and effective - ideal for resolving workplace grievances. However, not all workplace grievances can be resolved informally. When informal negotiations with employers have reached an impasse or been ineffective, or when persistent workplace grievances amount to serious labour rights violations, migrant workers can access formal dispute resolution mechanisms. Under Malaysia's labour laws, there are two avenues for formal labour dispute resolution: the "Labour Court" and the Industrial Court. Facilitators are

encouraged to bring participants' attention to the main differences between these tribunals and their jurisdictions.

4.3.1 Labour Court

The scope of employment-related disputes that may be brought before the Labour Court include²⁴:

- Disputes related to wages, such as unpaid wages or payments due in cash under the employment contract;

²⁴ Section 77 of the *Employment Act, 1955*.

- ▶ Disputes related to an employer's decision of dismissal for misconduct;
- ▶ Claims for indemnity for termination without notice;
- ▶ Sexual harassment.²⁵

The process for referring complaints to the Labour Court is fairly accessible. Complainants are not charged a fee for filing a complaint. Although the Court has the discretion to allow that parties to a dispute are represented by lawyers, trade union representatives or HR consultants, parties can appear in person and represent themselves at the hearing.

How do you file a claim to the Labour Court?

A complaint may be filed by²⁶:

- ▶ Sending a letter to the nearest Department of Labour Office;
- ▶ Sending an email to the Department of Labour at jtksm@mohr.gov.my;
- ▶ Visiting the nearest Department of Labour in person;
- ▶ Calling the Department of Labour at 03-8000 8000.

What documents and evidence are needed when a complaint is submitted to the Labour Court?

Documentary evidence to support a claim include:

- ▶ Employment contracts;
- ▶ Payslips;
- ▶ Bank payment advice and bank statements;
- ▶ Attendance records or "punch cards"; and
- ▶ Relevant letters, emails, mobile text messages and other forms of communication.

4.3.2 Industrial Court

The Industrial Court has the jurisdiction to hear the following cases:²⁷

- ▶ Workers' unfair dismissal;
- ▶ Trade disputes between employers and trade unions;
- ▶ Applications for the interpretation, amendment or variation of an award or collective agreement;
- ▶ Applications to refer questions of law to the High Court;
- ▶ Complaints of non-compliance of an award or collective agreement;
- ▶ Cases of victimization in connection with trade union activities.

Unlike the Labour Court, the Industrial Court is relatively formal. The proceedings at the Industrial Court are conducted like a court trial, and parties to a dispute are required to file pleadings. They are also usually legally represented.²⁸

²⁵ Disputes related to sexual harassment apply to every employee regardless of earnings. See section 81G of the *Employment Act, 1955*.

²⁶ Ministry of Human Resources, Department of Labour Peninsular Malaysia, available at: *Aktiviti Penguatkuasaan & Khidmat Nasihat*, <http://jtksm.mohr.gov.my/en/aktiviti-penguatkuasaan-khidmat-nasihah>, accessed on: 12 June 2020

²⁷ Sections 8(2A), 26, 20(3) and 56 (1) of the *Industrial Relations Act, 1967*.

²⁸ Section 27 of the *Industrial Relations Act, 1967*.

► 4.4 Accessing service providers for migrant workers

Although the formal mechanisms for dispute resolution are intended to be accessible to all, migrant workers may experience practical barriers in resolving disputes through the formal and informal channels discussed in the previous section.

For example, a migrant worker may lack proficiency in Bahasa Malaysia or English – and this will affect her/his ability to submit the complaint either in writing or in person, or to conduct effective negotiations with employers. Migrant workers may not have enough information to assess their legal options adequately as many sources do not provide details in a language they might understand. Furthermore, they may not have the necessary resources to hire legal advisors, or fail to have key documents such as employment contracts and payslips to support

claims of unpaid wages and the like. Migrant workers who work in isolated workplaces or locations and do not have a rest day will find it more challenging or costly to file complaints in person at government offices.

Being aware of some of the barriers to accessing justice can help migrant workers to better prepare and take advantage of available services that can facilitate the whole process. Malaysia has a network of stakeholders with the necessary knowledge and experience to mediate migrant workers' access to justice and to provide various support services to them. These stakeholders include trade unions, civil society organizations, migrant worker networks, embassies and consulates, government and law enforcement agencies.

► Note to facilitator

The Information Booklet, with which you have been provided, contains a list of relevant actors who provide support services to help migrant workers access justice.

Facilitators are encouraged to point participants in the direction of those actors that are the most relevant to them. This is contingent upon a number of factors, such as the participants' nationality, sector of work, and location of workplace.

Activity**Case study: Madhu (scenario 2)**

Duration: 20 minutes

Material: Printed copies of the case study

- i. The facilitator should divide participants into several groups. Each group should be given a copy of the case study below.
- ii. Participants should be given 20 minutes to read and discuss possible solutions for the worker in the case study.
- iii. Participants will realize that it is the same case used in Module 3. The facilitator should reiterate that participants focus their time on finding ways for the worker to obtain access to redress.
- iv. In addition to the channels that the worker can use to obtain access to redress, ask participants to write down the documents that the worker will need to facilitate this process.
- v. The facilitator should ask the participants to gather together after 20 minutes and choose a representative from each group to share their answers with the whole group.

Case study: Madhu

Madhu is a Nepalese worker who came to work in Malaysia two years ago. His agent in Nepal told Madhu that he would work in a grocery shop in Malaysia.

Madhu arrived in Malaysia with a passport and had no problems coming through Kuala Lumpur International Airport. An agent in Malaysia picked Madhu up from the airport and took Madhu's passport from him, saying that it would be given to Madhu's employer. The agent then sent him to work at an electronics factory in Damansara.

Madhu was surprised that he was not working at the job for which he had signed up. He contacted his agent in Nepal, but the agent merely told him to listen to his employer in Malaysia and not cause any trouble. At the electronics factory, Madhu's employer did not return his passport. Although Madhu requested many times for his passport to be returned, the employer only gave Madhu a photocopy of his passport and work permit - telling him that he could not hold his passport because he would lose it and a lost passport cannot be replaced.

One day, Madhu had an accident at the electronics factory. He slipped and fell because the factory's floor was wet after the janitor had mopped it. He was carrying some heavy boxes at the time and the boxes fell on his chest and legs. As a result, Madhu had a sore back and his left foot was swollen. This made it difficult for him to walk and carry heavy boxes while at work. Madhu's employer did not attend to his injuries or send him to a clinic, so he had to visit a doctor himself and pay for his own medical treatment.

Madhu has worked for one year in Malaysia. However, his employer has not paid him during this time and owes Madhu 15,000 ringgit worth of wages. Whenever Madhu approaches his employer to ask for his unpaid wages, the employer threatens to report Madhu to the immigration officials. Madhu does not know what to do and the situation is making him anxious. He has not spoken to his family in Nepal for almost a year because he feels ashamed that he has not sent any money home, despite the fact that if his family had known about his

problems they could have tried to seek help for him in Nepal. He has spoken to some of his colleagues about his problems and they support him by paying for his food. He does not want to keep living and working in fear.

There are a number of possible avenues for accessing justice: 1) A complaint may be filed with an NGO in the source country (Nepal) on the grounds that the migrant worker was deceived as to the nature of the job he was being offered (Madhu was sent to work in a job which was different from the one he had been promised by the agent back home). A complaint may also be filed with a regulating body in the source country (Nepal) which regulates recruitment agencies. The source country NGO may also be able to help with filing this complaint with the relevant government agency in the source country. The documents required would include a contract signed in the source country indicating that Madhu was going to work in a grocery store - or any other proof of this. 2) A complaint may be filed with the Malaysian labour department - or with a Malaysian NGO, trade union representative or community organization - on the grounds of the withholding of a passport and unpaid wages, as well as the non-payment of medical treatment. Madhu opted for this course of action as he had already voiced his concerns to his employer but nothing had come of it. The documents required include: medical receipts, the employment contract, proof of attendance at work and evidence of the non-payment of wages, i.e., bank statements to show that the company has stopped sending money to Madhu's account. It would also be relevant to provide any evidence that he was threatened by the employer, or that the employer refused to return his passport to him - i.e., an audio recording of the conversation between Madhu and his boss asking for his unpaid wages and for his passport.

Supplementary resources

- ILO: [Report on Review of Malaysia's Labour Dispute Resolution System](#) (Geneva, 2020), available at:
- International Training Centre (ITC) of the International Labour Organization (ILO): [Labour Dispute Systems: Guidelines for improved performance](#) (Turin, 2013), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_211468.pdf



Money and migration





► 5

► Objectives



Introduce basic knowledge, skills and tools related to the management of earnings, spending and remittances to mitigate the risks and maximize the benefits associated with labour migration

► Recommended agenda



Focus area	Timing	Activities and materials
5.1 Understanding the terms of the contract and employment benefits	20 minutes	Lecture
5.2 Setting financial goals and making a budget	15 minutes 30 minutes	Lecture Activity – making a budget
5.3 Keeping track of the money	10 minutes 30 minutes	Lecture Activity – identifying needs vs. wants
5.4 Remitting home smartly	15 minutes	Lecture
Total time	120 minutes	

Many migrant workers consider labour migration as a strategy for realizing their personal aspirations and financial goals. Migrating for work will bring many new experiences and “firsts” for migrant workers. It may be the first time a worker leaves home, copes without family or friends, lives abroad, has an employment contract or receives

a salary. Understanding how to navigate these “firsts” and manage money effectively will help migrant workers take control of their finances and attain their goals.

This module outlines key money management habits that may help a migrant worker assess and make financial decisions.

▶ Note to facilitator

The facilitator can ask participants:

- ▶ Is this the first time you are migrating abroad for employment?
- ▶ Is this your first job?

▶ 5.1 Understanding the terms of the contract and employment benefits

Receiving wages for the first time can be a proud moment and an exciting experience in a worker’s life. However, understanding the terms of an employment contract is crucial to ensure that the worker receives the remuneration to which she/he is contractually and legally entitled. The employment contract should clearly specify the amount of wages due to a worker and the manner in which she/he will be paid. Migrant workers should have a copy of their signed written contract, in a language they understand. For those without a written contract, it is important that the employer and the worker mutually agree on the terms of the verbal contract.

For a migrant worker, the contract should answer the following questions:

- ▶ How much is the worker paid?
- ▶ How are the wages calculated? If the worker works overtime, how much will she/he earn per hour (on normal working days, on weekly leave days and public holidays)?

- ▶ How often is the worker paid – monthly, weekly, by piece rate?
- ▶ Does the contract provide for other monetary benefits and allowances? What are they?
- ▶ How does the worker receive her/his wages – in cash or through a bank account?
- ▶ What kind of deductions are made from the worker’s wages, if any?
- ▶ Does the worker receive a written record of the payment of wages and deductions made?
- ▶ Is the worker paid in compliance with Malaysia’s minimum wage regulations?

A migrant worker can open a bank account in Malaysia. If wages are paid through a bank account, she/he should have access to the bank account number, an ATM card and the freedom to access and manage money in the account.

► **Note to facilitator**

The facilitator can ask participants to recall five items regarding wages that should be stipulated in every worker's contract.

► 5.2 Setting financial goals and making a budget

The first step in taking control of finances is to determine how much money can be spent and how much should be saved. This may be achieved by drawing up a monthly budget, which provides an overview of the amount of money coming in and going out.

5.2.1 How to make a budget?

- List all income sources – monthly salary, overtime, bonuses, tips and allowances;
- List all expenditures, differentiating needs from wants. Examples of expenditure needs are money spent on debt repayment, rental, food, utilities, transportation, remittances and healthcare;
- If your income fluctuates, take the income earned in a particular month as an average;
- Some expenses such as rental, union fees and transportation are fixed. However, other expenses like utilities and food costs may vary from month to month. For variable expenses, budget the maximum amount that may be spent.
- Calculate your net income, i.e., the money left after all expenses are taken into consideration.
- If the net income is negative (when the total expenditure exceeds the total income), it means that expenditure has to be adjusted by reducing spending on “wants”.

Activity**Making a budget**

Duration: 30 minutes

Materials: Blank A4 paper

- i. The facilitator should provide one blank sheet of A4 paper to every participant, who will be asked to make a budget on how they will spend their monthly earnings;
- ii. The facilitator should inform participants that for the purposes of this exercise, each of them receives 1,200 ringgit in total at the end of every month.
- iii. As some participants may be new to Malaysia, the facilitator should inform them of the rough cost of essential food items in Malaysia. For example, a bag of 10kg rice costs 50 ringgit.
- iv. Some participants may have a problem writing or making calculations. The facilitator should be vigilant and assist participants who need help.
- v. After 20 minutes, the facilitator should ask participants to gather together and randomly select a few participants to share their budget items and the amount spent on each item.
- vi. The facilitator should reiterate that it is important for participants to set some money aside every month for savings and emergencies, after having spent on basic needs and necessities.

▶ 5.3 Keeping track of the money

Migrant workers may use their budget as a tool for monitoring income and expenses. Being “good with money” takes time and practice. Planning ahead may be tedious but gives a worker greater control over her/his earnings.

- ▶ Refer to the budget frequently when deciding on how to spend money - and what to spend it on;
- ▶ Update the budget frequently to reflect the actual amounts spent on any given item;
- ▶ Set a limit for unbudgeted spending. If there is money left at the end of the month, it may be used for items that have not been budgeted. However, there should be a limit on such spending. Stick to this limit;
- ▶ Plan for big purchases to make sure that these will not interfere or put stress on your financial plan. Put off big purchases until you can afford them;
- ▶ Small purchases have a way or adding up quickly and can lead to overspending. Keep receipts and itemize all the purchases made in a month to ensure that spending is tracked;
- ▶ Categorize the purchases made at the end of the month. This will provide an overview of where the money has gone and help identify spaces for adjusting the monthly budget. Mobile apps such as Mint, PocketGuard and Clarity Money can be downloaded to help keep track of spending;
- ▶ Set a savings goal and contribute to savings regularly, if possible.

► **Box 5.1. Needs vs wants**

Having a clear view of personal needs and wants is one of the first steps in planning a budget and managing finances. It does not mean that a person cannot purchase what

she/he wants or likes. However, knowing how to distinguish between wants and needs helps towards balancing a budget.

NEEDS	WANTS
Needs are an individual's basic requirements that must be fulfilled for survival.	Wants are goods and services that an individual would like to have.
Needs are limited.	Wants are unlimited.
Something you must have	Something you wish to have
Needs may remain constant over time.	Wants may change over time.
Essential	Can do without
Examples: Food, clothing, rental, utilities, debt repayment, remittance, healthcare.	Examples: Gifts, entertainment.

Do needs change over time?

Not everyone has the same needs and wants. A person's needs do not change over time. However, personal priorities and values that people have may evolve because of life

experiences or age. For example, if a person is having a child, the need for remitting money home may be greater than before - or if a person is ill, health insurance becomes an immediate need.

► **5.4 Set up an emergency fund**

Emergencies can happen at any time. A migrant worker or her/his family may unexpectedly require

a large sum of money. Starting an emergency fund will help to prepare for emergencies.

Activity

Identifying needs and wants

Duration: 30 minutes

Materials: Printed copies of the table below:

Needs	Wants

Needs	Wants

- i. The facilitator should request participants to work in pairs and give each pair a printed copy of the table above;
- ii. The participants should be asked to think of at least five things they or their family have bought or spent money on recently;
- iii. The facilitator should ask participants to record the purchased items in either the “needs” or “wants” column in the table. If both people in the pair give the same answer – i.e., food - repeat this in the table;
- iv. Participants should be given 20 minutes to complete this activity;
- v. The facilitator should bring the participants back together in the initial large group and randomly select some of them to share a number of the item categorizations they have come up with ;
- vi. The facilitator should help participants analyse what constitutes a “need” and a “want”. She/he should reiterate that needs and wants mean different things for different people, but participants should ensure that they give priority to “needs”, and that “wants” are either covered by the money they have earned or set aside as a budget.

▶ 5.5 Remitting home smartly

It can be a hassle and an intimidating process for migrant workers - especially first-time migrant workers - to send money back to their countries of origin. There are a large number of service providers and transfer options on offer. Informal money transfer service providers are not regulated under the law.

Discovering the right option requires time and research. Migrant workers should be encouraged

to use formal remittance service providers such as banks, money transfer operators, and licensed mobile applications. Remittance through formal channels is more secure and reliable as each transaction is supported by a receipt.

This section aims to provide guidance on the factors that should influence a migrant worker's remittance choices.

5.5.1 Common options for transferring money abroad from Malaysia

Migrant workers have a number of options to send money home through formal channels, and the best methods will depend on how and where the money is going to be sent.

Telegraphic transfer: Sending money through a bank with a foreign telegraphic transfer (commonly referred to as "TT") is one of the most traditional methods of sending money abroad. It moves funds from one bank account to another bank account in a different country. This is a service provided by all banks, and has a fixed, destination-based fee that does not vary - irrespective of the amount of money transferred. However, both the sender and recipient are charged a fee for this transfer method.

Western Union: *Western Union* outlets are widely available in Malaysia and they constitute one of the fastest methods of sending money overseas. This option allows for money to be sent either as cash to an overseas recipient directly or into an overseas bank account. A cash-to-cash transfer, where the recipient collects the money transfer at a *Western Union* branch directly, can be completed within minutes and does not require the recipient to have a bank account. This is particularly useful for migrant workers whose family members are "unbanked".

MoneyGram: *MoneyGram* offers the same services as *Western Union* and its outlets are also widely available in Malaysia. Fees for transfer by *MoneyGram* vary depending on the receiving country and the amount being sent. A migrant worker also has to initiate the transaction in person.

Mobile phone applications: There are a growing number of money transfer service providers that provide services through mobile phone applications. *TransferWise*, *WorldRemit* and *Remitly* are some suggested apps for transferring money home in a cost-efficient way.

5.5.2 Choosing the best money transfer service provider

Shopping around for the right money transfer service provider can lead to significant savings for migrant workers. Before transferring funds internationally, they would be well advised to compare money transfer services to find one that suits their transfer destination and budget.

There are a few factors that migrant workers need to consider when choosing a money transfer company to send money home to their country of origin:

Exchange rates: This will determine how many Malaysian ringgit a migrant worker needs to send to ensure that the recipient receives the same amount in the currency of the his/her country of origin. Exchange rates fluctuate - and different financial institutions or service providers will have varying exchange rates.

Fees: These are charged by the service provider for transferring money abroad. The service provider with the best exchange rate does not always have the lowest fee for the money transfer.

Transfer methods: Some service providers will only process a transaction in-branch or online. However, there are a growing number of service providers that provide the option of placing transfers over the phone or using a mobile application.

Turnaround time for the transfer: Processing times can vary from hours to days. It is therefore important to check how long it will take for a service provider to complete the transaction to avoid delayed transfers.

Minimum amount: Some service providers have a minimum and maximum transfer amount; this will differ from service provider to service provider.

Pick-up services: This refers to the way in which the recipient can collect the money remitted by the migrant worker in Malaysia. Money can be transferred to a specific bank account in the recipient's name, or collected from a money transfer service provider in person.

Customer service: People make mistakes with money transfers all the time. These range from writing down the wrong account number, spelling

the recipient's name incorrectly, to providing the wrong bank details. It is important to have a service provider that can provide a responsive customer service when a transaction goes wrong. As migrant workers are likely to access money

transfer services during their rest days, service providers that operate on weekends and public holidays and have a 24-hour service helpline are particularly useful.

▶ 5.6 Speaking to family about remittances

Migrant workers need the support and collaboration of their family members to achieve their personal goals, which may differ from those of their family. It is not uncommon for older members of the family to have priorities that are different from those of the younger family members. In the case of first-time migrant workers, it may be a new experience for families to receive a remittance. It is therefore important that migrant workers should have a conversation with their family about the way in which remittances are earned and how they should be spent. Reaching an agreement in this area will

help to build stronger relationships and avoid unwanted surprises. Goals and priorities may also change over time. It is important to re-evaluate agreed priorities from time to time.

Discuss as a family from time to time:

- ▶ How and when remittances will be sent;
- ▶ How much remittance is needed each month;
- ▶ What the remittance will be spent on; and
- ▶ Financial goals and how to attain them.

▶ Note to facilitator

At the end of this module, the facilitator should randomly select and ask participants what they remember from each module. The facilitator should also ask if any information in particular stood out to the participants, and whether they have any remaining questions. After the facilitator has addressed the participants' questions, she/he should ask them how they found the training and try to obtain suggestions on ways in which the training could be made more effective for future groups.

Supplementary resources

- ▶ International Labour Organization (ILO): [Save Smart: Migrant Worker Resource Centre financial education training manual](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_761380.pdf) (Bangkok, 2019), available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_761380.pdf
- ▶ ILO: [Save Smart: Financial planner for ASEAN migrant workers](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_761380.pdf) (Bangkok, 2019), available at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_761380.pdf
- ▶ [SaverAsia](#)

Annexes



▶ Annex I. Sample of Employment Contract

This **CONTRACT OF EMPLOYMENT** is made on this day.... month of.....20... between..... (hereinafter referred to as “the Employer”) of one part and..... Passport No. and/or Birth Registration No. (hereinafter referred to as “the Worker”) of the other part.

WHEREAS the Employer shall employ the Worker in accordance with the terms and conditions of this Contract of Employment and subject to the laws, regulations, rules, national policies and directives of Malaysia.

IT IS HEREBY AGREED as follows:

1. Duration of this Contract of Employment

The duration of this Contract of Employment shall be for a period of year(s) commencing on the day of arrival of the Worker in Malaysia until such time the Contract of Employment is terminated in accordance with the terms and conditions of this Contract of Employment.

2. Wages

- 2.1 The Worker shall receive a basic wage of RM (excluding allowances and overtime). This basic wage shall comply with the national minimum wage.
- 2.2 Wages shall be paid by the Employer on a monthly basis not later than seventh day of the following month.
- 2.3 The payment of the monthly wages shall be made through a bank account in the worker's name.

3. Working Hours

Working hours shall be eight (8) hours per day in accordance with the labour laws in Malaysia.

4. Overtime

In the event the Worker, upon the request by the Employer, agrees to work in excess of his normal working hours, the Worker shall be paid in accordance with the labour laws in Malaysia.

5. Rest Day

5.1 The Worker shall be entitled to one (1) rest day in each week

5.2 In the event the Worker, upon the request by the employer, agrees to work on such rest day, the worker shall be paid in accordance with the labour laws in Malaysia.

6. Public Holiday

6.1 The Worker shall be entitled to public holidays in accordance with the labour laws in Malaysia.

6.2 In the event the Worker, upon the request by the employer, agrees to work on such public holiday, the worker shall be paid in accordance with the labour laws in Malaysia.

7. Annual Leave

The Worker shall be entitled to annual leave in accordance with the labour laws in Malaysia.

8. Levy

The payment of levy shall be borne by the Employer.

9. Medical and Accident Insurance

The Worker shall be insured under the Foreign Worker's Compensation Scheme (FWCS) under the Workmen's Compensation Act 1952 and if applicable, the Foreign Workers Health Insurance Scheme (SPIKPA).

10. Deductions

The Employer is entitled to make deduction for not more than 50% in a month from the Worker's wages in the event of any monetary advance in accordance with the labour laws in Malaysia.

11. Accommodation

The Employer shall provide the Worker with reasonable accommodation with basic amenities in accordance with the laws, regulations, rules, national policies and directives in Malaysia.

12. Sick Leave

The Worker shall be entitled to a paid sick leave in accordance with the labour laws in Malaysia.

13. Renewal of Worker's Visit Pass (Temporary Employment)

13.1 The Employer shall renew the Worker's Visit Pass (Temporary Employment) three (3) months before the expiry date.

13.2 Any penalty or compound due to the failure of the Employer to do so shall be borne by the Employer.

14. Air Passage

The first travelling expenses from to any agreed point of entry in Malaysia shall be borne by the Worker and the expenses from any agreed point of exit in Malaysia to shall be borne by the Employer upon completion of this Contract of Employment.

15. Repatriation

15.1 The repatriation cost of the Worker from his place of work in Malaysia to his original exit point in shall be borne by the Employer under the following circumstances:

- (i) at the completion of this Contract of Employment;
- (ii) termination of this Contract of Employment by the Employer other than non-compliance of the terms and conditions of this contract of employment by the worker; or
- (ii) termination of this Contract of Employment by the worker due to non-compliance of the terms and conditions of this Contract of Employment by the Employer.

15.2 The Worker shall be responsible for all expenses relating to repatriation under other circumstances that are not mentioned in Clause 15.1.

The term “original exit point” in this Contract of Employment shall mean

16. Repatriation in the Case of Death of the Worker

In the event of death of the Worker, the funeral and repatriation of the remains shall be arranged at the expense of the Employer as provided for the Workmen's Compensation Act 1952 [Act 273].

17. Termination

17.1 In the event the Employer intends to terminate this Contract of Employment, the Employer shall give two (2) months' notice of his intention to terminate such Contract of Employment or two (2) months' wages in lieu of notice to the Worker, and shall provide air fare to for the Worker.

17.2 In the event the Worker intends to terminate this Contract of Employment, the Worker shall give two (2) months' notice or indemnify two (2) months' wages in lieu thereof to the Employer and the Worker shall bear the cost of air fare to

18. Restrictions

18.1 The Worker shall not participate in any political activities or activities of those connected with political organizations in Malaysia.

18.2 The Worker shall not change employment during this Contract of Employment period and shall not carry or do other business.

18.3 If the Worker is found by the competent authority concerned creating social problems or engaging in any illegal, subversive or criminal activities, the Worker shall be dismissed from the job and shall be repatriated to at the Worker's own expenses.

18.4 In the event the Worker marries any person in Malaysia during the worker's period of employment under this Contract of Employment, the Government of Malaysia reserves the right to revoke the Visit Pass (Temporary Employment) of the Worker.

19. Extension

The Employer and the Worker may agree that the contract of employment may be extended, subject to relevant laws, regulations, rules, national policies and directives relating to employment applicable in Malaysia.

20. Safekeeping of the Passport

20.1 The Employer shall not keep the passport of the Worker in his/her custody.

20.2 The Worker shall carry the passport all the time. In the event that the Worker's passport is lost or damaged, the Worker shall bear all related expenses.

20.3 The Worker shall submit the passport to the Employer for the following purposes:

- (i) medical screenings;
- (ii) application of Visit Pass (Temporary Employment);
- (iii) application of Foreign Workers Identity Card; and
- (iv) renewal of Visit Pass (Temporary Employment).

The passport shall be returned to the Worker upon completion of these purposes.

In the event that the Worker's passport is lost or damaged while in the custody of the Employer for the above mentioned purposes, the Employer shall bear all related expenses.

21. Foreign Worker Identity Card

The employer shall ensure that each Worker receives the Foreign Worker Identity Card (I-Kad).

22. Outstanding Wages

In the event the worker is to be repatriated before the expiry of this Contract of Employment, the employer shall pay all outstanding basic wages and all other payments owed to the worker subject to the relevant laws, regulations, rules, national policies and directives relating to employment applicable in Malaysia.

23. Amendment

The Employer and the Worker may amend this Contract of Employment to incorporate any other terms and conditions which shall be more favourable to the Worker.

24. Time is an Essence

Time whenever mentioned shall be the essence of this Contract of Employment.

25. Interpretation

In the event there is a conflict of interpretation between the English text and any text in other language used in this Contract of Employment, the English text shall prevail.

26. Laws

This Contract of Employment shall be subjected to the laws of Malaysia.

27. Succession

This Contract of Employment shall be binding of the successor in title, assigns, personnel, representatives of the parties hereto.

28. Language of this Contract of Employment

This Contract of Employment shall be prepared in four (4) original texts, two (2) each in English and language of the country of origin of the worker, all texts being equally authentic.

IN WITNESS WHEREOF the parties hereto have signed this Contract of Employment on the day and year mentioned at the beginning of this Contract of Employment.

.....
(Employer's Signature)
Name:
NRIC No.
Address:

.....
(Worker's Signature)
Name:
Passport No.:
Emergency Contact No.

.....
(Signature of Witness from Employer)
Name:
Address:

I hereby declare details of
my dependant:
Name:
Address:
Contact No.

.....
(Signature of Witness from Worker)
Name:
Address:

(Note:

For Cambodia workers, they shall request approval with Cambodian Recruitment Agency for the extension of the Contract of Employment agreed between the worker and the employer. This is upon the request from the Cambodian Government and was included in the MOU signed on 10 December 2016)

► Annex II. Materials for printing

1. Employment contract terms and conditions checklist (to be used in section 1.2.1)

Contract components	Is this particular component in your contract?
Names of employer and worker	
Job description	
Place of work	
Employment start and end dates	
Wages and other rates of pay including overtime	
Date and methods of payment	
Salary deductions and fees charged to employees	
Expected working hours, days and overtime procedures	
Holiday entitlement, rest day	
Annual leave	
Sick leave	
Termination of employment	
Repatriation of the migrant worker	
Insurance or compensation in the event of death, occupational disease or personal injury	

2. Essential Malay phrases (to be used in section 1.3.1)

Malay	English
<i>Hello</i>	Hello
<i>Apa khabar</i>	How are you
<i>Selamat pagi</i>	Good morning
<i>Selamat petang</i>	Good evening
<i>Selamat malam</i>	Good night
<i>Selamat tinggal</i>	Goodbye
<i>Ya</i>	Yes
<i>Tidak</i>	No
<i>Mungkin</i>	Maybe
<i>Terima kasih</i>	Thank you
<i>Sama-sama</i>	You're welcome
<i>Maaf</i>	Excuse me
<i>Maafkan saya</i>	I'm sorry
<i>Saya tidak ada</i>	I don't have
<i>Kami tidak ada</i>	We don't have
<i>Name saya</i>	My name is
<i>Umur saya ialah.....tahun</i>	I'm ... years old
<i>Saya tidak faham</i>	I don't understand
<i>Saya tidak boleh cakap Bahasa Melayu</i>	I don't speak Malay
<i>Tolong</i>	Please
<i>Tolong ulang</i>	Can you please repeat
<i>Sekejap</i>	Just a moment
<i>Sana</i>	There
<i>Sini</i>	Here
<i>Satu</i>	One
<i>Dua</i>	Two
<i>Tiga</i>	Three
<i>Empat</i>	Four
<i>Lima</i>	Five
<i>Enam</i>	Six
<i>Tujuh</i>	Seven
<i>Lapan</i>	Eight
<i>Sembilan</i>	Nine
<i>Sepuluh</i>	Ten

3. Activity sheet: To be used immediately after lecture 2.3.3

Based on the type of work you do, what sort of accident might occur at your workplace?	What might happen as a result of that accident?	What can you do to prevent an accident?

4. Case study: Madhu (To be used for activity 3.4 and 4.4)

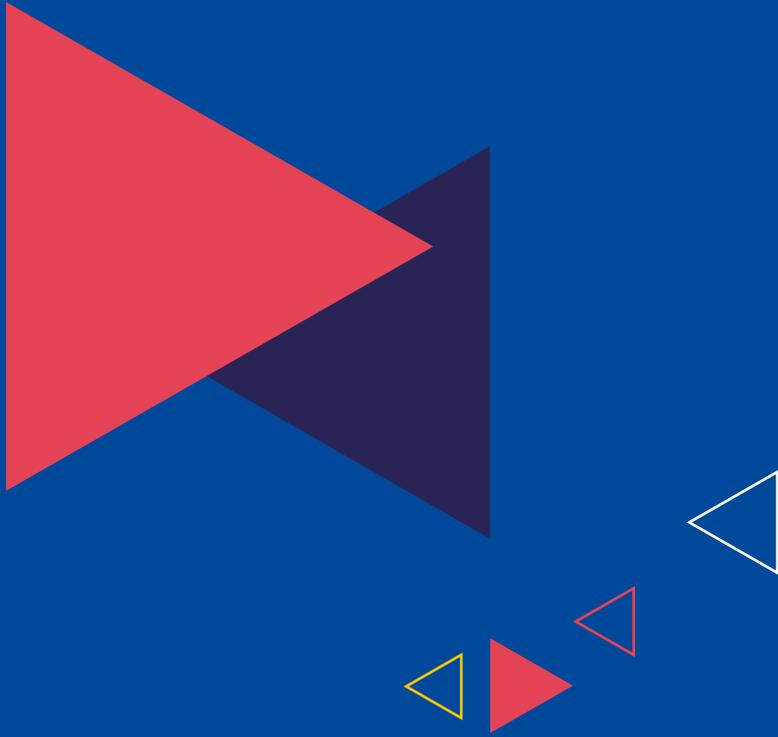
Madhu is a Nepalese worker who came to work in Malaysia two years ago. His agent in Nepal told Madhu that he would work in a grocery shop in Malaysia.

Madhu arrived in Malaysia with a passport and had no problems coming through Kuala Lumpur International Airport. An agent in Malaysia picked Madhu up from the airport and took Madhu's passport from him, saying that it would be given to Madhu's employer. The agent then sent him to work at an electronics factory in Damansara.

Madhu was surprised that he was not working at the job for which he had signed up. He contacted his agent in Nepal, but the agent merely told him to listen to his employer in Malaysia and not cause any trouble. At the electronics factory, Madhu's employer did not return his passport. Although Madhu requested many times for his passport to be returned, the employer only gave Madhu a photocopy of his passport and work permit – telling him that he could not hold his passport because he would lose it and a lost passport cannot be replaced.

One day, Madhu had an accident at the electronics factory. He slipped and fell because the factory's floor was wet after the janitor had mopped it. He was carrying some heavy boxes at the time and the boxes fell on his chest and legs. As a result, Madhu had a sore back and his left foot was swollen. This made it difficult for him to walk and carry heavy boxes while at work. Madhu's employer did not attend to his injuries or send him to a clinic, so he had to visit a doctor himself and pay for his own medical treatment.

Madhu has worked for one year in Malaysia. However, his employer has not paid him during this time and owes Madhu 15,000 ringgit worth of wages. Whenever Madhu approaches his employer to ask for his unpaid wages, the employer threatens to report Madhu to the immigration officials. Madhu does not know what to do and the situation is making him anxious. He has not spoken to his family in Nepal for almost a year because he feels ashamed that he has not sent any money home, despite the fact that if his family had known about his problems they could have tried to seek help for him in Nepal. He has spoken to some of his colleagues about his problems and they support him by paying for his food. He does not want to keep living and working in fear.



Fundamental Principles and Rights at Work Branch (FUNDAMENTALS)

Labour Migration Branch (MIGRANT)

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