

# **Ethical recruitment becoming a growing imperative for Malaysian businesses that hire foreign workers**

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## **ESG growth in Malaysia**

In recent years, the ESG (Environmental, Social, Governance) wave in Malaysia has grown tremendously, with major entities in Malaysia introducing ESG expectations upon themselves, their investee companies and corresponding supply chains.

### **Bursa Malaysia**

On [4 December 2023](#), Bursa Malaysia launched their platform for mandatory ESG reporting by **public listed companies** on the Main and ACE markets.

### **Securities Commission (SC)**

On [28 October 2023](#), Capital Markets Malaysia, SC's affiliate launched a Simplified ESG Disclosure Guide (SEDG), making Malaysia the first country globally to provide **small-to-medium enterprises (SMEs)** within global supply chains with a streamlined and standardised set of guidelines in relation to environment, social and governance (ESG) disclosures.

### **Permodalan Nasional Berhad (PNB)**

April 2022: PNB announced their [Sustainable Framework: 10 ESG Commitments](#) and later their [Labour Rights Policy](#), covering forced and child labour as a key material issue

August 2023: PNB released their [Sustainability Policy](#)

### **Khazanah Nasional Berhad (KNB)**

Malaysia's sovereign wealth fund's [Sustainability Framework and Targets](#) targets decent work as a key focus area. In March 2023, Khazanah launched its [Dana Impak](#) programme to invest in projects that align with ESG-related themes such as clean energy, climate technology, and social inclusion.

### **Ministry of Human Resources (MOHR)**

In September 2023, the MOHR released their [Guidelines for Preventing and Eradicating Forced Labor Practices in the Workplace](#), a 50-page effort of the Department of Labour and the Anti-Trafficking in Persons and Migrant Anti-Smuggling Council (MAPO) of the Ministry of the Interior (KDN) aimed at raising awareness among stakeholders on the issue of forced labour practices. It is accompanied with the goal to hit the target set of **zero forced labour by 2030**.

The growing enforcement on ESG is not surprising, given [Malaysia's need to comply](#) if we hope to remain competitive and relevant in global supply chains.

## **How this impacts businesses that hire foreign workers**

If you run or represent a business that hires migrant workers, this wave will eventually meet your doorstep. The S(Social) pillar under typical ESG Frameworks addresses the need for businesses to

eliminate modern slavery, human trafficking, forced labour and other exploitative employment practices in their workforce and supply chains. How businesses recruit and manage foreign workers has a huge impact on their ability to comply or face the consequences of inaction. In 2020 to 2022 alone, [8 Malaysian companies focusing on palm oil and rubber sectors were slapped with a Withhold Release Order \(WRO\) by the US Customs and Border Protection \(CBP\)](#). The fight against forced labour is intensifying, with tightened regulations and the [EU's recent import ban on products linked to it](#).

As a business that hires foreign workers, you can start to address forced labour concerns by learning about the common challenges businesses face in ensuring compliance with ethical recruitment.

## **4 Common Challenges that Businesses Face in Ensuring Compliance with Ethical Recruitment**

The Environmental, Social & Governance ([ESG wave is growing in Malaysia](#)). Under the Social (S) Pillar, businesses that hire migrant workers confront the importance of eliminating modern slavery, human trafficking, forced labour and other exploitative employment practices in their workforce and supply chains through ethical recruitment. Unfortunately, most businesses in Malaysia, especially SMEs (which make up 97% of the Malaysian economy) often struggle to even begin addressing these concerns.

If you're an SME owner you might find yourself juggling tight margins and ambitious growth, and the need to comply with anti-forced labour and ethical recruitment mandates might feel like another hurdle.

We came up with this guide in hopes to help you cut through the legalese and share practical challenges you might face, while offering actionable solutions and insights to navigate Malaysia's evolving ethical recruitment landscape.

### [Common challenges in ensuring compliance with ethical recruitment](#) [Several proactive steps to begin the ethical recruitment journey](#)

#### **1. Limited awareness of forced labour, human trafficking and modern slavery**

Many employers are not fully aware of activities that may constitute forced labour, human trafficking and modern slavery. For example, charging workers recruitment fees, retaining their passports and restricting their freedom of movement, though considered normal and commonplace in Malaysia, are all indicators of forced labour and human trafficking. These practices further often go unchallenged due to a lack of awareness regarding their implications.

#### **2. Complex recruitment processes and reliance on agencies**

As a recruitment agency, Pinkcollar is well-acquainted with the complex processes in sourcing, recruiting and hiring foreign workers. Complicated recruitment processes often force employers to heavily rely on recruitment agencies that may in turn depend on a complex network of sub-agents or brokers in the countries of origin to source workers. The intricate nature of this web makes it challenging for employers to monitor or keep track of the entire recruitment process, which may involve elements of trafficking and forced labour.

#### **3. Lack of unified laws across origin and destination countries**

While Malaysian employers are obligated to adhere to local laws, the lack of harmonised or unified laws on recruitment practices between Malaysia and source countries (Bangladesh, Nepal, Indonesia,

etc.) can pose a significant challenge. This discrepancy may lead to situations where recruitment partners in the origin country do not face the same level of oversight on recruitment practices.

#### **4. Costliness of compliance**

Even for businesses that are knowledgeable and intend to practise ethical recruitment, compliance can be costly, especially in the beginning, when companies have to learn new ways of operating and undo/reverse entrenched practices. While this is a reality, the costs, if not borne now, will be borne later. Not complying will eventually result in legal risks and reputational damage. Furthermore, exploitative practices invite fines, compensation requirements, lawsuits, and negative publicity.

### **3 Proactive Steps to Begin The Ethical Recruitment Journey**

The journey towards complying fully with ethical recruitment requirements for businesses is a long one. Here are some starting points:

- 1. Educate yourself and your team (particularly Human Resources) on forced labour**  
Equip yourself with knowledge on forced labour and its ramifications for both workers and your business. There are many resources available from various reputable organisations such as the [International Labour Organisation](#), the [International Organisation for Migration \(IOM\)](#) and [Responsible Business Alliance](#)
- 2. Map and understand your migrant workforce's journey into Malaysia**  
Extend your criteria for recruiting foreign migrant workers beyond skills and recruitment fees. Consider running a focus group with your migrant workforce, asking them questions about their entire journey to Malaysia, from sourcing all the way to their arrival.
- 3. Conduct due diligence on recruitment partners**  
Once you understand more about ethical recruitment, ensure that your recruitment partners are licensed and adhere to fair recruitment practices. Enforce contractual obligations, particularly the principle that workers should not bear any recruitment fees. Regularly verify their compliance through due diligence measures.

### **A 4 Point Practical Guide for Malaysian Manufacturers**

Malaysia's thriving manufacturing sector relies heavily on migrant workers. Ensuring their fair and ethical recruitment is not just a legal obligation, but a win-win for both businesses and workers. This guide focuses on practical steps Malaysian manufacturers can take to implement ethical recruitment practices.

#### **1. Transparent Job Postings:**

A lot of times, migrant workers come over to Malaysia not having a clear understanding of their roles, responsibilities, and working conditions. Lured in by unrealistic promises and vague descriptions by agents, migrant workers arrive in Malaysia unaware of their actual responsibilities, wages and working conditions, leaving them susceptible to exploitation, manipulation, and even forced labour. They may face pay discrepancies, dangerous tasks, or work longer hours than promised, impacting their health, safety and financial well-being.

This, in return, can lead to businesses experiencing a high turnover rate of workers as transparency builds trust. As a business, by clearly showcasing what you offer, you attract qualified candidates who are less likely to leave due to mismatched expectations. A stable, satisfied workforce translates to higher productivity and lower training cost.

Here is what you can do :

- Be clear and accurate about job duties, responsibilities, qualifications, and wages. Post vacancies specifying wages, working hours, time off, overtime rates, assembly line tasks, quality control checks, safety protocols, and clear requirements for technical skills and experience.
- Work with a translator to have job descriptions translated into languages common among your target workforce.
- Avoid making promises you can't keep, like guaranteed overtime or promotions.

Did you know? Just in May 2023, [Reuters](#) reported on hundreds of Bangladeshi and Nepali migrants in Malaysia, who were stranded without work for months after failing to find jobs promised to them by recruitment agents in exchange for thousands of dollars in fees. This article underscores the importance of transparent job postings.

## **2. Compliance with Laws and Regulations:**

In Malaysia, the Ministry of Human Resources (MOHR) is the government body that is responsible for enforcing the country's labour laws, including the employment of local and foreign workers.

There are a range of legal instruments that regulate the recruitment and employment of migrant workers in Malaysia. The main labor law is the [Employment Act of 1955](#) outlining the minimum legal standards for all workers in Malaysia, ensuring equal labor protections for both migrant and Malaysian workers. Additionally, there are other supporting acts, including the [Children and Young Persons \(Employment\) Act of 1966](#), [the Factories and Machinery Act of 1967](#), [the Employees' Social Security Act of 1969](#), [the Workers' Minimum Standards of Housing and Amenities Act of 1990](#), the [Occupational Health and Safety Act of 1994](#), and the [National Wages Consultative Council Act of 2011](#).

Additionally, employers must also adhere to the [Passports Act of 1966](#), which forbids them from retaining workers' passports.

It can be daunting having to comb through so many acts and labour laws to ensure that your business is compliant with laws and regulations, when it comes to hiring migrant workers ethically.

Here is what you can do to remain compliant :

- Hire a dedicated consultant or HR personnel to ensure that your business is compliant with the necessary laws and regulations to hire ethically.
- Conduct regular training sessions for your HR personnel, managers, and employees to keep them updated on the latest employment laws, regulations, and anti-trafficking policies.
- Work with a trusted, reputable ethical recruitment agency to assist you in your hiring process.
- Maintain accurate and comprehensive records related to the recruitment and employment of migrant workers. This includes employment contracts, work permits, and any other relevant documentation. Having organised records facilitates easier compliance checks and audits.

- Participate in industry associations, forums, or networks like [The Institute for Human Rights and Business](#) and the [Responsible Business Alliance](#) that focus on ethical employment practices. Collaborate with other businesses to share best practices, insights, and challenges related to the recruitment and employment of migrant workers.
- Conduct regular internal audits to ensure compliance with labor laws and regulations. Review your recruitment, employment, and management processes to identify any potential gaps or areas for improvement.
- Consider engaging external auditors or legal experts to conduct periodic audits of your company's compliance with labour laws. External perspectives can provide valuable insights and ensure a more thorough evaluation.

It is crucial for businesses to comply with laws and regulations as laws and regulations are designed to guide businesses in setting standards for ethical conduct. While current enforcement might not be robust, adherence to law and regulations isn't just about avoiding penalties, it's about building a sustainable, responsible business and contributing to a healthy national climate. As Malaysia progresses, regulations and enforcement are bound to become stricter, businesses that proactively embrace ethical practices and compliance will be prepared for this shift, while those lagging behind will face increasing challenges and penalties.

### **3. Continuous Communication:**

Entering a foreign country can be challenging, especially for workers experiencing life outside their home countries for the first time. The transition involves not only adapting to a new city and culture but also acclimating to a different language and unfamiliar surroundings, all while being distanced from loved ones. Continuous communication helps workers navigate and understand cultural nuances, workplace expectations and societal norms, easing their integration process.

Here is what you can do :

- Designate committed worker representatives for each country to serve as direct points of contact. Empower them to promptly address concerns, provide regular updates on policies and events, and ensure they receive training in cultural sensitivity and company policies for effective support.
- Recognize the importance of cultural integration and provide assistance as needed. Worker representatives can play a vital role in helping newcomers understand local customs, traditions, and navigating the intricacies of daily life in a new country.
- Schedule routine check-ins with workers to create a platform for open communication. These check-ins can be conducted through various channels such as virtual meetings, surveys, or one-on-one discussions, allowing workers to express their concerns and share their experiences.
- Acknowledge the language barrier and offer language support services. This could include language training programs, translation services, or providing resources that help workers enhance their language skills, contributing to better communication in the workplace.
- Establish a feedback mechanism for workers to share their thoughts on the effectiveness of communication and the support provided by the representatives. This helps in continually improving the communication strategy and ensuring that workers feel heard and valued.
- Foster a supportive environment among workers by encouraging peer support. Worker representatives can facilitate connections among employees, creating a network where individuals can share experiences and offer assistance to one another.

### **4. Soft Skills Training**

While workers typically receive training before commencing their contracts in Malaysia, a notable gap exists as most training centers predominantly focus on hard skills. At Pinkcollar, we've firsthand observed that soft skills training is equally crucial. Given the complexities of Malaysian work environments, workers are often susceptible to scams, including love and financial fraud, drawn by the prospect of higher earnings for their families. Therefore, beyond technical competencies, it's crucial to train workers in resilience, awareness, and critical thinking, equipping them with tools to navigate the intricacies of the Malaysian work environment, ensuring their well-being and fostering a secure professional journey.

Here is what you can do :

- Establish an in-house holistic training program that incorporates both hard and soft skills. This training programme should not only equip the workers with technical competencies, but also with resilience, communication skills and cultural awareness. If the HR team at your organisation isn't able to do this, feel free to [\[book a training session with Pinkcollar here\]](#)
- Organise regular awareness sessions to educate workers about common scams, such as love scams and financial fraud. Provide practical guidance on how to recognize and avoid such situations, emphasising the importance of personal and financial security. As a business, you might not have a complete understanding of the scams that migrant workers may encounter. Recognizing this, it is important to seek insights and stay informed about the evolving landscape of scams, ensuring that your training and support programs remain relevant and effective in safeguarding the well-being of your workforce. This may involve collaborating with NGOs like [ProjectLiber8](#) and [North South Initiative](#) to run awareness programmes with your worker groups.
- Integrate financial literacy training into the program, empowering workers with the knowledge and skills to manage their finances wisely. This can include understanding basic financial concepts, creating budgets, and discerning legitimate financial opportunities.

We believe these guidelines will be beneficial as you consider ethical recruitment for your company. If you require additional assistance or wish to schedule a consultation, Pinkcollar would be happy to assist. Please feel free to reach out to us [\[here\]](#)