

GUIDELINES AND TIPS FOR EMPLOYERS OF FOREIGN DOMESTIC HELPERS



MINISTRY OF HUMAN RESOURCES



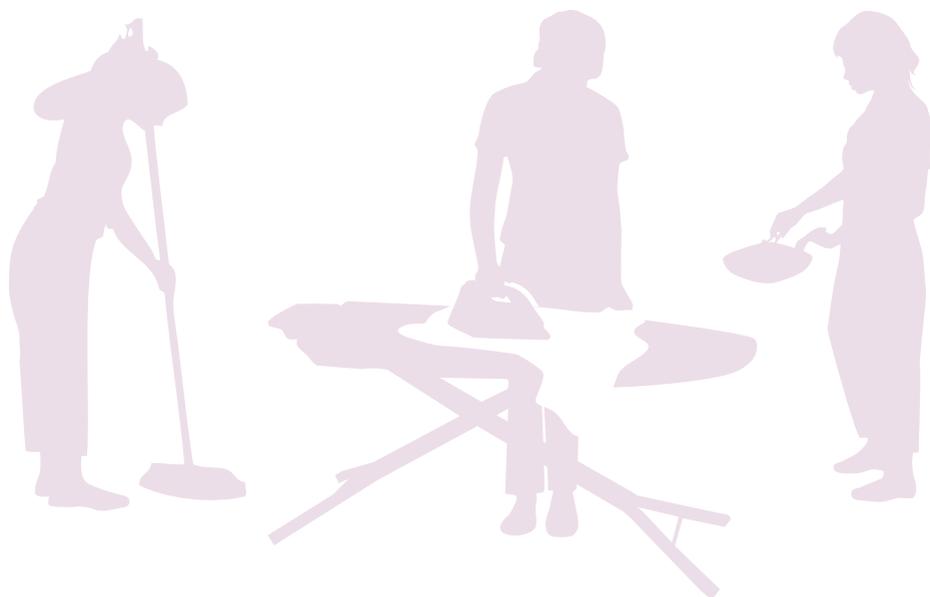
The European Union



International
Labour
Organization



GUIDELINES AND TIPS FOR EMPLOYERS OF FOREIGN DOMESTIC HELPERS



This publication was prepared by the International Labour Organization (ILO) and the Ministry of Human Resources (MOHR), Malaysia in consultation with Malaysian employers of foreign domestic helpers and advocates. This publication was produced with the assistance of the European Union funded Global Action Programme on Migrant Domestic Workers and their Families, and with support from the Australian Government, through the TRIANGLE II project.

This publication has been produced with the assistance of the European Union and with support from the Australian Government. The contents of this publication are the sole responsibility of the Ministry of Human Resources (MOHR), Malaysia and can in no way be taken to reflect the views of the European Union, the Australian Government, or the ILO.

Published by:

Ministry of Human Resources (MOHR)

Block D3 & D4, Complex D

Federal Government Administrative Centre

62530 Putrajaya, Malaysia

Tel.: +603-8000 8000 Website: www.mohr.gov.my

Funded by: The European Union

Supported by: International Labour Organization (ILO)

Designed by:

Public Media Agency Sdn. Bhd. (www.publicmediaagency.org)

publicmedia.agency@gmail.com

Images: public domain images for illustrative purposes only

Printed by:

Percetakan Soon Lee Heng

15, Jalan Besar, Selayang Baru

68100 Batu Caves, Selangor, Malaysia

Tel.: +603-6138 5672

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ISBN: 978 967 13143 19

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INTRODUCTION



INTRODUCTION

Are you an employer of a foreign domestic helper who is keen on finding working solutions that benefit both your family and your foreign domestic helper? If you are, then this booklet is written for you!

This booklet covers useful information regarding laws and practices related to the employment of foreign domestic helpers. It provides tips on how to hire and employ foreign domestic helpers, being a good employer, and creating a harmonious atmosphere at home.

This booklet was developed in consultation with Malaysian employers and a team of advisors in a joint collaboration project between the International Labour Organization (ILO) and the Ministry of Human Resources (MOHR), Malaysia. The guidelines and tips provided were gathered from Malaysian employers of foreign domestic helpers during a day meeting at the end of October 2015.

This booklet is divided into three parts that provide tips and guidelines on:

- (i) recruiting foreign domestic helpers;
- (ii) employment practices and establishing a positive working relationship with your foreign domestic helper; and
- (iii) issues related to communication, culture and training.

A sample contract of employment, key contact details and other key resources of legislation on the recruitment of foreign domestic helper is provided in the annexes for your reference.

NOTE:

In this booklet, we use the term “foreign domestic helper” to refer to foreign worker who work in a domestic household setting. The internationally accepted term is “domestic worker” - this acknowledges the fact that they are indeed workers with human rights.

In the existing Malaysian labour law, these foreign domestic helpers are currently referred to as foreign domestic servants. However, these laws are under review and it is anticipated that this language will be revised.

We have decided to use the term “domestic helper” in this booklet. We also occasionally add the term “foreign” to distinguish between domestic helpers who are hired locally and those who come from abroad.





RECRUITMENT

A hand is shown holding a steam iron over a striped shirt. The iron is positioned as if about to iron the fabric. The background is a solid purple color. The word 'RECRUITMENT' is written in large, white, sans-serif capital letters across the top of the image.

1. RECRUITMENT

Being an employer is a position of both considerable authority and responsibility. Many of us may not have the opportunity to think too carefully about the act of hiring a foreign domestic helper to work in our homes.

Often, we do so out of need to balance our work obligations, with the need to provide care for our children and/or our parents or other elders. In this way, foreign domestic helpers provide crucial support to managing our homes and our lives.

Even so, there are some important factors we need to consider seriously before hiring foreign domestic helpers. This section provides tips and guidelines on the recruitment of foreign domestic helpers in the current Malaysian context.

• Where should I go to recruit a foreign domestic helper?

The best place to go for the recruitment of a foreign domestic helper is to a registered and licensed local private employment agency by the Department of Labour (DOL), MOHR. Further, the relevant private employment agency must be authorised by the Department of Immigration (IMM) to bring in workers from abroad to be employed as foreign domestic helpers.

Since there is a range of private employment agencies out there with a range of standards of service and conduct, it will be wise to approach an agency only after you have done some research, and gotten referrals from friends and/or family members who are satisfied with the agencies that they have used.

Listings of registered and licensed private employment agencies can be obtained from the following:

- (i) Department of Labour: (<http://www.jtksm.mohr.gov.my>); and
- (ii) The relevant Embassies and High Commission of the source countries.

The process of recruiting foreign domestic helpers is subject to the agreement between countries in accordance to the Malaysian laws, rules, regulations, national policies and directives.

• What qualities should private employment agency possess?

Following are some of the important criteria and qualities that you will need to consider when choosing a private employment agency:

- **Licensing and recognition:** Ensure that the appointed private employment agency is licensed by the DOL, MOHR as well as the IMM, Ministry of Home Affairs (MOHA). This may reduce the risks associated with hiring of foreign domestic helpers from an unlicensed/unregistered private employment agency.

Make sure that the local private employment agency you appoint is affiliated with a registered, licensed and authorised private employment agency in the source country.

Agencies that have violated the law may be suspended, prosecuted and blacklisted by the relevant authorities. You may also obtain the assistance, advice or consultation by referring the relevant government agencies (DOL, IMM, the Ministry of Domestic Trade, Co-operatives and Consumerism (KPDNKK) and etc.) in any instances of misconduct by the private employment agency.

Should you require further information, kindly contact the relevant government agencies mentioned above via the 1Malaysia Helpline +603-8000 8000.

Make sure that the local private employment agency you appoint is affiliated with a registered, licensed and authorised private employment agency in the source country. You may further browse the IMM website for information pertaining to the approved foreign private employment agencies by referring to the following link: (<http://www.fwcms.com.my/recruitmentagency.html>) or by contacting the relevant Embassies/High Commission.

- **Experience:** Choose an agency which has vast experiences as they are more familiar with the nature of this business which will then ensure a smoother process of hiring and employing a foreign domestic helper.
- **Standard contract of employment:** Ensure that the agency is using the standard contract of employment approved by the Malaysian government for the employment of foreign domestic helpers. A sample contract of employment is available in **Annexe 1**.
- **Ethical practices:** Check to ensure that the agency has good practices in dealing with foreign domestic helpers.
- **Training Support:** Check to see what kind of training and facilities the agency provides to foreign domestic helpers that they bring in. Some agencies have training facilities for foreign domestic helpers coming in, and others include a house dedicated for foreign domestic helpers to go to when they have their days off. Such facilities would indicate that the agency is concerned about the welfare of the foreign domestic helpers as well as ensuring good quality of service.



- **Is it advisable to employ an undocumented foreign domestic helper?**

It may be tempting to take on an undocumented foreign domestic helper, particularly given the considerable fees charged and waiting time involved in hiring foreign domestic helpers through legal channels. However, employing undocumented foreign domestic helpers is an offense under the Immigration Act 1959/63 and Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM).

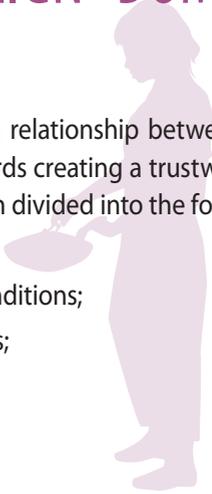
CREATING A HAPPY AND HARMONIOUS HOME WITH MY FOREIGN DOMESTIC HELPER



2. CREATING A HAPPY AND HARMONIOUS HOME WITH MY FOREIGN DOMESTIC HELPER

This part provides guidelines and tips on managing relationship between you as an employer and your foreign domestic helper towards creating a trustworthy and harmonious environment at home. This part has been divided into the following:

- (i) providing comfortable living environment;
- (ii) establishing mutually beneficial working conditions;
 - (a) contract of employment and parameters;
 - (b) tasks/job scope;
 - (c) working hours;
 - (d) weekly rest day;
 - (e) salary and other remuneration; and
 - (f) home leave, insurance coverage and other legal matters.



2.1 Providing a comfortable living environment

- **What is a reasonable accommodation for my foreign domestic helper?**

The contract of employment requires the employer to provide reasonable accommodation with basic amenities for the foreign domestic helpers. It is vital that your foreign domestic helper is provided with a room that allows his/her the privacy and space to rest without disturbance. Ideally, the room should have a door that can be locked while your foreign domestic helper is resting/sleeping to ensure his/her safety and privacy. When there is no spare room available, it is important to create private space for your foreign domestic helper either through the use of curtains, partitions or other means.

The room should be equipped with a proper bed, comfortable mattress, pillows, adequate bedding, curtains and sufficient storage spaces. It should also have sufficient natural lighting and ventilation. Make sure that the accommodation arrangements have been made prior to your foreign domestic helper's arrival.

- **What does providing “reasonable and sufficient daily meals” mean for my foreign domestic helper?**

The contract of employment which is agreed via Memorandum of Understanding (sample as per **Annexe 1**) states that “reasonable and sufficient daily meals” must be provided for the foreign domestic helpers. Most employers share the food that they themselves consume with the foreign domestic helper, and this is reasonable. However, if your lifestyle involved eating fast food or missing meals due to being too busy, it is important to ensure that there is a regular supply of fresh ingredients and other condiments that your helper can use to prepare his/her own meals.

It is also important to recognise that if your foreign domestic helper is from a different culture, he/she may want to consume meals that are familiar to them. At all times you should respect and pay due regard to the sensitivity of religious and cultural beliefs of the foreign domestic helper. This also includes the right to refuse handling and consuming of certain foods.

Food is an important aspect for ensuring the wellbeing and happiness of your foreign domestic helper. Therefore, it is advisable for you to have a conversation with your foreign domestic helper regarding his/her preferences and special needs in relation to her diet. It is important to ensure that he/she has adequate, well balanced and nutritious meals at least three times a day. The food provided shall be at no cost to the foreign domestic helper. Deduction of wages for this provision is strictly prohibited.

2.2 Establishing mutually beneficial working conditions

WHAT SHOULD YOU DO WHEN YOUR FOREIGN DOMESTIC HELPER ARRIVES

Effective employer-employee work relationship includes establishing proper relationship parameters, clear understanding of roles, authorities, boundaries, expectations and needs. Having common understandings of what is expected by both parties is equally important. This in return will help create a mutually happy, healthy and harmonious work relationship. There are three key steps in establishing an effective employment relationship with your foreign domestic helper.

STEP 1: Recognise that your relationship with your foreign domestic helper is first and foremost an employer-employee relationship

Employers of foreign domestic helpers have the tendency to blur the lines of an employment relationship.

Many people in Malaysia regard the foreign domestic helper as a member of the family. It is important to recognise that your foreign domestic helper has come to work in your household. As employers, we need to ensure that an ethical and professional employer-employee relationship is maintained. This relates to all terms and conditions of the contract of employment and various laws enforced which includes:

- payment of salary (rate, payment period, method of payment and etc);
- a clear and detailed job description/scope;
- regular working hours, additional payment or replacement leave for any extra job tasks and hours carried out;
- agreed scheduled breaks;
- other benefits such as a rest day of not less than 24 consecutive hours per week; and
- providing insurance coverage.

STEP 2: Make clear communication a priority from the beginning

Your foreign domestic helper is responsible for a number of job tasks, caring for your family members and maintaining your home. A common and mutual understanding in clarifying the job scope to be undertaken is vital. Provide respectful feedback on the tasks performed and sufficient guidance of how you would want it to be accomplished.

Have an effective discussion with your foreign domestic helper and come to an agreement pertaining:

- tasks to be accomplished;
- hours of work and work schedule;
- rest hour/day; and
- payment of salary (rate, payment period, method of payment and etc).

Prepare and provide a clear job scope acknowledged mutually as a guideline to assist your foreign domestic helper in carrying out their duties and responsibilities.

In relation to the tasks, also be sure to:

- explain and list down the rules of your household in a easily understandable manner;
- explain how specific home appliances are operated in a simple manner (do not assume your foreign domestic helper knows how to operate your household appliances); and
- discuss any customary or dietary restrictions that your family and foreign domestic helper may have.

You are advised to appoint a family member to monitor and give instructions to your foreign domestic helper. This is to avoid your foreign domestic helper from being confused by receiving various instructions from different family members. This appointment should be made clear to all members of the household.



STEP 3: Make your foreign domestic helper feel at home

Your home is where your foreign domestic helper works, lives and rests. As such, it is important that your foreign domestic helper is able to feel comfortable and “at home.” Treat your foreign domestic helper just like a family member. You are encouraged to:

- introduce the foreign domestic helper to your family;
- show the physical areas of the house, including the bedroom, dining area, guest area/hall, kitchen and etc;
- explain the religious and cultural practices of your family;
- explain the norms and practices around food, hygiene and family routines; and
- provide all basic amenities that are needed for personal hygiene, storage and bed for rest.

“The biggest challenge is to establish an effective employment relationship. When a foreign domestic helper begins employment, he/she may feel frightened due to rumours in the media about employers abusing foreign domestic helpers. I overcame this challenge by engaging in a fruitful discussion with the new foreign domestic helper. I share information pertaining to the usage of mobile phones, situations where her services will no longer be needed and the act of bringing strangers into the house. I make it a point to listen to her concerns, and I always address my foreign domestic helper by her name.”
– Mrs. L

2.2.1 Contract of employment and parameters

- **Do I need to provide my foreign domestic helper with a contract of employment? What must it include?**

YES. A contract of employment is an essential element of an employer-employee relationship. A good contract of employment must reflect the expectations of the employer, set clear lines of reporting and accountability and stipulate the rights and responsibilities of both parties. The Malaysian government through Memorandum of Understanding with the source country has introduced a standard contract of employment in order to protect the rights and welfare of foreign domestic helpers. The contract shall be prepared in three languages mainly in Malay, English and the native language of the foreign domestic helper. A sample contract of employment is provided in **Annexe 1**.

- **How do I ensure my foreign domestic helper understands the terms & conditions of the contract of employment?**

It is important that every foreign domestic helper is aware of the terms and conditions of her contract of employment. This unfortunately is often not the case, as often these contracts are signed in a language that they are not familiar with, or not fully literate in.

It is important to make sure that our foreign domestic helper understands the terms and conditions in the contract of employment. If your foreign domestic helper speaks a language other than Malay or English, or seems to have a low degree of comprehension of either language, then seek the assistance of the private employment agency or the related Embassy/High Commission in translating the contract of employment into the native language of your foreign domestic helper.

2.2.2 Tasks/job scope

- **What is a reasonable set of tasks/job scope of work to assign my foreign domestic helper?**

A reasonable job scope assigned to your foreign domestic helper would mean tasks that can be carried out calmly and efficiently without undue physical and/or psychological stress.

Household needs vary, so it may take some time for you and the foreign domestic helper to agree on the reasonable amount of tasks to be performed in a day.

Household needs vary, so it may take some time for you and the foreign domestic helper to agree on the reasonable amount of tasks to be performed in a day.

Any job task that could endanger the wellbeing and life of the foreign domestic helper e.g. climbing trees, working on the roof, repairing of electrical or other items

should be strictly prohibited. These job tasks should be carried out by trained professionals. This would be a vital aspect to take into consideration when determining a reasonable scope of work.

- **Can I instruct my foreign domestic helper to help out with my business and/or in my relatives' home?**

NO. You are not allowed to instruct the foreign domestic helper in assisting in your business/commercial activities (e.g.: catering, restaurant, retail stores and etc.) nor to help out at your relatives' home.

2.2.3 Working hours

- **How do I ensure reasonable working hours per day and per week for my foreign domestic helper?**

The work hours for foreign domestic helper may vary among different countries. At one time, a 90-hour work week without a day off for rest was regarded as normal.

Today, Malaysia and most other countries observe six to eight hours as the normal hours of work per day, six days per week with one full rest day (24 hours) for workers in the formal sector.

Determining a reasonable work hour per day for a foreign domestic helper is a challenge as the nature of this job differs from those employed in the formal sector. Your family may require services during your foreign domestic helper's rest hours/day, or sometimes late at night.

To maintain a healthy worker, and a happy environment in your home, the terms and conditions you set should ensure your domestic helper has sufficient periods of rest on a daily, nightly and weekly basis. You are advised to prepare a work schedule which clearly indicates the beginning of the work hours, break/rest and sleep hours (at least eight hours in a day) which is reasonable according to the needs of an adult.

- **How do I determine reasonable working hours for my foreign domestic helper?**

One of the challenges faced by most employers regarding the number of working hours per day for a foreign domestic helper is determining when should the work begin and end for the day. The foreign domestic helper is then left in a dilemma, as he/she would be required to be on standby throughout the day. This might affect the health of the foreign domestic helper due to the lack of adequate rest.

The best way to determine the proper work hours per day is by engaging in a healthy discussion with your foreign domestic helper towards achieving a win-win situation, which is mutually beneficial. You should at all times acknowledge and respect the rest hours/day of your foreign domestic helper as this period is specifically for rest or to carry out his/her personal errands.

The best way to determine the proper work hours per day is by engaging in a healthy discussion with your foreign domestic helper towards achieving a win-win situation, which is mutually beneficial.

Other employers of foreign domestic helpers have found that the best way to set the work hours of your domestic helper is to determine, together with your domestic helper, when her breaks (e.g. for meals) and nightly rest hours will be. This schedule can be changed of course to meet the changing rhythm of the household. Rest hours are times when the domestic helper can dispose of her time as she pleases.

The foreign domestic helper needs to be made aware about his/her entitlement related to rest hours/day. However, he/she can be required to perform certain tasks in the event the employer faces an emergency, which may require their assistance.

“I think one of the best ways to make sure that your domestic helper understands what she needs to do is to write everything down. We had a book that had all the instructions written down, and also charts that we kept with the specific instructions on what to do in each place. So there was a chart in the bathroom, in the bedroom and in the living room. We also made it very clear when her rest period – this was also written down in the chart, and during her rest time, we had a second person hired to be there so that she could rest completely. In fact, during the day there was always a second person around, so that she was never overwhelmed. This made it easy for our domestic helper, and she really helped us do many things that we couldn’t have done without her.”
– Mrs. C.

Ensuring the right to rest for domestic workers result in...

Happier workers,
who have more
time for their family,
friends, community,
leisure and faith.



Healthier workers,
who are suffering
less stress and
fatigue, and
therefore are less
prone to have mental
and physical health
problems.

Workers who are
less likely to cause
accidents and are
more capable of being
patient in caring for
the children and
the elderly.

Happier families,
who are spending
more quality time
together.



Better quality and
more productive
service for the family.



Healthier and happier homes.



Better societies.

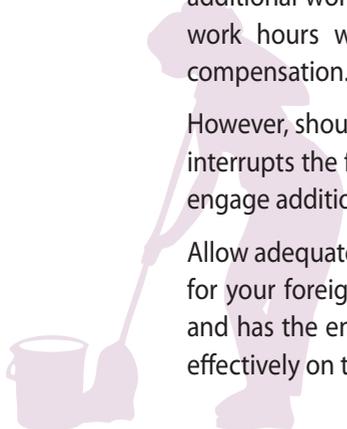
- **What should I do if I need my foreign domestic helper to work beyond the stipulated hours?**

If your foreign domestic helper is required to work beyond the agreed hours, he/she should be compensated accordingly for the additional work carried out.

If the additional hours of work are not a daily occurrence, then these work hours can be offset with additional rest time at a later point, or some other form of compensation. However, should you require your foreign domestic helper to regularly perform additional work hours, then you are advised to replace the extra work hours with additional rest days and/or with monetary compensation.

However, should there be a continuous need for assistance which interrupts the foreign domestic helper's sleep, you are advised to engage additional assistance.

Allow adequate rest periods and sleep (a minimum of eight hours) for your foreign domestic helper to ensure he/she is well rested and has the energy to carry out the assigned job responsibilities effectively on the following work day.



2.2.4 Weekly rest day

- **Do I need to give my foreign domestic helper a day off every week?**

The simple answer to this question is "YES". A weekly rest day is stipulated in the contract of employment. This will ensure that your foreign domestic helper stays healthy both physically and mentally, and is able to carry out all the tasks assigned productively and efficiently.

- **What should I do if I have aged and sickly parents that need care seven days a week?**

One of the main reasons to employ a foreign domestic helper is to care for the young and aged and/or sickly or disable members of the household. If you find yourself in a situation where your domestic helper plays a crucial role in care-giving to a sick, aged or disabled member of the family, then it would be important to have a discussion with your domestic helper and see what agreement you can reach with her. If your domestic helper is willing to work on her day off without compulsion, then she should be compensated with additional rest at a more suitable time, keeping in mind the importance of rest, and the reduced productivity and health impacts of overwork.

This additional compensation can be calculated using the guidelines provided in the Employment Act 1955, Part XII – Section 60 (See **Annexe 3**). If your foreign domestic helper is not willing to work overtime, then you will need to engage additional assistance to care for the family member concerned. Hospice Malaysia, a charitable organisation that provides palliative care to patients, provides a comprehensive and updated list of palliative care providers throughout Malaysia: (<https://www.hospismalaysia.org/resources/palliative-careproviders>).

- **What do I need to ensure that my foreign domestic helper knows about when he/she goes out on her day off?**

Given that your foreign domestic helper is from a different country and unfamiliar with norms and regulation and how to get around, the safety of the foreign domestic helper should be your priority. One option might be to arrange for him/her to go with another foreign domestic helper of a friend of yours who is able to guide him/her around.

Another option would be to arrange with the private employment agency that your foreign domestic helper was hired through for programmes that they might be holding especially for the day off. Religious institutions, particularly churches and some mosques, hold programmes on Sunday that cater especially to foreign domestic helpers. The contact details of a few such institutions are found in **Annexe 2**.

Before your foreign domestic helper goes out, first, come to a mutual agreement on the time when he/she will return to your household, and what he/she needs to do if there are unforeseen delays. Explain how he/she should get around, basic information about transportation and their costs, and any safety and security issues in relation to his/her physical movement and choices. Make sure he/she has a cell phone and your phone number, and agree on a way for his/her to contact you if he/she needs help. You should also provide him/her with emergency addresses and telephone numbers.

- **Can I insist my foreign domestic helper accompanies my family for an outing during his/her rest time/day?**

Since our foreign domestic helper often becomes someone who is very close to the family, and sometimes a favoured companion of the children in the family, it would seem natural to bring him/her along for the outings that the family makes in the evenings or on the weekends. While on many occasions, your foreign domestic helper would be happy to join the family on different outings, it is important to confirm with him/her that this is fully his/her choice if such an outing coincides with his/her rest time and/or day off.

If your foreign domestic helper chooses to stay home and rest, then it is important to ensure that there is food available for him/her at home. Time spent with the family on an outing or holiday cannot be considered as a replacement for a weekly day off.

- **What if my foreign domestic helper wants to go out during his/her rest time/day for his/her own personal errands?**

Generally, the understanding of how a foreign domestic helper utilises their rest time/day is not clearly mentioned in any document. However, if we were to compare to the rest time/day of formal workers, then foreign domestic helpers too should have the freedom to determine how he/she wishes to spend his/her rest time/day. This would mean that your foreign domestic helper could run personal errands or attend to personal matters during his/her rest period. Since many employers depend on their foreign domestic helpers to ensure the safety and security of their homes while they are at work, many employers find this freedom hard to accept. Therefore, you are advised to discuss further with your foreign domestic helper on a suitable time allowed for him/her to perform their personal errands.

Explain carefully the procedures for him/her to leave and return to your home to enable you to make arrangements in his/her absence.

“My foreign domestic helper loves to go to the weekly night market in SS2, while I hate crowds and find it a real hassle going there. My foreign domestic helper discovered that a friend of hers in the neighbourhood frequently accompanies her employer to the night market. She asked me if she could be allowed to accompany them. I thought this was a great arrangement, as my foreign domestic helper gets to spend her rest time in a relaxing way and I can always manage things around the house during her absence.”
– Ms. S.

2.2.5 Salary and other remuneration

- **How do I make salary payments to my foreign domestic helper?**

Payments of monthly salary should be made directly to the foreign domestic helper's bank saving account, so there would be a record of payment. The saving account should be registered under your foreign domestic helper's name. Your foreign domestic helper will need your help in opening a personal bank account in Malaysia, as most local banks require an introduction by the employer.

You are advised to contact the bank and verify the necessary documents required to open the saving account. It would be useful to apply for an ATM/Debit card for your foreign domestic helper. Guide your foreign domestic helper on the usage of the ATM/Debit card and advise him/her to secure the PIN number. Choose a bank which is easily accessible to your foreign domestic helper.

- **How can I assist my foreign domestic helper to make remittances of salary back home?**

Since your foreign domestic helper is not familiar with the language, process and procedures of remitting money to his/her family, it is highly advisable that you being the employer, guide and assist your foreign domestic helper by preparing and completing the related documents required for the purpose of remittance.



- **Is it advisable to give a yearly increment as an incentive?**

There is nothing stipulated in the contract of employment nor in national legislation about increments in salary, as this is the prerogative of each employer. However, salary increment for your foreign domestic helper could serve as an incentive to enhance

his/her jobs performance, commitment and productivity. So, if creating a happier atmosphere in your homes is your goal, giving an increment of any amount that you see appropriate will foster in your foreign domestic helper a sense of being appreciated and valued for the work she does for you.

- **Is it advisable to give presents to my foreign domestic helper?**

While, many would say that gift giving shouldn't be encouraged, gift giving is in fact a part of Asian culture, especially around religious festivals and celebrations. If you do decide to give a monetary gift or a present of some sort to your foreign domestic helper, explain the purpose of doing so. It is important that he/she understands that the gift comes with no strings attached and no expectations.

- **What should I do if my foreign domestic helper needs/ requests an advance or a loan?**

Many employers of foreign domestic helper find themselves in a situation where they are asked for a loan or an advance for their families or personal requirement. Some employers feel strongly that this should not be encouraged, and indeed, this practice is not encouraged as it may result in a variety of problems.

If you do decide to give your foreign domestic helper a loan or an advance, then it is critical that the exact terms of this loan or advance are absolutely clear with no interests charged and is documented. Have a discussion about the period and the terms of repayment openly with your foreign domestic helper.

It is important to ensure that the terms agreed upon be written and signed by both parties. As a rule of thumb, you could use the guidance provided by the Employment Act 1955 – Section 22, which states that no more than one month of salary should be advanced to an employee, unless such a loan is being made to



enable the purchase of a home, land, vehicle, computer, medical or educational expenses.

2.2.6 Home leave, insurance coverage and other legal matters

- **What should I do when my foreign domestic helper requests for leave to return to his/her home country?**

Do check with the private employment agencies the length of leave which can be given without your foreign domestic helper losing her work permit status upon his/her returning to your home.

The best way to arrange for your foreign domestic helper's return to his/her home country is to liaise with the private employment agency responsible for bringing in your foreign domestic helper. They will have a complete understanding of all relevant documents that need to be filed and processed. The agency might impose a small fee for the services rendered. Do check with the private

employment agencies the length of leave which can be given without your foreign domestic helper losing her work permit status upon his/her returning to your home.

Employers can also make their own arrangements in sending back the foreign domestic helper for home leave without involving the private employment agency. A notification to the private employment agency would suffice on such arrangements. The expenses related to the home leave, including the cost of the flight and transportation to a foreign domestic helper's home village should be discussed by both parties.

- **How should I guide my foreign domestic helper if should he/she be stopped by the authorities?**

Some of the important information your foreign domestic helper needs to know in the instance that he/she is stopped by



the authorities is your contact details, and that of at least one organization which provides legal and other support services to foreign workers (Please see **Annexe 2** for a listing of Legal Aid Centres).

It is vital that your foreign domestic helper always carry his/her original passport/work permit and I-Kad (identity card for foreign workers) at all times when he/she goes out. If for some reason, these legal documents are insufficient for the authorities, give him/her the assurance that he/she can contact you for help.

In the event your foreign domestic helper is apprehended or detained by the authorities, the foreign domestic helper has the right to make a phone call to his/her employer. The foreign domestic helper should inform the location he/she is being detained (police station or immigration detention centre).

- **Can I keep my foreign domestic helper's documentation and passport for safe keeping?**

Employers are required to adhere to the Passport Act 1966 which stipulates that the passport is an official document belonging to the source country which must be in the possession of the passport holder.

The answer to this question is a firm "NO". Your foreign domestic helper's passport is meant to be in his/her possession at all times.

Employers are required to adhere to the Passport Act 1966 which stipulates that the passport is an official document belonging to the source country which must be in the possession of the passport holder.

- **What should I do if my foreign domestic helper falls ill?**

If your foreign domestic helper falls ill, it is your duty as the employer to seek immediate medical attention at the nearest clinic/hospital available. The medical expenses incurred shall

fully be borne by the employer. It is best to relieve your foreign domestic helper of all chores and duties temporarily, and be given sufficient rest until he/she recovers from the illness.

The contract of employment (refer **Annexe 1**) requires employers to provide foreign domestic helpers with adequate insurance coverage for medical treatment, hospitalisation, compensation and repatriation expenses. You may browse the Foreign Workers Centralised Management System website which provides a listing of registered and approved insurance agencies: (<http://www.fwcms.com.my/insurance.html>).

- **What should I do if my foreign domestic helper gets injured while working?**

If your foreign domestic helper gets injured while working, it is critical to have him/her examined and treated immediately. Inform both the private employment agency and his/her family about his/her condition. All related costs incurred is to be paid up front by the employer, you may recover partially or fully the amount paid depending on the insurance policy.

If your foreign domestic helper becomes disabled and unable to work, contact the insurance agency to recover the compensation that is due. Notify the nearest DOL (stipulated under Section 57A, Employment Act 1955), private employment agency and the embassy to make arrangements for repatriation. The repatriation costs shall be borne by the employer or insurance agency.

- **What should I do if my foreign domestic helper suddenly passes away while in my employment?**

If your foreign domestic helper passes away while in your employment, it is important to notify the authorities who will make the necessary arrangements to have his/her remains be sent to the nearest hospital at once (if he/she is not already hospitalised) for

post mortem procedures. The hospital will assist you in making a police report regarding the demise of your foreign domestic helper. The death certificate with other relevant documents (permit for burial/cremation and post mortem report) is to be tendered to the insurance company for claims/compensation/repatriation cost purposes.

Contact the respective Embassy, the family and the private employment agency as soon as possible. It would also be courtesy to inform at least one of the friends of your foreign domestic helper so that he/she can inform others in his/her circles.

However, in the absence of insurance coverage, all costs incurred (post mortem report and fee for death certificate, funeral and repatriation of the remains of the foreign domestic helper) shall be arranged at the expense of the employer. You are also required to inform the nearest DOL in regards to the demise of your foreign domestic helper as required under Section 57B of the Employment Act 1955. Refer to **Annexe 4**.



COMMUNICATIONS, CULTURAL ISSUES, RELATIONSHIPS AND SKILLS BUILDING



3. COMMUNICATIONS, CULTURAL ISSUES, RELATIONSHIPS AND SKILLS BUILDING

There are many possible situations that you will encounter as an employer in relation to communicating and relating to your foreign domestic helper around cultural, relationships and skills building.

3.1 Communications and cultural issues

- **How do I have difficult conversations with my foreign domestic helper?**

The most effective approach when having a difficult conversation with your foreign domestic helper is to not make any assumptions before you have investigated the situation or problem faced/occurred. Any decision made or action to be carried out should be done rationally and logically. Avoid being emotional when having this conversation. For example, when you intend to correct the mistake done by your foreign domestic helper, you are advised to practise a more diplomatic and rational approach. If you find it difficult to have such conversation, you are advised to seek the assistance of someone neutral and trusted by both of you and who is good at anger management and control.

You should be aware and understand that your foreign domestic helper comes from a different environment. This can make anyone feel fearful and hence more liable to runaway out of such fear. Therefore, the communication/discussion should be carried out in a manner which is calm and controlled (without any physical harshness or speaking in high tone) in order for your foreign domestic helper to feel comfortable, at ease and safe.



- **How do I resolve a conflict between my foreign domestic helper with a family member?**

In the instance of a conflict between your foreign domestic helper with any member of your family, you should be neutral and listen to both sides. This task may not be easy as your family member would assume that you would side him/her. Therefore, it is important for you to provide equal opportunity to the parties involved in the conflict as this will assist you in resolving the conflict.

If you find it difficult to act in a neutral manner, it is advisable that you seek the assistance of a third party that is trusted in finding the best solution to resolving the conflict.

If you find it difficult to act in a neutral manner, it is advisable that you seek the assistance of a third party that is trusted in finding the best solution to resolving the conflict.

If the family member concerned suffers from mental illnesses, it is vital that you assist and support your foreign domestic helper in dealing with the said family member. In the event the particular family member has the tendency to become violent or lose control, you are advised to engage the services of a professional care-giver to minimise the risk of violence against your foreign domestic helper.

- **What should I do when my foreign domestic helper wants to speak to her family constantly?**

One dilemma that your foreign domestic helper faces is having to part with their family which is an important source of support and assistance. Many foreign domestic helpers feel home-sick and constantly want to contact/speak to their family. For some employers, this can be a source of annoyance, if they feel that the time spent on the phone calls distract the foreign domestic helper from his/her work.

You and your foreign domestic helper are encouraged to have an open conversation in arriving to an effective solution concerning this issue. You may work out some boundaries regarding the frequency and suitable period for making such calls. You may have your reasons in restricting your foreign domestic helper from constantly contacting/speaking to their family but bear in mind that communicating with their family is a basic human right. Therefore, any restrictions imposed should be fair and reasonable.

- **What should I do if my foreign domestic helper wants to use the house phone?**

The use of the house phone is not clearly stipulated in the contract of employment. You may introduce your foreign domestic helper to International Direct Dial (IDD) phone cards, Skype, WhatsApp or other applications which is convenient and economical. You are encouraged to discuss with your foreign domestic helper on the reasonable usage of the facility in terms of length, frequency and the costs involved. Therefore, any restrictions imposed should be fair and reasonable.

- **How do I overcome language barriers?**

Your foreign domestic helper comes from a country that may not be familiar in communicating in Malay or English. Therefore, you have to be prepared in dealing with such barriers. There are instances where the foreign domestic helper may be familiar with the languages but their comprehension is different from yours. Hence you may seek the assistances of the relevant private employment agency, Embassy or High Commission in providing a list of common words used which would enable your foreign domestic helper to understand and carry out your instructions effectively.

Today, there are many online translation tools available to support communicating across language barriers. Another option would be to send your foreign domestic helper for some basic language classes in order to improve their language comprehension.

- **What should I do if my foreign domestic helper refuses to do what I ask her to do?**

If your foreign domestic helper refuses to obey your instructions, you will need to have a conversation with him/her on the refusal of doing so. This situation may be difficult to address as it may involve a sensitive matter and therefore decides to not to adhere to the instruction given.

As the employer you should analyse whether the reason(s) given for such refusal has a strong basis. Should the refusal be related to the job scope, it is advisable for a review of the job scope be carried out together to arrive to a common understanding. Should this attempt fail, it is advisable for you to seek the assistance of the private employment agency. Any form of violence whether physical, verbal and/or emotional against your foreign domestic helper is strictly prohibited.

- **What should I do if my foreign domestic helper can't share the meals we consume?**

The employer must be aware of cultural and religious differences of the foreign domestic helper. They may not be able to consume certain foods that your family consume based on these reasons. The best way of addressing this matter is by having a conversation with your foreign domestic helper upon his/her arrival. You are advised to make available adequate raw food supplies to enable your foreign domestic helper in preparing the meals he/she is comfortable with. If you are unable to do so due to religious or cultural sensitivities, you are advised to make arrangements in allowing your foreign domestic helper to consume such food at any identified eatery/restaurant.

“When my domestic helper joined my household, she couldn’t eat any of the hot spices that I would use in my cooking. She also was not used to eating brown rice and salads, which we ate every day. Initially, she would cook her own white rice and separately cook up lightly sautéed or fried foods for herself. Over time though, she has slowly grown to like some spicy dishes and adapted her food preferences such that she enjoys some of the foods that we regularly eat. She has also learned to cook many of our traditional Indian food preparations, and I’d say today she cooks some of these dishes much better than I do! She refuses to give up her white rice though, but she has started eating some of the salads we prepare, which I’m glad about!”

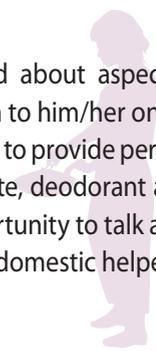
– Ms. A

- **What is the best way to explain our family’s religion and culture practices?**

The foreign domestic helper may not be aware about your family’s religious, cultural background and lifestyle. The best approach to deal with this situation is by giving proper guidance and explanation to the foreign domestic helper so that he/she would be able to understand and respect the beliefs and practices professed.

- **How do I ensure that my foreign domestic helper understands the aspects of personal hygiene?**

Your foreign domestic helper needs to be informed about aspects of personal hygiene upon arrival at the residence. Explain to him/her on how to use the facilities in the bathroom and toilet. You need to provide personal hygiene amenities such as soap, toothbrush, toothpaste, deodorant and a towel. When preparing these amenities, take the opportunity to talk about the importance of personal hygiene with your foreign domestic helper.



- **What are some of the religious and cultural sensitivities that I should consider when dealing with my foreign domestic helper?**

Most Malaysians as well as foreign domestic helpers have certain practices, taboos and restrictions. You and your domestic helper are advised to discuss regarding this subject openly in reaching to a common understanding especially when assigning a particular job task. This is to ensure that the task given would not infringe his/her practices and beliefs.

3.2 Relationships and other personal safety issues

- **What should I do if I suspect that my foreign domestic helper is in a sexual relationship? How can I ensure that he/she stays safe, and does not jeopardise the safety of my family?**

Sexual intimacy is regarded as a taboo topic, which is rarely discussed openly. There is always the possibility that your foreign domestic helper might become involved in a sexual relationship. As an employer, you must advise your foreign domestic helper to prioritise his/her health and safety, and to practice safe sex. If you feel uncomfortable to talk about the matter, you are advised to seek the assistance of a third party to help explain to your foreign domestic helper regarding the precautions and safe practices to be taken. It is important for your foreign domestic helper to be informed that under current Malaysian law, if she becomes pregnant, her work visa will have to be cancelled and she will need to return home. You should inform the private employment agency and proceed to cancel the work permit.

- **What should I do if I suspect that my foreign domestic helper has been/is being sexually harassed by a family member or friend?**

Sexual harassment of any form is a serious crime under the law. Foreign domestic helpers are vulnerable to such harassment since they are working in an informal setting. They are protected under Part XVA of the Employment Act 1955 which requires the employer to investigate and to

further conduct an inquiry regarding the complaint. The complaint should be handled cautiously and gently. This will enable the foreign domestic helper to express the said grievance comfortably. You may contact the related organisations/bodies as listed in **Annexe 2** should you require further assistance.

As employers, it is our duty to protect our foreign domestic helper from being harmed in any way.

In a household setting, this can be somewhat more difficult. If you suspect that your foreign domestic helper has been experiencing sexual harassment or sexual abuse by a family member or a friend, take the matter seriously. As

employers, it is our duty to protect our foreign domestic helper from being harmed in any way. Trust your instincts on this. Do not ignore the matter or imagine that it was a one off random incident. Statistics show that if it has happened once, then it is likely that it has been going on for some time.

If the foreign domestic helper decides to return to his/her country of origin, any outstanding salary during their tenure of employment inclusive of the period they were placed in the shelter home should be paid. All costs associated with the repatriation of foreign domestic helper to the country of origin must be borne by the employer.

- **Should I allow my foreign domestic helper to have friends in the neighbourhood?**

Given the fact that foreign domestic helpers are away from their family and friends in their home countries, it is only natural that they would seek out friendships while living in Malaysia. Allowing your foreign domestic helper to have friends in the neighbourhood will provide the necessary support he/she needs and hence this may contribute to an increase of productivity. If you have any concerns on your foreign domestic helper bringing his/her friends to the house, then it will be useful to discuss this openly. It would be a good idea to introduce yourself to his/her friends as well.

“I think it is important that employers should be aware that foreign domestic helpers may come from communities and neighbourhoods without fences, and are constantly communicating with each other. We cannot treat them as prisoners in our homes. We can set conditions, but at the same time we must acknowledge their need to communicate with others as well.” – Mrs. JL.

3.3 Capacity and skills building

- **How to prepare my foreign domestic helper if the assignment requires special handling, especially towards the elderly, disabled and/or infant or child?**

The best way to prepare your foreign domestic helper in managing the specific needs of family members is to guide and train them accordingly. This is because foreign domestic helpers are not competent in such care. Employers cannot assume that foreign domestic helpers are knowledgeable and have the experience in taking care of infants, children, disabled persons and the elderly. Employers must explain in detail the tasks and routines that need to be carried out. Employers should teach and demonstrate repeatedly to ensure that foreign domestic helpers understand their duties.

If a family member has a serious illness or requires special medical attention, it is highly advisable that you engage a trained nurse or care giver skilled and specialised in that area. There should be regular communication between the employer and the foreign domestic helper when it comes to the issue of health care of family members.

“Given that I needed someone to take care of my husband who had a stroke, we needed someone who understood how to read and write. Our domestic helper had some basic training and we quickly trained her to use all the equipment and also know how to administer both his food and medicines. Of course my daughter and I were around most of the time, to support her in doing what she needs. We also managed to get her trained by a special physiotherapist to do some of the physiotherapy together with another person we hired to come in.” – Mrs. C, Petaling Jaya

- **How do I prepare my foreign domestic helper to deal with emergencies and natural disasters?**

Employers are encouraged to give exposure and training to their foreign domestic helpers on managing emergencies and natural disasters. The Malaysian Red Crescent Society currently offers training in First aid and CPR at a nominal cost. You may browse the web page at (<http://www.redcrescent.org.my/index.php/what-we-do/training>) for further information. These training programmes are recognised and supported by the International Federation of Red Cross and Red Crescent Societies (IFRC). The modules of the said training are available in English, Indonesian and Tagalog.

A list of emergency contacts should be provided together with a clear set of instructions on what to do in different possible situations.

Employers are also advised to provide basic knowledge in facing possible scenarios involving injuries, accidents and heart attacks or strokes. It is important to have a first aid kit in your home and to make sure that your foreign domestic helper understands how to use it. Further,

a list of emergency contacts should be provided together with a clear set of instructions on what to do in different possible situations.

Other source of information that you, your family and foreign domestic helper may visit are:

- i. (<http://www.redcross.org.uk/What-we-do/Firstaid/Everyday-First-Aid>);
 - ii. Red Cross Red Crescent First Aid Mobile App (FA Mobile App) that is now available for download on Google Store for Android phones in Khmer, Thai and Indonesian. (Links for these apps are listed under **Annexe 2**); and
 - iii. For natural disasters: (<http://safesteps.com>) (available in English, Indonesian and Tagalog).
- **How do I prepare my foreign domestic helper to understand security concerns around the household?**

Most employers are concerned with crimes and criminal activities that may surround their home. Employers often rely on their foreign domestic helpers to ensure the security of their homes. It would be important to make sure that the house is sufficiently secured with the necessary grills, locks, alarms and fencing. You are also advised to educate your foreign domestic helper on how to operate all the security equipments and features you have in your home. Your foreign domestic helper should be made to be aware on the persons allowed to enter the home premises while you are away. Provide him/her with a list of people to contact in the event he/she senses something suspicious in the vicinity of your home.

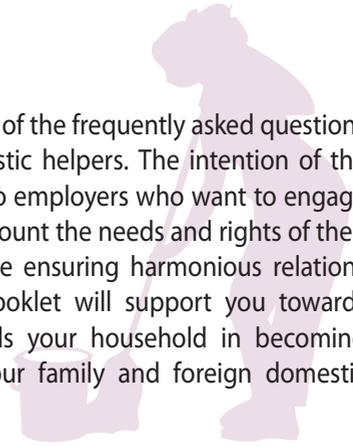


CONCLUSION



CONCLUSION

In this booklet, we have tried to respond to some of the frequently asked questions in relation to the employment of foreign domestic helpers. The intention of the publication is to provide informational support to employers who want to engage in better employment practices that take into account the needs and rights of their foreign domestic helper, while at the same time ensuring harmonious relations within their households. We hope that this booklet will support you towards becoming an exemplary employer and towards your household in becoming a much more harmonious, joyful space for your family and foreign domestic helper alike.



ANNEXE 1



ANNEXE 1

SAMPLE CONTRACT OF EMPLOYMENT

This **Contract of Employment** is made on this day month of in the year between Mr/Mrs/Miss , I/C No., Address (hereinafter referred to as “the Employer”) of the one part and Mr/Mrs/Miss , holder of Passport No., Address (hereinafter referred to as “the Domestic Worker”) of the other part.

IT IS HEREBY AGREED as follows:

1. Duration of the Contract of Employment

- (a) The Employer shall employ the Domestic Worker in accordance with the terms and conditions of this Contract of Employment and subject to the provisions of the relevant Malaysian laws, rules, regulations, national policies and directives.
- (b) This Contract of Employment shall commence from the date of the arrival of the Domestic Worker at the place of work/residence.
- (c) The Domestic Worker shall continue in the employment under the terms and conditions of this Contract of Employment for a period of (...) years or until such time this Contract of Employment is terminated in accordance with the terms and conditions of this Contract of Employment.

2. Place of Work/Residence of the Domestic Worker

The Domestic Worker shall work and reside only at
..... during the duration of this
Contract of Employment.

3. Duties and Responsibilities of the Domestic Worker

- (a) The Domestic Worker shall work only with the Employer and shall not seek employment or be employed elsewhere.
- (b) The Domestic Worker shall comply with reasonable instructions of the Employer in the performance of the household duties and/or assigned responsibilities towards children, young persons and persons under their care.
- (c) The Domestic Worker shall perform diligently, faithfully, responsibly and sincerely all household duties and/or assigned responsibilities towards children, young persons and persons under their care assigned by the Employer which shall not include commercial activities.
- (d) The Domestic Worker shall not use or take advantage of the Employer’s possessions without the Employer’s permission.
- (e) The Domestic Worker is expected at all times to observe proper attire and shall be courteous, polite and respectful to the Employer and family members of the Employer.

- (f) The Domestic Worker shall abide by the Malaysian laws, rules, regulations, national policies and directives and respect the Malaysian customs and traditions.
- (g) The Government of Malaysia reserves the right to revoke the Work Pass in the event that the Domestic Worker marries in Malaysia during the duration of employment.
- (h) Family members of the Domestic Worker or any other person shall not be allowed to stay with the Domestic Worker in the place of work/ residence of the Domestic Worker without the consent of the Employer.
- (i) The Domestic Worker shall carry his/her passport at all time. In the event that the Domestic Worker's passport is lost or damaged, the Domestic Worker shall bear all related expenses.
- (j) The Domestic Worker shall submit his/her 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 Domestic Worker upon completion of these purposes.

4. Duties and Responsibilities of the Employer

- (a) The Employer shall provide the Domestic Worker with a safe and secure accommodation with basic amenities.
- (b) The Employer shall provide the Domestic Worker reasonable and sufficient daily meals.

- (c) The Employer shall not require the Domestic Worker to work or to be engaged in any activities other than that related to household duties and/or assigned responsibilities toward children, young persons and persons under their care.
- (d) The Employer shall provide the Domestic Worker with insurance to cover medical treatment expenses and risk compensation.
- (e) In the event of death of the Domestic Worker, the funeral and the repatriation of the remains shall be arranged at the expense of the Employer.
- (f) The Employer shall report to the nearest Labour Department in the event of any injury or death of the Domestic Worker.
- (g) The Employer shall at all times respect and pay due regard to the sensitivity of religious beliefs of the Domestic Worker including the right to perform prayers and to refuse to handle and consume non-Halal food.
- (h) The Employer shall allow the Domestic Worker to communicate with his/her family.
- (i) The Employer shall not keep the passport and/or personal documents of the Domestic Worker into his/her custody except 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 Domestic Worker upon completion of these purposes. In the event that the Domestic 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.

- (j) The Employer shall ensure that the Domestic Worker undergoes medical examinations as follows:
 - (i) within 30 days from the date of arrival of the Domestic Worker in Malaysia;
 - (ii) once every year for the first 2 years of employment; and
 - (iii) as required by the Government of Malaysia for the subsequent years of employment.

5. Payment of Wages

- (a) The Employer shall pay the Domestic Workers a monthly wage as agreed by the Employer and Domestic Worker, in the amount of RM..... (Ringgit Malaysia) in accordance with the market forces in Malaysia. The payment of the monthly wage shall be made through a bank account under the Domestic Worker's name.
- (b) The Employer shall pay the Domestic Workers the monthly wage regularly and not later than the seventh day after the last day of each wage period.
- (c) No deduction of the wage of the Domestic Worker can be made unless allowed by the Malaysian laws.

6. Rest Day

The Domestic Worker shall be entitled to one (1) rest day every week and in the event that the Domestic Worker waives the entitlement, the Domestic Worker shall be paid a certain amount of money to be calculated on pro-rate basis

in lieu of the rest day or as agreed upon by the Employer and the Domestic Worker. In addition, the Employer shall provide the Domestic Worker with sufficient rest every day.

7. Termination of the Contract of Employment by the Employer

The Employer may terminate the service of the Domestic Worker without notice if the Domestic Worker commits any act of misconduct inconsistent with the fulfilment of the Domestic Worker's duties or if the Domestic Worker breaches any of the terms and conditions of this Contract of Employment.

For the purposes of this clause, misconduct includes the following:

- (i) working with another Employer;
- (ii) disobeying lawful and reasonable order of the Employer;
- (iii) neglecting the household duties and/or assigned responsibilities towards children, young persons and persons under their care and habitually late for work;
- (iv) is found guilty of fraud and dishonesty;
- (v) is involved in illegal and unlawful activities;
- (vi) permitting outsiders to enter the Employer's premises or to use the Employer's possessions without Employer's permission; and
- (vii) using the Employer's possessions without the Employer's permission.

provided always that the Employer terminating this Contract of Employment under this clause shall provide proof of existence of such situation upon request of the Domestic Worker.

8. Termination of the Contract of Employment by the Domestic Worker

The Domestic Worker may terminate this Contract of Employment without notice if:

- (i) the Domestic Worker has reasonable grounds to fear for his or her life or is threatened by violence or disease;
- (ii) the Domestic Worker is subjected to abuse or ill-treatment by the Employer; or
- (iii) the Employer has failed to fulfil his obligation under paragraph 5 of this Contract of Employment.

provided always that the Domestic Worker terminating this Contract of Employment under this clause shall provide proof of existence of such situation upon request of the Employer.

9. General Provisions

- (a) The transportation cost from the Domestic Worker's original exit point in country of origin to the place of work shall be borne by the Employer.
- (b) In the event that the Domestic Worker absconds, the Domestic Worker's Visit Pass (Temporary Employment) shall be revoked and the Domestic Worker shall not be allowed to enter Malaysia for employment purposes in accordance with and subject to the applicable Malaysian laws, rules, regulations, national policies and directives.
- (c) In the event that this Contract of Employment is terminated by the Employer on the ground that the Domestic Worker has committed proven misconduct, the Domestic Worker shall bear the costs of his/her repatriation.

- (d) The repatriation cost of the Domestic Workers from the place of work to the original exit point in country of origin shall be borne by the Employer along with all outstanding wages in the following circumstances:
 - (i) at the completion of Contract of Employment;
 - (ii) termination of this Contract of Employment by the Employer;
 - (iii) termination due to non-compliance of the terms and conditions of this Contract of Employment by the Employer; or
 - (iv) on the death of the Domestic Worker.

- (e) The repatriation cost of the Domestic Worker shall be borne by the Domestic Worker in the event of:
 - (i) termination due to negligence or abuse of children and young persons or persons under their care;
 - (ii) resignation or abscondment of the Domestic Worker;
 - (iii) termination of employment pursuant to paragraph 7 of the Contract of Employment; or
 - (iv) termination due to non-compliance to the terms and conditions of the Visit Pass (Temporary Employment).

- (f) Any dispute arising between the Employer and the Domestic Worker concerning the grounds for termination of this Contract of Employment pursuant to paragraph 7 or 8 of this Contract of Employment shall be dealt with in accordance with the applicable laws in Malaysia.

- (g) For the purpose of this Contract of Employment, the terms “original exit point” shall mean (the capital of the country of origin).

10. Extension of the Contract of Employment

Notwithstanding the expiry of the duration of this Contract of Employment, the Employer and the Domestic Worker may agree that this Contract of Employment may be extended based on similar terms and conditions therein.

11. Time is of the Essence

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

12. Governing Law

This Contract of Employment is governed by and shall be construed in accordance with the laws of Malaysia.

13. Language of this Contract of Employment

This Contract of Employment shall be prepared in six (6) original texts, two (2) each in Malay, official language of the country of origin and English languages, all texts being equally authentic. In the event of any divergence of interpretation between any of the texts, the English text shall prevail.

IN WITNESS WHEREOF, the Parties to this Contract of Employment have hereunto affixed their signature on this _____ day of _____ 20 _____

Employer,

Domestic Worker,

Name:

Date:

Name:

Date:

Witnessed by,

Witnessed by,

Name:

Date:

Name:

Date:

Endorsed by,
The Embassy of Malaysia in the
country of origin

Endorsed by,
The respective Ministry in the
country of origin

Name:
Date:

Name:
Date:

(Note: A copy of this Contract of Employment to be submitted to the nearest Department of Labour.)



ANNEXE 2



ANNEXE 2

LISTING OF USEFUL CONTACT NUMBERS

For advice on legal matters and support services (including shelters) related to foreign domestic helpers

1. Archdiocesan Office of Human Development (AOHD) – Migrant Outreach Programme

Tel. : +603-2078 0239

The Migrant Ministry of the AOHD of the Roman Catholic Church in Malaysia offers pastoral care of foreign workers, including foreign domestic helpers. Through the Ministry, there are a number of self-organised ethnic-based communities, including for Filipino, Indonesian, Myanmar, Vietnamese, and Indian foreign workers that meets regularly around church activities every Sunday. On-going services include spiritual formation, counselling, legal assistance, language, other technical training classes, social and cultural activities. The base of activities is at the St. John's Cathedral, Bukit Nanas, Kuala Lumpur.

2. Bar Council Malaysia

Tel. : +603-2050 2050 / 2050 2090

Bar Council Malaysia is a statutory body under the Legal Profession Act 1976. Bar Council Migrants, Refugees and Immigration Affairs Committee advocates on behalf of foreign workers, including foreign domestic helpers. Bar Council Malaysia can be contacted for queries at direct line: +603-2050 2090.

3. KL Legal Aid Centre

Tel. : +603-2691 3005 / 2693 2072

The KL Legal Aid Centre, run by the Bar Council Malaysia is one of sixteen legal aid centres that are run in every state in Peninsular Malaysia. It is a body that provides free legal advice, intervention and representation in court for the poor and those who cannot afford to hire a lawyer. If your foreign domestic helpers have been arrested, he/she can make a call to the Legal Aid Centre. A lawyer will come to the police station as soon as they receive a request. The contact details of the other legal aid centres around the country are available at: (http://www.malaysianbar.org.my/legal_aid_centres.html).

4. Malaysian Trades Union Congress (MTUC) Hotline (Malay and English)

Tel. : +6016-211 8024

The MTUC provides counselling services to foreign domestic helpers on different matters related to their employment. While they provide counselling services to both documented and undocumented workers, legal support to file for unpaid wages is only available to documented workers. MTUC also provides referral services to foreign domestic helpers who have faced abuse.

5. Malaysian Association of Employment Agencies (PIKAP)

Tel. : +603-9284 4846

Website : www.pikapmalaysia.org

The Malaysian Association of Employment Agencies (PIKAP) is one of two umbrella bodies for private employment agencies in Malaysia. Their website provides useful information on matters such renewal of your worker's visa, insurance and passport. It also contains a listing of PIKAP members, private employment agencies that all comply with PIKAP's standards of ethics and conduct.

6. Malaysian Association of Foreign Maid Agencies (PAPA)

Tel. : +603-2095 4311

Website : www.papa.org.my

The Malaysian Association of Foreign Maid Agencies (PAPA) is one of two umbrella bodies for private employment agencies in Malaysia. Their website provides useful information on matters such renewal of your worker's visa, insurance and passport. It also contains a listing of PAPA members, private employment agencies that all comply with PAPA's standards of ethics and conduct.

7. Talian Nur Helpline (Ministry of Women, Family and Community Development)

Tel. : 15999

Calls related to the suspected abuse of foreign domestic helpers can be directed to the Talian Nur.

8. Tenaganita Hotline

Tel. : +6012-335 0512 / +6012-339 5350

Tenaganita provides two 24-hour hotlines for foreign workers, including foreign domestic helpers. They also run two shelters for trafficking victims as well as foreign domestic helpers; one in the Klang Valley and the other in Penang.

9. Women's Aid Organisation (WAO) Hotline

Tel. : +603-7956 3488

WAO runs a hotline for women surviving domestic violence, but also cater to calls and inquiries from women surviving from other forms of abuse, including foreign domestic helpers. WAO also runs a shelter for women surviving domestic violence, for foreign domestic helpers, as well as survivors of trafficking. Their hotline services are open from Monday to Saturday, 9.00am to 5.00pm with extended hours on Tuesdays, Wednesdays and Fridays, from 7.00pm to 10.00pm.

10. Asosasyon Ng Mga Makabayang Manggagawang Pilipino Overseas (AMMPO) [Association of Overseas Filipino Workers in Malaysia]

Tel. : +6011-1178 4749

AMMPO provides training, legal assistance & advice and advocates the rights of Philippine foreign domestic helpers.

11. North South Initiative

Tel. : +6014-249 8003

North South Initiative is an NGO that is focused on foreign worker's issues. They run training programmes, do community organising amongst foreign workers and also handle different cases in relation to foreign worker rights, including foreign domestic helpers.

12. Serantau

Tel. : +6016-209 7904

Serantau is part of an Indonesian foreign worker's coalition known as Serikat Buruh Migran Indonesia (SBMI) which provides legal aid and assistance to Indonesian foreign workers and foreign domestic helpers to secure their rights.

GOVERNMENT DEPARTMENTS AND EMBASSIES

13. Department of Labour (DOL), Ministry of Human Resources (MOHR)

Tel. : +603-8000 8000

Email : jtksm@mohr.gov.my

Website : <http://jtksm.mohr.gov.my/index.php/my/>

The Department of Labour (DOL) is directly in charge of matters related to foreign workers, including foreign domestic helpers. For any inquiries, please refer to DOL via the 1Malaysia Call Centre (1MOCC is a centralised phone service for all Malaysian Government Ministries).

14. Department of Immigration (IMM), Ministry of Home Affairs (MOHA)

Tel. : +603-8000 8000

Website : <http://www.imi.gov.my/index.php/en/mainservices/foreign-domestic-helper>

The Department of Immigration is the Government department to process all foreign workers visas application in the country. Its website provides a range of useful information for employers including a list of insurance providers that insure foreign workers and lists of health centres in source countries where health checks can be done. The link above provides useful information for employers on the hiring of foreign domestic helpers.

15. The Embassy of the Republic of Indonesia

Tel. : +603-2116 4016 / 17

Website : <http://www.kbrikualalumpur.org/>

The Indonesian Embassy in Kuala Lumpur provides a range of services to its nationals, including a shelter house within its premises for Indonesian workers who have come to Malaysia as foreign domestic helpers and experienced abuse in the hands of their employers. Its website provides a range of useful information for Indonesian workers based in Malaysia.

16. The Embassy of Philippines

Tel. : +603-2148 9989, 2148 4233

Emergency No. : +6017-347 5487

Email : webmaster@philembassykl.org.my

Website : <http://www.philembassykl.org.my/main/>

The Philippines Embassy in Kuala Lumpur provides a range of services to its nationals, including open house events to celebrate national and religious festivals and support services for workers in need of assistance.

OTHER USEFUL INFORMATION

17. Red Cross and Red Crescent Associations First Aid App

The Red Cross Red Crescent First Aid Mobile App (FA Mobile App) provides useful information on what to do in the case of a medical emergency. This free app is available for download on Google Store for Android phones in Khmer, Thai and Indonesian.

- FA App in Khmer language - (<http://play.google.com/store/apps/details?id=com.titdara.khmerfirstaid>);
- FA App in Thai language - (<http://play.google.com/store/apps/details?id=th.go.niems.thaifirstaid>); or
- FA App in Indonesian language - (<http://play.google.com/store/apps/details?id=com.cube.gdpc.idn&hl=en>).

The Singapore Red Cross Society has also developed an FA Mobile App that focuses on the care of the elderly. It is available for download on Google Store for Android phones at: (<http://play.google.com/store/apps/details?id=com.cube.gdpc.sgp&hl=en>).

18. Hospis Malaysia Listing of Caregiver Support Services

Website : (<http://www.hospismalaysia.org/resources/palliative-care-providers>).

Hospice Malaysia, a charitable organisation that provides palliative care to patients provides a comprehensive and updated list of palliative care providers throughout Malaysia.



ANNEXE 3



ANNEXE 3

EMPLOYMENT ACT 1955 (ACT 265) PART XII – WORK ON REST DAY (SECTION 60)

The following section of the employment act can be used to calculate pay for work done on rest days. This is currently only enforced in the case of regular employment and foreign domestic helpers are not covered by this law. Even so, this is the kind of practice that will strengthen harmonious work relationships that we seek to establish.

60. Work on Rest Day

- (1) Except as provided in subsection 60A(2), no employee shall be compelled to work on a rest day unless he is engaged in work which by reason of its nature requires to be carried on continuously or continually by two or more shifts:

Provided that in the event of any dispute the Director General shall have the power to decide whether or not an employee is engaged in work which by reason of its nature requires to be carried on continuously or continually by two or more shifts.

- (2) (Omitted)

- (3) (a) In the case of an employee employed on a daily, hourly or other similar rate of pay who works on a rest day, he shall be paid for any period of work –
- (i) which does not exceed half his normal hours of work, one day's wages at the ordinary rate of pay; or

- (ii) which is more than half but does not exceed his normal hours of work, two days wages at the ordinary rate of pay.

- (b) In the case of an employee on a monthly or weekly rate of pay who works on a rest day, he shall be paid for any period of work –
 - (i) which does not exceed half his normal hours of work, wages equivalent to half the ordinary rate of pay for work done on that day; or
 - (ii) which is more than half but which does not exceed his normal hours of work, one day's wages at the ordinary rate of pay for work done on that day.

- (c) For any work carried out in excess of the normal hours of work on a rest day by an employee mentioned in paragraph (a) or (b), he shall be paid at a rate which is not less than two times his hourly rate of pay.

- (d) In the case of an employee employed on piece rates who works on a rest day, he shall be paid twice his ordinary rate per piece.



ANNEXE 4



ANNEXE 4

EMPLOYMENT ACT 1955 (ACT 265) PART XI – DOMESTIC SERVANTS (SECTION 57)

57. Termination of contract

Subject to any express provision to the contrary contained therein, a contract to employ and to serve as a domestic servant may be terminated either by the person employing the domestic servant or by the domestic servant giving the other party fourteen days' notice of his intention to terminate the contract, or by the paying of an indemnity equivalent to the wages which the domestic servant would have earned in fourteen days:

Provided that any such contract may be terminated by either party without notice and without the paying of an indemnity on the ground of conduct by the other party inconsistent with the terms and conditions of the contract.

57A. Employment of foreign domestic servant

- (1) An employer who employs a foreign domestic servant shall, within thirty days of the employment, inform the Director General of such employment in a manner as may be determined by the Director General.
- (2) An employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

57B. Duty to inform Director General of termination of service of foreign domestic servant

- (1) If the service of a foreign domestic servant is terminated –
 - (a) by the employer;
 - (b) by the foreign domestic servant;
 - (c) upon the expiry of the employment pass issued by the Immigration Department of Malaysia to the foreign domestic servant; or
 - (d) by the repatriation or deportation of the foreign domestic servant,the employer shall, within thirty days of the termination of service, inform the Director General of the termination in a manner as may be determined by the Director General.
- (2) For the purpose of paragraph (1)(b), the termination of service by a foreign domestic servant includes the act of the foreign domestic servant absconding from his place of employment.
- (3) An employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

(Note: Employers are advised to contact the nearest Department of Labour to consult on the latest amendments and/or additions of the concerned sections and other related laws governing foreign domestic helpers.)

NOTES

GUIDELINES AND TIPS FOR EMPLOYERS OF FOREIGN DOMESTIC HELPERS

This booklet covers useful information regarding laws and practices related to the employment of foreign domestic helpers. It provides tips on how to hire and employ foreign domestic helpers, being a good employer, and creating a harmonious atmosphere at home.

This booklet is divided into three parts that provide tips and guidelines on:

- (i) recruiting foreign domestic helpers;
- (ii) employment practices and establishing a positive working relationship with your foreign domestic helper; and
- (iii) issues related to communication, culture and training.

A sample contract of employment, key contact details and other key resources of legislation on the recruitment of foreign domestic helper is provided in the annexes for your reference.



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